

**BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS**

FINAL ORDER

Effective: 10/18/04

In the Matter of the Kansas Nonresident)
Insurance Agency License of)
LAND OPTIONS, INC.)

Docket No. 3372-SO

SUMMARY ORDER

(Pursuant to K.S.A. 2003 Supp. 40-4909 and K.S.A. 77-537)

Pursuant to authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 2003 Supp. 40-4909, the Commissioner hereby imposes sanctions against license of Kansas nonresident insurance agency Land Options, Inc., by way of Summary Order as provided by K.S.A. 77-537.

Findings of Fact

The Commissioner has been shown the following facts:

1. Records maintained by the Kansas Insurance Department (“KID”) indicate that Respondent is licensed as a nonresident agency to transact the business of insurance in the State of Kansas, and has been so licensed since June 16, 2003.
2. KID records reflect a legal and mailing address for Respondent of 4955 Steubenville Pike, Suite 401, Pittsburg, PA 15205, and reflect that Edward MacBeth is the designated person.
3. KID records reflect that Respondent holds agency appointments with Commonwealth Land Title Insurance Company., and Lawyers Title Insurance Corporation, but neither report sales of title insurance through Respondent.

4. KID records reflect that KID mailed to Respondent a standard packet of information for newly licensed title insurance agencies outlining filing requirements for rates and bonds shortly after the license was issued.

5. Respondent failed to file rates and a bond or respond otherwise to the correspondence.

6. By letter dated June 18, 2004, KID demanded Respondent either comply or make “arrangements for compliance” within 15 days.

7. To date, Respondent has failed to comply or otherwise respond to the June 18 letter.

Applicable Law

8. K.S.A. 2003 Supp. 40-4905(a) provides, in relevant part, “[I]t shall be unlawful for any person to sell, solicit or negotiate any insurance within this state unless such person has been issued a license as an insurance agent in accordance with this act.”

9. K.S.A. 2003 Supp. 40-4909(a) provides, in relevant part:

“The commissioner may deny, suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the applicant or license holder has: . . . (2) Violated: (A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder; (B) any subpoena or order of the commissioner; . . . (8) Used any fraudulent, coercive, or dishonest practice, or demonstrated any incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere. . . .” K.S.A. 2003 Supp. 40-4909(a).

10. A title insurance agent that handles escrow, settlement, or closing accounts must file either a surety bond that meets statutory requirements or an irrevocable letter of credit in a form acceptable to the Commissioner to secure the agent’s performance of its obligations. K.S.A. 40-1139.

11. “. . . Every insurance agent, agency or company authorized to transact title insurance in this state shall file with the commissioner every manual of classification, rules and rates, every rating plan, every rate card and every modification of the foregoing which may be used in connection with providing title insurance or other services in connection with real estate transactions on property located in counties having a population of 10,000 or more. No charge may be made by any title insurance agent, agency or company that has not been filed with the commissioner as required by this section. . . .” K.S.A. 40-952(c).

12. The commissioner may censure the licensee or impose an administrative penalty of \$500 per violation up to a maximum of \$2500 for the same violation occurring within six calendar months from the date of the original violation, or \$1000 for a knowing violation up to \$5000 for the same violation within six calendar months, in lieu of taking any action under subsection (a). K.S.A. 2003 Supp. 40-4909(h).

Conclusions of Law

13. The Commissioner has jurisdiction over Respondent as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

14. The Commissioner concludes that no evidence exists that Respondent has sold title insurance or handled escrow, settlement, or closing accounts without having satisfied statutory requirements.

15. However, the Commissioner concludes, based on KID records, that Respondent has failed to comply with K.S.A. 40-952(c).

16. In addition, the Commissioner finds that Respondent failure or refusal to reply to a communication from the Commissioner’s staff that required a response demonstrates a disregard for regulatory authority and irresponsibility in the conduct of business.

