

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

<b>FINAL ORDER</b> <b>Effective: 11/22/05</b>
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In the Matter of: )  
**Contemporary Solutions - USA, Inc.** )      Docket No. 3493-SO

**SUMMARY ORDER**

Pursuant to the authority granted to the Commissioner of Insurance ("Commissioner") by K.S.A. §§ 40-951, *et seq.*, 40-1135, *et seq.*, and in accordance with the Kansas Administrative Procedure Act, K.S.A. §§ 77-501, *et seq.*,

I, Sandy Praeger, the duly elected, qualified and acting Commissioner of Insurance of the State of Kansas ("Commissioner"), hereby assert the following findings of fact, conclusions of law, and order:

**Findings of Fact**

1. Contemporary Solutions - USA, Inc. ("Contemporary Solutions" or the "Company") is a non-resident title insurance agency operating under K.S.A. §§ 40-4901, *et seq.*, with its principal place of business at 500 West Bethany Drive, Suite 200, Allen, Collin County, Texas 75013.

2. The Commissioner has jurisdiction over the subject matter of this proceeding and over the operation of the Company.

3. On or about June 8, 2004, Cheryl Boyd, Regulatory Compliance Officer for Contemporary Solutions, was advised by Martin Hazen, Policy Examiner for KID, of the various statutory requirements for rate, charge and surety bond filings by title

insurance agencies and copies of the applicable Kansas statutes and administrative bulletins were sent to Ms. Boyd by U.S. Mail.

4. On or about June 21, 2004, in an e-mail addressed to Mr. Hazen, Ms. Boyd confirmed her receipt of the title insurance agency filing requirements sent by Mr. Hazen on June 8, 2004.

5. On or about August 18, 2004, Contemporary Solutions was granted a certificate of authority by the Kansas Insurance Department ("KID") under K.S.A. § 40-4906.

6. On November 24, 2004, Contemporary Solutions issued two title insurance policies for real property located in Olathe, Johnson County, Kansas and Kansas City, Wyandotte County, Kansas.

7. The population of Wyandotte County, Kansas is in excess of 158,000 people and the population of Johnson County, Kansas is in excess of 496,000 people.

8. On or about August 1, 2005, KID received a letter from Ms. Boyd stating that she was forwarding a "renewed Escrow, Settlement or Closing Accounts Bond" for the Company. A copy of an Escrow, Settlement or Closing Accounts Bond issued by Western Surety Company and dated July 14, 2005 was attached to Ms. Boyd's letter.

9. The records of KID reveal that prior to August 1, 2005 Contemporary Solutions had not filed a surety bond or irrevocable letter of credit with the Commissioner, as required under K.S.A. § 40-1139.

10. On or about August 4, 2005 Mr. Hazen spoke with Ms. Boyd by telephone and advised her that Contemporary Solutions had not complied with the Kansas rate and charge filing requirements prescribed under K.S.A. § 40-952 and had not filed a surety

bond or irrevocable letter of credit with KID that was in effect prior to July 14, 2005. During this conversation Ms. Boyd denied receiving the information regarding filing requirements for title insurance agencies sent to her by Mr. Hazen on June 8, 2004 that she had previously acknowledged receiving on June 21, 2004.

11. Following his phone conversation with Ms. Boyd on August 4, 2005, Mr. Hazen also confirmed, in a letter addressed to Ms. Boyd, that Contemporary Solutions had not complied with the Kansas filing requirements and referred to Ms. Boyd's June 21, 2004 e-mail acknowledging receipt of the filing requirements.

12. On or about August 31, 2005 Contemporary Solutions filed all required rate and charge filings.

13. Under K.S.A. § 40-963, the Commissioner may impose a penalty of not more than \$500 for each violation of the statutory provisions relating to fire insurance companies, including K.S.A. § 40-952, or \$2,000 for each violation when the Commissioner finds such violation to be willful.

14. Under K.S.A. § 40-1141 and K.S.A. § 40-2407, the Commissioner may impose a monetary penalty of not more than \$1,000 for each and every act or violation of the statutory provisions relating to title insurance agencies, including K.S.A. § 40-1139, or \$5,000 for each and every act or violation when the Commissioner finds that the agency knew or reasonably should have known it was acting in violation of the law.

#### **Applicable Law**

15. K.S.A. 40-952 provides, in part, as follows:

(c) For title insurance rate filing purposes, only those charges made in connection with the issuance, sale and servicing of title insurance policies or real estate transactions by title insurance companies, agencies and

agents on property located in counties having a population of more than 10,000 shall be subject to the filing requirements of this act. . .

