

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

In the Matter of )  
Old United Casualty Company ) Docket No. 3452-SO

**CONSENT ORDER**

The Kansas Insurance Department (“KID”) and Respondent Old United Casualty Company (“Old United”) wish to resolve all issues regarding the alleged underpayment of premium taxes for tax years 2001, 2002, 2003, and 2004 and failure to file management service agreements. The Commissioner of Insurance (“Commissioner”) has jurisdiction of this matter pursuant to K.S.A. §§ 40-222, 40-252, 40-252d, 40-3301, *et seq.*, and 40-2,125. The parties have agreed to an informal settlement of this matter and have agreed to waive the provisions found in the Kansas Administrative Procedures Act, K.S.A. §§ 77-501, *et seq.*, and specifically K.S.A. § 77-537.

**Facts**

1. Old United is a property and casualty insurance company incorporated and existing under the laws of the State of Kansas with its principal place of business at 8500 Shawnee Mission Parkway, Merriam, Johnson County, Kansas 66202.
2. All outstanding shares of Old United are owned by Van Enterprises, Inc., a company incorporated in the state of Missouri.
3. MPP Co., Inc. (“MPP”), a Kansas corporation, is a noninsurance company affiliate of Old United that is wholly owned by Van Enterprises, Inc., with its principal place of business in Merriam, Johnson County, Kansas 66202.

4. MPP provides Old United with general supervisory services, accounting supervision, internal audit, tax preparation and planning services, underwriting, premium processing, claim servicing and marketing services under a Management Service Agreement. An amended copy of this agreement was filed with the KID on December 30, 2004 and was approved by the Commissioner on January 10, 2005.

5. V.T., Inc. ("V.T.") is a holding company that is a non-insurance company affiliate of Old United, with its principal place of business in Merriam, Johnson County, Kansas 66202. Both V.T. and Van Enterprises, Inc. are wholly owned by Cecil Van Tuyl. V.T. provides legal, accounting, auditing, human resources, and managerial support to Old United.

6. For tax years 2001 through 2004, Old United submitted Annual Premium Tax Statements to the KID that included an Employee Salary Credit based on salaries paid by MPP and V.T. in support of insurance company operations that were allocated to Old United.

7. Pursuant to K.S.A. § 40-222(a), the KID undertook an examination of Old United that was completed on December 11, 2003. A copy of the modified Report of examination was sent to Old United on December 9, 2004, and Old United submitted written rebuttals to the modified Report on December 16, 2004 and January 4, 2005.

8. On February 28, 2005, the Commissioner issued an order adopting the Report as of December 31, 2002 of Old United.

9. The Report contains a finding that Old United took improper Kansas salary credits on its 2001 and 2002 premium tax returns and underpaid its taxes for those years.

10. On May 3, 2005, the KID issued a Summary Order to Old United ordering it to pay over additional premium taxes for tax years 2001 and 2002 and to file all required

agreements, records, or documentation to support its calculation of the Employee Salary Credit claimed in the Annual Premium Tax Statements.

11. The KID has recently undertaken another examination of Old United pursuant to K.S.A. § 40-222(a) and the examiner has raised similar concerns regarding the underpayment of premium taxes for tax years 2003 and 2004.

12. The parties have reached an agreement set forth in this Order to resolve these issues, including those set forth in the Summary Order, and to settle the manner of calculating an appropriate Employee Salary Credit that may be claimed by Old United on its Annual Premium Tax Statements.

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

1. Old United shall submit amended Annual Premium Tax Statements to the Department along with payment of additional premium taxes due for tax years 2001, 2002, 2003, and 2004.

2. Old United may claim an Employee Salary Credit, as defined in K.S.A. § 40-252d, on each of its Annual Premium Tax Statements for tax years 2001 through 2004, inclusive, based on 52.36% of the total amount of MPP's salaries. It is agreed that this percentage, 52.36%, shall continue to reflect an accurate allocation of MPP's salaries paid for "insurance company operations," as that term is defined in K.S.A. 40-252d, for tax years 2005, 2006 and 2007.

3. On or about January 1, 2008, and every three years thereafter, Old United and MPP will perform a "salary cost study" of the Kansas salaries paid by MPP during the prior calendar year to determine the amount of compensation paid for "insurance company operations"

to be allocated to Old United for purposes of determining the salary tax credit under K.S.A. § 40-252d. The results of each study, including all records and documentation supporting such results, will be filed with KID by no later than March 1st of each year in which the study is conducted.

4. In addition to the Employee Salary Credit based on MPP's salaries for insurance company operations, Old United may also claim an Employee Salary Credit on its annual premium tax statements based on the amount of annual salary paid by V.T. to Daniel Mattox, Vice President of Old United, or his successor. Old United will provide sufficient documentation, as requested by KID, to support its report of this salary.

5. The amount of written premiums on the Annual Premium Tax Statements for tax years 2001 through 2004, inclusive, shall also be amended to include the claims portion of no-charge back amounts.

**IT IS SO ORDERED THIS 9th 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 Campbell  
John Campbell, General Counsel

OLD UNITED CASUALTY COMPANY

BY: /s/ Daniel K. Mattox

Title: /s/ Vice-President

SUBMITTED AND APPROVED BY:

/s/ Linda J. Sheppard\_\_\_\_\_

Linda J. Sheppard

*Assistant General Counsel for the Kansas Insurance Department*