

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

<b>FINAL ORDER</b> <b>Effective: 11/07/05</b>
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In the Matter of )  
KANSAS TITLE SERVICE, INC. )      Docket No. 3489-SO

**SUMMARY ORDER**

Pursuant to the authority conferred to the Commissioner of Insurance in K.S.A. 40-2,125, and in accordance with the Kansas Administrative Procedure Act (as amended), K.S.A. 77-537, *et seq.*, the Commissioner hereby asserts the findings of fact, conclusions of law and orders as follows:

**Findings of Fact**

1. The Kansas Title Service, Inc. (“KTS” or “the company”) submitted its currently effective rates to the Kansas Insurance Department (“KID”) for filing on August 19, 2005, admitting that the company has been using the same rates since May 1, 2005.
2. KID has no record of any kind indicating KTS’ filing of any rate sheet in May, 2005.
3. KTS admits that it has failed to file its currently effective rates with KID before implementing the same starting May 1, 2005.
4. KTS’ current rates are on file with KID since August 22, 2005.

**Applicable Law**

5. K.S.A. 40-952 provides, in part:  

(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 filing requirements of this act. Charges made for the assumption of risk under title insurance policies which shall be construed as premium for the purposes of K.S.A. 40-252 and amendments thereto, shall include risk premium, underwriting expenses such as searching charges, examination charges, to include any such charges retained by agents of the title insurer, charges for determining insurability and every other charge related to the issuance of the title insurance policy. Services provided by agents which are not related to insurance, such as performance of real estate closings or extension of the abstract of title, may be charged but not included as premium. No provision of this act shall apply to the filing or regulation of title insurance rates other than the requirements imposed by this section.

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.** Any service customarily provided by a title insurance agent or affiliated entity that is not included in the rates shall be disclosed when the rates are filed with the commissioner. (Emphasis added).

6. K.S.A. 40-2,125 provides, in part:

(a) If the commissioner determines after notice and opportunity for a hearing that any person has engaged in or is engaging in any act or practice constituting a violation of any provision of Kansas insurance statutes or any rule and regulation, . . . the commissioner may in the exercise of discretion, order . . . (1) Payment of a monetary penalty of not more than \$1,000 for each and every act or violation, unless the person knew or reasonably should have known such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder, in which case the penalty shall be not more than \$2,000 for each and every act or violation. . . .  
K.S.A. 40-2,125(a)(1).

7. K.S.A. 77-537 provides, in part:

(b) A state agency may use summary proceedings, subject to a party's request for a hearing on the order, if: (1) The use of those proceedings in the circumstances does not violate any provision of law; and (2) the protection of the public interest does not require the state agency to give notice and an opportunity to participate to persons other than the parties.

### **Conclusions of Law**

8. Based upon the findings of fact set forth above, it appears that KTS has made charges relating to its title insurance business that has not been filed with the Commissioner in violation of K.S.A. 40-952(c), and thus, engaged in unlawful act and practice prohibited by K.S.A. 40-2,125.

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

The Kansas Title Service, Inc. shall pay a monetary penalty of Four Hundred Dollars (\$400), due and payable to the Kansas Commissioner, within 10 days from the date of this Summary Order.

IT IS SO ORDERED THIS 20th DAY OF OCTOBER, 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 he served the above and foregoing Summary Order on this 20th day of October, 2005, by causing the same to be deposited in the United States Mail, certified mail return receipt requested postage prepaid, addressed to the following:

Mr. O. Gene Wright  
Kansas Title Service, Inc.  
P.O. Box 277  
Wellington, KS 67152

\_\_\_\_\_/s/ Hsingkan Chiang\_\_\_\_\_  
Hsingkan Chiang, Staff Attorney  
Kansas Insurance Department

## **NOTICE OF RIGHTS**

Kansas Title Service, Inc. ("KTS") is entitled to a hearing pursuant to K.S.A. §77-537, the Kansas Administrative Procedure Act. If KTS desires a hearing, the company must file a written request for a hearing with:

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

This request must be filed within fifteen (15) days from the date of service of this Summary Order. If KTS requests a hearing, the Kansas Insurance Department will notify the company 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 same.

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 that KTS 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

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Mr. O. Gene Wright  
Kansas Title Service, Inc.  
P.O. Box 277  
Wellington, KS 67152

\_s/ Hsingkan Chiang \_\_\_\_\_  
Hsingkan Chiang, Staff Attorney