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. . . . (Emphasis added).*

16. K.S.A. 40-1135 provides as follows:

The purpose of K.S.A. 40-1135 through 40-1141 is to provide the State of Kansas with a comprehensive body of law for the effective regulation and supervision of title insurance agencies engaged in settlement and closing of the sale of an interest in real estate.

17. K.S.A. 40-1139 provides, in part, as follows:

(a) The title insurance agent who handles escrow, settlement or closing accounts shall file with the commissioner a surety bond or irrevocable letter of credit in a form acceptable to the commissioner, issued by an insurance company or financial institution authorized to conduct business in this state, securing the applicant's or the title insurance agent's faithful performance of all duties and obligations set out in K.S.A. 40-1135 through 40-1141 . . .

18. K.S.A. 40-963 provides, in part, as follows:

. . . if the commissioner finds any person or organization has violated any provision of this act, may impose a penalty of not more than \$500 for each violation, but, if the commissioner finds such violation to be willful, may impose a penalty of not more than \$2,000 for each such violation. Such penalties may be in addition to any other penalty provided by law. . .

19. K.S.A. 40-1141 provides, in part, as follows:

If the commissioner determines that the title insurance agent or any other person has violated this act, or any rules and regulations or order promulgated thereunder, after notice and opportunity to be heard, the commissioner may order that such person be subject to the penalties provided in K.S.A. 40-2406, et seq. . . .

20. K.S.A. 40-2407 provides, in part, as follows:

(a) If, after such hearing, the commissioner shall determine that the person charged has engaged in an unfair method of competition or an unfair or deceptive act . . . the commissioner may in the exercise of discretion order any one or more of the following:

(1) Payment of a monetary penalty of not more than \$1,000 for each and every act or violation, but not to exceed an aggregate penalty of \$10,000, unless the person knew or reasonably should have known such person was in violation of this act, in which case the penalty shall be not more than \$5,000 for each and every act or violation, but not to exceed an aggregate of \$50,000 in any six month period.

### **Conclusions of Law**

21. Based upon the information enumerated in paragraphs #3 through #12 above, Contemporary Solutions failed to file its rate and charge filings with the Commissioner prior to transacting the business of title insurance in Kansas, in violation of K.S.A. § 40-952.

22. Based upon the information enumerated in paragraphs #3 through #12 above, Contemporary Solutions failed to file a copy of a surety bond or irrevocable letter of credit with the Commissioner prior to transacting the business of title insurance in Kansas, in violation of K.S.A. § 1139.

**IT IS THEREFORE ORDERED, BY THE COMMISSIONER OF INSURANCE, THAT:**

1. Contemporary Solutions - USA, Inc. shall pay a penalty in the amount of Nine Hundred and 00/100 Dollars (\$900.00) to the Kansas Insurance Department by no later than November 21, 2005 or be subject to further regulatory action.
2. Contemporary Solutions shall file all required charge and rate filings, surety bonds or letters of credit in a timely manner.
3. The Commissioner of Insurance retains jurisdiction over this matter to issue any and all further Orders deemed appropriate or to take such further action as necessary to dispose of this matter.

**Notice of Rights**

Respondent Contemporary Solutions - USA, Inc. is entitled to a hearing on this Summary Order pursuant to K.S.A. § 77-537 of the Kansas Administrative Procedures Act. If Respondent desires a hearing, it must file a written request for a hearing with the Kansas Insurance Department at the following address:

John W. Campbell, General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> Street  
Topeka, Kansas 66612

This request for hearing must be filed within fifteen (15) days from the date of service of this Order. If Respondent requests a hearing, the Kansas Insurance Department will notify it of the time and place of the hearing and information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing, before commencement of the hearing.

If a hearing is not requested in the time and manner stated above, this Summary order shall become effective as a Final Order upon the expiration of time for requesting a hearing, pursuant to K.S.A. § 77-613. In the event Respondent files a petition for judicial review, pursuant to K.S.A. § 77-613(e), the agency officer to be served on behalf of the Kansas Insurance Department is:

John W. Campbell, General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> Street  
Topeka, Kansas 66612

**IT IS SO ORDERED THIS 4th DAY OF NOVEMBER, 2005, 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

**Certificate of Service**

The undersigned hereby certifies that a true and correct copy of the above and foregoing Summary Order was transmitted by U.S. Mail, postage prepaid, on this 4th day of November, 2005, to:

Cheryl Boyd, Compliance Officer  
Contemporary Solutions - USA, Inc.  
500 West Bethany Drive, Suite 200  
Allen, Texas 75013

\_s/ Linda Sheppard \_\_\_\_\_  
Linda Sheppard  
Assistant General Counsel