17. The Commissioner concludes that Respondent’s agent license may be revoked or suspended pursuant to K.S.A. 2003 Supp. 40-4909(a)(2)(A) as a result of violations of provisions

of chapter 40 of the Kansas Statutes Annotated and 40-4909(a)(8) as a result of failure to respond to the Commissioner's demand.

18. The Commissioner, however, concludes that the interests of insurers and protection of the insurable interests of the public are adequately served by a monetary penalty.

19. The Commissioner concludes, pursuant to K.S.A. 2003 Supp. 40-4905(a) and 40-4909(h), that Respondent should pay a monetary of \$500 for failure to respond.

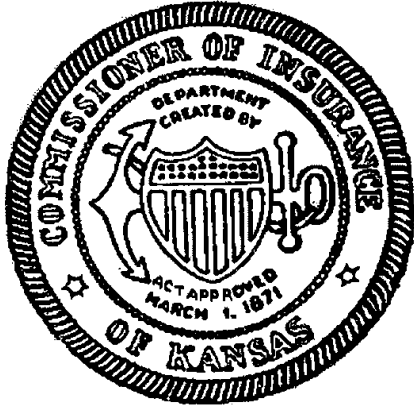
20. Based on the facts and circumstances set forth herein, it appears that the use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a), in that the use of summary proceedings does not violate any provision of the law and the protection of the public interest does not require the KID to give notice and opportunity to participate to persons other than Land Options.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT Kansas nonresident insurance agency Land Options, Inc., is hereby ordered to pay an administrative penalty of **\$500 (five hundred dollars and no cents)** on or before the effective date of this order.

In the event that the penalty is not paid by the effective date of this order, Respondent's Kansas nonresident insurance agency license shall be suspended for violation of the Commissioner's order until such time as the \$500 penalty and an additional penalty of \$500 is paid in full.

It is further ordered that Respondent shall **CEASE AND DESIST** from engaging in the sale, solicitation, or negotiation of title insurance business covering risks within the state of Kansas in violation of any of the provisions of chapter 40 of the Kansas Statutes Annotated or this order.

IT IS SO ORDERED THIS 28th DAY OF SEPTEMBER 2004, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



/s/ Sandy Praeger
Sandy Praeger
Commissioner of Insurance

BY:

/s/ John W. Campbell
John W. Campbell
General Counsel

NOTICE: In the event the Petitioner files a petition for judicial review, the agency officer designated pursuant to K.S.A. 77-613(e) to receive service of a petition for judicial review on behalf of the KID is John W. Campbell, General Counsel, Kansas Insurance Department, 420 S.W. 9th St., Topeka, KS 66612-1678.

Certificate of Service

The undersigned hereby certifies that she served a true and correct copy of the above and foregoing **Notice** and **Summary Order** on this 28th day of September 2004, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Edward MacBeth
Land Options, Inc.
4955 Steubenville Pike, Suite 401
Pittsburg, PA 15205

/s/ Brenda J. Clary
Brenda J. Clary

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NOTICE OF SUMMARY ORDER

Notice is hereby given that the attached Summary Order will become effective fifteen (15) days after service of this Notice unless Respondent files with the Kansas Insurance Department (“KID”) a written request for a hearing, as provided by K.S.A. 77-542. In the event a hearing is requested, the attached summary order will serve to give notice of the allegations upon which KID bases its proposed action.

A request for hearing should be directed to John W. Campbell, General Counsel, Kansas Insurance Department, 420 S.W. 9th Street, Topeka, KS 66612.

Any costs of an administrative hearing may be assessed against an agent who is the subject of the hearing as provided by K.S.A. 40-4909(f).

If a hearing is not requested, this Summary order shall become effective as a Final Order, without further notice, on the first business day after the expiration of the fifteen-day period (eighteen if noticed is served by mail) for requesting a hearing. The Final Order will constitute final agency action in this matter.

Dated this 28th day of September 2004.

_ /s/ Brenda J. Clary _____
Brenda J. Clary
Staff Attorney
Kansas Insurance Department