

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

FINAL ORDER Effective: 12/12/05
--

In the Matter of)
LAND TITLES AND ABSTRACT) Docket No. 3497-SO
SERVICES INC.)

SUMMARY ORDER
(Pursuant to K.S.A. (2004 Supp.) 40-4909 and K.S.A. 77-537)

Pursuant to authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. (2004 Supp.) 40-4909, the Commissioner hereby imposes sanctions against license of Kansas resident insurance agency Land Title and Abstract Services 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. Land Title and Abstract Services Inc. (“Land Title”) is licensed as a resident agency to transact the business of insurance in Kansas and has been so licensed since February 22, 1990.
2. Kansas Insurance Department (“KID”) records indicate that the legal and mailing addresses for Land Titles are 1135 College Dr, Ste. K Hilton Plaza, Garden City, Kansas 67846 and 116 Grant Ave. Garden City, Kansas 67846, respectively. The same records further indicate that Marilyn Kay Jones is the designated person.
3. In November 2005, KID received information regarding Land Titles offering to pay a realtor’s 2006 Board due, in the amount of \$287.00 for attending the Installation Banquet sponsored by the Garden City Board of Realtors on November 16, 2005.

4. The Commissioner finds, based on the above-stated information, that more likely than not, Land Title has offered a gift or gratuity in the amount greater than \$25 to a title business producer to influence business referrals.

Applicable Law

5. K.S.A. (2004 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”

K.S.A. (2004 Supp.) 40-4909(a).

6. K.S.A. (2004 Supp.) 40-2404(14) states, in pertinent part:

(a) No title insurance company or title insurance agent, or any officer, employee, attorney, agent or solicitor thereof, may pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to obtaining any title insurance business, any rebate, reduction or abatement of any rate or charge made incident to the issuance of such insurance, any special favor or advantage not generally available to others of the same classification, or any money, thing of value or other consideration or material inducement.

7. K.A.R. 40-3-42 prohibits the following unfair practices:

...

(21) furnishing or offering to furnish, paying for or offering to pay for any economic opportunity, gift, gratuity, special discount, favor, hospitality, or service to any producer of title business having an aggregate value of \$25 or more in any calendar year where a purpose of the donor is to influence any producer of title business in the placement of channeling of title insurance business. Hospitality in the form of incidental food and beverages are presumed not to be given to influence such producer of title business in the placement or channeling of title insurance business except when a particular transaction is conditioned thereon;

(22) paying for, or offering to pay for, money prizes or other things of value for any producer of title business in any kind of a contest or promotional

endeavor. This prohibition applies whether or not the offer or payment of a benefit relates to the number of title orders placed or escrows opened with a title entity or group of such entities;

...

K.A.R. 40-3-42

8. 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. (2004 Supp.) 40-4909(h).

Conclusions of Law

9. The Commissioner has jurisdiction over Land Title as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
10. The Commissioner concludes, based on above-stated information in paragraph 3, that Land Title's offer to pay a realtor's annual Board due violates K.S.A. 40-2404(14) and K.A.R. 40-3-42(21) and (22).
11. The Commissioner also concludes that action may be taken against Land Title's agency license pursuant to K.S.A. (2004 Supp.) 40-4909(a)(2)(A) as a result of violations of provisions of chapter 40 of the Kansas Statutes Annotated and the regulations promulgated thereunder.
12. The Commissioner further concludes that the insurable interests of the public are adequately served by assessment of monetary penalty in the sum of \$287.00 against Land Title.
13. 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 Title and Abstract Services Inc.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT

- a. Land Title and Abstract Services Inc. is hereby ordered to pay an administrative penalty of \$287.00 (two hundred eighty-seven dollars and no cents) on or before the effective date of this order.
- b. If Land Title has neither paid the penalty nor requested a hearing by the effective date of this order, Land Title's Kansas resident insurance agency license shall be **SUSPENDED** for violation of the Commissioner's order until such time as the \$287 penalty and an additional penalty of \$500 is paid in full.

IT IS SO ORDERED THIS 21st DAY OF NOVEMBER 2005, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



/s/ Sandy Praeger
Sandy Praeger
Commissioner of Insurance

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

IMPORTANT NOTICE: Land Title and Abstract Services, Inc. may have a right to judicial review of this order as provided in the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 et seq. 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 he served a true and correct copy of the above and foregoing Notice and Summary Order on this _21st_ day of November 2005, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Marilyn K. Jones
Land Title and Abstract Services, Inc.
116 Grant Ave.
Garden City, KS 67846

/s/ Hsingkan Chiang
Hsingkan Chiang, Staff Attorney

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

In the Matter of)
LAND TITLES AND ABSTRACT) Docket No. 3497-SO
SERVICES INC.)

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 Land Title 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 21st day of November 2005.

_s/ Hsingkan Chiang _____
Hsingkan Chiang
Staff Attorney
Kansas Insurance Department