

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

In the Matter of the Kansas )  
Resident Insurance Agency License of ) Docket No. 3930-SO  
HODGEMAN COUNTY ABSTRACT & )  
TITLE INSURANCE CO. )

**SUMMARY ORDER**

(Pursuant to K.S.A. 2007 Supp. 40-4909 and K.S.A. 77-501 *et. seq.*)

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-4909, the Commissioner hereby revokes the resident agency license of Respondent, Hodgeman County Abstract & Title Insurance Co. (“Hodgeman County Abstract”). 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**

The Commissioner finds the following facts:

1. Records maintained by the Kansas Insurance Department (“KID”) indicate your agency has been licensed as a resident agency to transact the business of insurance in the State of Kansas, and has been so licensed since July 23, 1990.
2. KID records further indicate a legal address and mailing address of 112 East Bramley, PO Box 487, Jetmore, Kansas 67854-0487.
3. On July 8, 2008, KID received a complaint from Judi St. Romain regarding the proceeds of her deceased father’s estate. Ms. St. Romain stated that your company Hodgeman County Abstract & Title Ins. Co. was charged with keeping the proceeds from the sale of the home in escrow. Ms. St. Romain stated that those proceeds were

- released from any encumbrance on June 16, 2008 and that she contacted Angela Clarke about the same.
4. Ms. St. Romain further stated that Angela Clarke informed her that she would send the checks. She stated that she again spoke with Angela Clarke on July 3, 2008, and that she informed her at that time that your company did not have the funds in escrow.
  5. On July 5, 2008, Ms. St. Romain received a check from your company for \$17,674.62, at that time she called The Farmers State Bank in Jetmore and inquired if the check would clear. She was informed that it would not.
  6. Randy Adair, Chief Fraud Investigator for the Kansas Insurance Department investigated Ms. St. Romain's complaint. During his investigation it was discovered that only \$12,391.60 remained in escrow from the sale of Ms. St. Romain's parent's home.
  7. Records indicate that the home was sold for \$75,000.00 that less deductions to buyer the balance of the escrow was \$74,200.62. Angela Clarke was then authorized to use those proceeds to pay the funeral expenses for Ms. St. Romain's parents which left a balance of \$53,023.66. The remaining \$40,632.26 was unaccounted for.
  8. On July 10, 2008, Randy Adair called and spoke to Angela Clarke concerning the unaccounted for money. Ms. Clarke stated to that she "borrowed" the money as she needed it for personal expenses.
  9. On July 11, 2008, Mr. Adair spoke with Angela Clarke again, at that time Mr. Adair asked what the money was used for. Angela Clarke replied to pay off a mortgage,

when questioned further Ms. Clarke admitted that it was not her mortgage, but rather to pay an escrow account on another mortgage transaction.

10. Mr. Adair then inquired of Ms. Clarke if she had done this before; she stated that she had, but that she was unable to remember the dates, names or amounts. Angela Clarke then stated that this had been occurring for a couple of years.

11. On or about August 11, 2008, Joanne Clarke, contacted KID and reported that she no longer was the owner of Hodgeman County Abstract. Joanne Clarke reported that she transferred ownership of the business to her son and former-daughter-in-law, on June 1, 2005. Joanne Clarke then faxed a copy of the minutes of Hodgeman County Abstract from June 1, 2005 which showed that on that date she and her husband Velven D. Clarke sold 100% of their shares, representing 100% ownership of Hodgeman County Abstract to Kelly R. Clarke and Angela R. Clarke.

12. Joanne Clarke also provided to KID a copy of a divorce decree regarding Kelly R. and Angela R. Clarke. The decree provided Angela R. Clarke was awarded the business known as Hodgeman County Abstract & Title Insurance Co., Inc., together with the leased building, consents, assets and liabilities. This was file stamped in the District Court of Hodgeman County in case number 07DM3 on September 12, 2007.

13. As such Angela R. Clarke is the sole owner of Hodgeman County Abstract and the sole affiliated agent.

#### **Applicable Law**

14. K.S.A. 2007 Supp. 40-4909 states, in pertinent part:

- (a) 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 or regulation promulgated thereunder;
  - (4) Improperly withheld, misappropriated or converted any moneys or properties received in the course of doing insurance business.
  - (8) Used any fraudulent, coercive, or dishonest practice, or demonstrated any incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.
- (b) In addition, the commissioner may suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the interests of the insurer or the insurable interests of the public are not properly served under such license.
- (d) The license of any business entity may be suspended, revoked or refused renewal if the insurance commissioner finds that any violation committed by an individual licensee employed by or acting on behalf of such business entity was known by or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and such violation was not reported to the insurance commissioner by such business entity.

