

**FINAL ORDER**

**Effective: 12-07-07**

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

**In the Matter of First American            )**  
**)**       **Docket No. 3712-SO**  
**Title Kansas Agency, Inc.                 )**

**SUMMARY ORDER**

Pursuant to the authority granted to the Commissioner of Insurance by Kansas Statutes Annotated (“K.S.A.”) 40-2,125 and K.S.A. 40-1139,

I, Sandy Praeger, the duly elected and qualified Commissioner of Insurance of the State of Kansas, hereby make the following Findings of Fact, Conclusions of Law, and Order.

This Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period if no request for hearing is made, pursuant to K.S.A. 77-542.

**Findings of Fact**

1. First American Title Kansas Agency, Inc. (“First American”), also known as Title Leavenworth Inc. is Resident Title Insurance Agency authorized to transact the business of insurance in the State of Kansas with its legal address located at 434 N Main, Wichita, Kansas 67202 and its office address located at 1653 Larkins Williams Road, Fenton, Missouri 63026, and is subject to 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 May 1, 1989, the Richmond Title became a licensed resident title insurance agency.

4. On July 3, 2007, the Kansas Insurance Department (“KID”) received a complaint that First American was charging settlement rates that were lower than its rates that were with KID.

5. The complaint against First American also alleged that First American was giving those lower rates to its favored customers.

6. On July 17, 2007, KID sent a letter to First American requesting an explanation as to how the agency was in compliance with state law.

7. On August 15, 2007, First American advised that the settlement rates cited in the July 3, 2007 complaint were higher than its rates filed with KID.

8. On August 15, 2007, First American advised that the unfilled settlement rates cited in the July 3, 2007 complaint were used twelve times.

### **Applicable Law**

9. K.S.A. 40-952(c) states, 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.

10. K.S.A. 40-2,125 states, in relevant part:

(a) If the commissioner determines after notice and opportunity for a hearing that any person has 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 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, 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[.]

11. Based on the Findings of Fact enumerated in paragraphs four (4) through eight (8) and the applicable law above, First American Title Kansas Agency, Inc., also known as Title Leavenworth Inc., failed to file with the Commissioner its rates prior to issuing titles in Kansas in violation of K.S.A. 40-952(c).

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

1. First American Title Kansas Agency, 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).

2. The Commissioner of Insurance retains jurisdiction over the subject matter of this proceeding and over the parties for the purpose of entering such further order or orders as may be deemed proper.

**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   14th   DAY OF NOVEMBER, 2007, IN THE CITY  
 OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



\_\_\_\_\_  
 /s/ Sandy Praeger  
 Sandy Praeger  
 Commissioner of Insurance

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

SUBMITTED BY:

/s/ Deletria L. Nash  
Deletria L. Nash  
Attorney for Petitioner

**Certificate of Service**

The undersigned hereby certifies that a true and correct copy of the above and foregoing Proposed Order of Discipline was served by placing the same in the United States Mail, first class postage prepared, on this   14th   day of   November   2007, addressed to the following:

Rebecca Carpenter  
First American Title Kansas Agency, Inc.  
1653 Larkins Williams Road  
Fenton, Missouri 63026

/s/ Deletria L. Nash  
Deletria L. Nash  
Assistant General Counsel