

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

**In the Matter of Exclusive Settlement) Docket No. 3562-CO
Services, Inc.)**

CONSENT ORDER

Exclusive Settlement Services wishes to resolve this matter without formal adjudicative proceedings by entering into this consent order. The Commissioner of Insurance (“Commissioner”) hereby makes the following findings of fact, conclusions of law, and order, to-wit:

Findings of Fact

1. Exclusive Settlement Services (“the agency”) is a title insurance agency authorized to transact the business of insurance in the State of Kansas with its office located at 1000 Cliff Mine Road, Suite 250, Pittsburg, PA 15275, and is subject statutes regulating the business of insurance.
2. The Commissioner of Insurance (“the Commissioner”) has jurisdiction over the subject matter of this proceeding, and this proceeding is held in the public interest.
3. On June 22, 1999, Exclusive Settlement received a license to write title insurance policies in the state of Kansas.
4. After admission to write title insurance business in Kansas, the Kansas Insurance Department (“KID”) sent the agency a letter outlining the requirements for filing all title insurance rates and charges pursuant to K.S.A. 40-952(c).
5. No response or filings were received from the agency.

6. On or about May 22, 2006, KID received a Kansas Statutory Audit Report (“the report”) from Exclusive Settlement.

7. After receiving the report, KID contacted Exclusive Settlement and asked if they were writing business in Kansas. Exclusive Settlement confirmed that policies had been written in Kansas.

8. Upon the request of KID, Old Republic National Title Insurance Company supplied a list of 22 policies totaling \$1,942,050 in liability that Exclusive Settlement had written with them between March 2004 and May 2006.

9. Upon the request of KID, Stewart Title Guaranty Company supplied a list of 71 policies totaling \$5,600,567 in liability that Exclusive Settlement had written with them between September 1999 and September 2003.

Conclusions of Law

1. K.S.A. 40-952(c) provides, in relevant part,

...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.

2. K.S.A. 40-2,125(a)(1) provides, in relevant part:

If the commissioner determines after notice and opportunity for a hearing that any person engaged or is engaging in any act or practice constituting a violation of any provision of Kansas insurance statutes or any rule and regulation or order thereunder, the commissioner may in the exercise of discretion, order...

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 violation.

3. Based on the information contained in paragraphs three (3) through nine (9) above, it appears that Exclusive Settlement Services, Inc. failed to 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 in violation of K.S.A. 40-952(c).

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

Exclusive Settlement Services, Inc. shall remit to the Kansas Insurance Department an administrative penalty in the sum of five hundred dollars (\$500) for violating K.S.A. 40-952(c).

Notice of Right to Hearing or Appeal

You are entitled to a hearing pursuant to K.S.A. § 77-537, the Kansas Administrative Procedure Act. If you desire a hearing, you must file a written request for a hearing with:

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

This request must be filed within fifteen (15) days from the date of service of this Order. If you request a hearing, the Kansas Insurance Department will notify you 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 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 you file 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. 9th Street
Topeka, Kansas 66612.

**IT IS SO ORDERED THIS 20th DAY OF JULY, 2006, 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

SUBMITTED AND APPROVED BY:

___/s/ Deletria L. Nash_____

Deletria L. Nash
Attorney for Petitioner
Kansas Insurance Department

APPROVED BY:

___/s/ Wesley Schrock_____

Wesley Schrock
Representative for Respondent

Certificate of Service

The undersigned hereby certifies that a true and correct copy of the above and foregoing Consent Order was served by placing the same in the United States Mail, first class postage prepared, on this 20th day of July , 2006, addressed to the following:

Wesley Schrock
Exclusive Settlement Services, Inc.
1000 Cliff Mine Road, Suite 250
Pittsburg, PA 15275

___/s/ Deletria L. Nash_____

Deletria L. Nash
Staff Attorney