### **Conclusions of Law**

- 15. The Commissioner has jurisdiction over Respondent as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
- 16. The Commissioner finds that Angela R. Clarke improperly converted, misappropriated or converted moneys she received in the course of doing insurance business by using funds from an escrow account for her personal expenses, a violation of K.S.A. 2007 Supp. 40-4909(a)(4) and (8).

17. The Commissioner finds that Angela R. Clarke's conduct in taking moneys from escrow accounts without authorization and using them for personal expenses over the span of several years is a violation of K.S.A. 2007 Supp. 40-4909(a)(4) and (8).
18. The Commissioner finds that Angela R. Clarke is the sole owner and the sole affiliated agent for Hodgeman County Abstract.
19. The Commissioner finds that Angela R. Clarke as the sole agent of Hodgman County Abstract committed violations of Kansas statutes and did not report such violations, as a result the agency license of Hodgeman County Abstract may be revoked in accordance with K.S.A. 2007 Supp. 40-4909(d).
20. The Commissioner finds, pursuant to K.S.A. 40-4909(b), that the insurable interests of the public are not properly served under the agency license of Hodgeman County Abstract license.
21. Accordingly, the Commissioner concludes sufficient grounds exist for the revocation of the insurance agency license of Hodgeman County Abstract pursuant to K.S.A. 2007 Supp. 40-4909(a) and (b).

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

1. The Kansas Resident Insurance Agency License of HODGEMAN COUNTY ABSTRACT & TITLE INSURANCE CO. is hereby **REVOKED** effective the effective date of this Order.
2. **IT IS FURTHER ORDERED** that HODGEMAN COUNTY ABSTRACT & TITLE INSURANCE CO. shall **CEASE** and **DESIST** from the sale, solicitation or negotiation

of insurance and/or receiving compensation deriving from the sale, solicitation or negotiation of insurance conducted after the effective date of this Order.

**NOTICE AND OPPORTUNITY FOR HEARING**

Hodgeman County Abstract & Title Insurance Co., within fifteen (15) days of service of this Summary Order, may file with the Kansas Insurance Department a written request for hearing on this Summary Order, as provided by K.S.A. 77-542. In the event a hearing is requested, such request should be directed to:

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

Any costs incurred as a result of conducting any administrative hearing shall be assessed against the agent/agency who is the subject of the hearing as provided by K.S.A. 40-4909(f). Costs shall include witness fees, mileage allowances, any costs associated with reproduction of documents which become part of the hearing record, and the expense of making a record of the hearing.

If a hearing is not requested, this Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period for requesting a hearing. The Final Order will constitute final agency action in the matter.

In the event the Petitioner files a petition for judicial review, 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 Kansas Insurance Department is:

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

In the Matter of the Kansas  
Resident Insurance Agency License of  
Hodgeman County Abstract &  
Title Insurance Co.

IT IS SO ORDERED THIS 18th DAY OF SEPTEMBER, 2008, 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 she served the above and foregoing Summary Order on this 18th day of Sept., 2008, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Hodgeman County Abstract & Title Insurance Co.  
PO Box 487  
Jetmore, KS 67854-0487

/s/ Stacy R. Bond  
Stacy R. Bond  
Staff Attorney

**NOTICE OF RIGHTS**

Pursuant to K.S.A. §77-601 et seq. Hodgeman County Abstract & Title Insurance Company is entitled to judicial review of this Final Order. The petition for judicial review must be filed within thirty (30) days of service of this Final Order (Plus three (3) days for service by mail pursuant to K.S.A. §77-531). In the event Hodgeman County Abstract & Title Insurance Company 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. 9th Street  
Topeka, Kansas 66612

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he served the above and foregoing Final Order on this 9th day of October, 2008, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Hodgeman County Abstract & Title  
Insurance Company  
P.O. Box 487  
Jetmore, Kansas 67584-0487

\_/\_s/ John R. Dowell\_\_\_\_\_

John R. Dowell  
Staff Attorney