

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

In the Matter of the Kansas Resident)
Insurance Agency's License of) **Docket No. 4214-SO**
MATTINGLY FORD TITLE SERVICES LLC)

SUMMARY ORDER
(Pursuant to K.S.A. 2009 Supp. 40-4909 and K.S.A. 2009 Supp. 77-537)

Pursuant to authority granted to the Commissioner of Insurance ("Commissioner") by K.S.A. 2009 Supp. 40-4909, the Commissioner hereby finds that Mattingly Ford Title Services LLC ("Respondent") has failed to file the audit required by K.S.A. 2009 Supp. 40-1137; orders the revocation of the Respondent's resident agency license; and, imposes penalties by way of Summary Order as provided by K.S.A. 2009 Supp. 77-537.

This 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 has been shown the following facts:

1. Records maintained by the Kansas Insurance Department ("KID") indicate that Mattingly Ford Title Services LLC is licensed as a resident title agency to transact the business of title insurance in the State of Kansas, and has been so licensed since April 3, 2008. KID records further indicate a legal address and a mailing address of 1650 UPS Drive, Suite 101, Louisville, KY, 40223.

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 or about April 3, 2008, Respondent was issued a Kansas resident agency license.

4. On or before December 20, 2006, Respondent provided to KID a legal and mailing address of 1650 UPS Drive, Suite 101, Louisville, KY, 40223.

5. On or about May 4, 2010, KID notified Respondent that K.S.A. 2009 Supp. 40-1137 had been amended and required Respondent to file annual audits of escrow, settlement and closing accounts with KID within 30 days after the close of the calendar year.

6. On or about July 13, 2010, KID again notified Respondent that KID had not received the audit and offered the Respondent another opportunity to present facts or arguments if it disagreed with any of the facts or legal conclusions set forth in this Order and that letter.

7. KID has not received an audit from Respondent for the calendar year 2009, nor any other response to its letters to Respondent.

Applicable Law

8. Kansas Statutes Annotated (“K.S.A.”) 2009 Supp. 40-1137(b) states, in relevant part:

(e) Each title insurance agent shall have an annual audit made of its escrow, settlement and closing deposit accounts, conducted by a certified public accountant or by a title insurer for which the title insurance agent has a licensing agreement. The title insurance agent shall provide a copy

of the audit report to the commissioner within 30 days after the close of the calendar year for which an audit is required.

9. K.S.A. 2009 Supp. 40-4909 states, in relevant 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 and regulation promulgated thereunder.
 - (f) Whenever the commissioner imposes any administrative penalty or denies, suspends, revokes or refuses renewal of any license pursuant to subsection (a), any costs incurred as a result of conducting an administrative hearing authorized under the provisions of this section shall be assessed against the person who is the subject of the hearing or any business entity represented by such person who is the party to the matters giving rise to the hearing. As used in this subsection, "costs" shall include witness fees, mileage allowances, any costs associated with the reproduction of documents which become a part of the hearing record and the expense of making a record of the hearing.
 - (h) In lieu of taking any action under subsection (a), the commissioner may:
 - (2) issue an order imposing an administrative penalty up to a maximum of \$500 for each violation but not to exceed \$2,500 for the same violation occurring within any six consecutive calendar months from the date of the original violation unless such person knew or should have known that the violative act could give rise to disciplinary action under subsection (a). If such person knew or reasonably should have known the violative act could give rise to any disciplinary proceeding authorized by subsection (a), the commissioner may impose a penalty up to a maximum of \$1,000 for each

violation but not to exceed \$5,000 for the same violation occurring within any six consecutive calendar months from the date of the imposition of the original administrative penalty.

Conclusions of Law

10. The Commissioner has jurisdiction over Respondent as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

11. Based on the facts and circumstances set forth herein, Mattingly Ford Title Services LLC failed to file in a timely manner an annual audit within 30 days after the close of the calendar year 2009 in violation of K.S.A. 2009 Supp. 40-1137.

Policy Reasons for Decision

12. The Commissioner determines that it is in the public interest to protect consumers from licensed agencies that are not in compliance with statutory requirements enacted to protect the public.

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

1. Mattingly Ford Title Services LLC's resident title agency license is hereby revoked and Respondent shall cease and desist from conducting any business in Kansas as a title agency.

2. Mattingly Ford Title Services LLC shall remit to the Kansas Insurance Department an administrative penalty in the sum of one thousand dollars (\$1,000) for violating K.S.A. 2009 Supp. 40-1137.

3. The Commissioner of Insurance retains jurisdiction over this matter to issue any and all further Orders deemed appropriate or to take such further action as necessary to dispose of this matter.

Notice of Right to Hearing or Appeal

You are entitled to a hearing pursuant to K.S.A. 2009 Supp. 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 __17th__ DAY OF SEPTEMBER, 2010, 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

Approved and Submitted by:

_____/s/ John Wine_____
John Wine
Staff Attorney

Certificate of Service

The undersigned hereby certifies that a true and correct copy of the above and foregoing Summary Order was served by placing the same in the United States Mail, first class postage prepared, on this 17th day of September, 2010, addressed to the following:

Russell Ford
Mattingly Ford Title Services LLC
1650 UPS Drive, Suite 101
Louisville, KY 40223

/s/ John Wine _____
John Wine
Staff Attorney