

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

In the Matter of )  
**LEAD GENERATING SYSTEMS, LLC** )  
**A.K.A. UNLIMITED FULFILLMENT** )  
**SERVICES, A.K.A. SMART LEADS.** )

Docket No. 4406-SO

**SUMMARY ORDER**

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-103, 40-2407, and 77-501 *et seq.*, the Commissioner hereby proposed to find facts and to assess a **MONETARY PENALTY** against Lead Generating Systems, LLC (“Respondent”) and further **CEASE & DESIST** from insurance marketing activities. 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 a hearing is made, pursuant to K.S.A. 77-542.

**Findings of Fact**

The Commissioner has been shown the following facts:

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 40-103
2. Respondent is an Ohio Domestic Limited Liability Company located at 620 E. Smith, Suite W20, Medina, OH, 44256.
3. From December 2010 through November 2011, the Kansas Insurance Department (“KID”) received four complaints from recipients of a solicitation mailed by Unlimited Fulfillment Services, LLC (“UFS”).
4. On March 16, 2012, KID filed a Final Order assessing a monetary penalty of \$4,000 and issuing an Order to Cease and Desist from insurance marketing activities against UFS.

5. UFS was notified of its right to a hearing and the process for requesting a hearing. UFS did not make a request for a hearing.
6. The \$4,000 monetary penalty assessed against UFS in the March 16, 2012, Final Order remains unpaid.
7. On or about August 20, 2012, UFS registered with the Ohio Secretary of State under the name Lead Generating Services, LLC.
8. On July 26, 2013, KID mailed a letter to Respondent stating the KID was aware of Respondent's continued insurance marketing activities. The letter cited Kansas applicable Kansas laws as authority.
9. Respondent has not responded to the letter from KID.

#### **Applicable Law**

K.S.A. 40-2402(a) provides, in pertinent part:

“Person” means any individual, corporation, association, Partnership, reciprocal exchange, inter-insurer, Lloyd’s insurer, Fraternal benefit society and any other legal entity engaged in the business of insurance.

K.S.A. 40-2403 provides:

No person shall engage in this state in any trade practice which is Defined in this state as, or determined pursuant to K.S.A. 40-2406 to be, an unfair of competition or an unfair or deceptive act or practice in the business of insurance.

K.S.A. 40-2404 provides:

The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(2) Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a

notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, misrepresentation or statement with respect to the business of insurance or with respect to any person in the conduct of such person's insurance business, which is untrue, deceptive or misleading.

K.S.A. 40-2406 provides:

(a) Whenever the commissioner has reason to believe that any such Person has been engaged or is engaging in this state in an unfair method of competition or any unfair or deceptive act or practice, whether or not defined in K.S.A. 40-2024, and amendments thereto, and that a proceeding by the commissioner in respect thereto would be in the interest of the public, the commissioner shall issue and serve upon such person a statement of the charges in that respect and conduct a hearing thereon in accordance with the provision of the Kansas administrative procedure act.

(b) If, after such hearing, the commissioner determines that the person charged has engaged in an unfair method of competition or any unfair or deceptive act or practice, any costs incurred as a result of conducting any administrative hearing authorized under the provisions of this section shall be assessed against such person or the company or companies represented by such person as an agent, broker or adjuster who is a participating party to the matters giving rise the hearing. As used in this subsection, "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.

K.S.A. 40-2407 provides, in pertinent part:

(a) If, after such hearing, the commissioner shall determine that the person charged has engaged in an unfair method of competition or an unfair or deceptive act or practice, the commissioner shall render an order requiring such person to cease and desist from engaging in such method of competition, act or practice and the act or practice is a violation of K.S.A. §40-2404 and amendments thereto, 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, but not to exceed an aggregate penalty of \$10,000, unless the person knew or reasonably should have known such person was in violation of this act,

in which case the penalty shall be not more than \$5,000 for each and every act or violation, but not to exceed an aggregate of \$50,000 in any six-month period;

### **Conclusions of Law**

Based on the Findings of Fact enumerated above in Paragraphs #1 through #9 and the Applicable Law above,

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. Lead Generating Systems, LLC, a.k.a. Unlimited Fulfillment Services, LLC, a.k.a. Smart Leads has engaged in the business of insurance in the State of Kansas by soliciting insurance business for Kansas insurance agents via deceptive and misleading postcards.
12. No Kansas resident holds an annuity contract with Lead Generating Systems, LLC, a.k.a. Unlimited Fulfillment Services, LLC, a.k.a. Smart Leads.
13. Respondent engaged in deceptive and misleading advertising in violation of K.S.A. 40-2403 and 40-2406 by mailing deceptive postcards to Kansas residents which mislead recipients into believing their financial well-being may be in jeopardy.
14. Respondent engaged in deceptive and misleading advertising in violation of K.S.A. 40-2404(2) by mailing misleading postcards to Kansas residents suggesting they have an annuity that may be adversely affected if they do not contact Respondent.

15. The Commissioner finds that the language in fine print on Respondent's postcards that claims to limit the applicability of the postcards does not remedy the misleading language printed in larger font.
16. Lead Generating Services, LLC, a.k.a. Unlimited Fulfillment Services, LLC, a.k.a. Smart Leads, had actual notice of the March 16, 2012, Final Order, the \$4,000 monetary penalty and the Cease and Desist Order.
17. Pursuant to K.S.A. 40-2407, when a person knows or should have known they are in violation of the provisions of the Kansas Unfair Trade Practices Act, the penalty shall be not more than \$5,000 for each violation.
18. The Commissioner finds that Respondent knew or should have known they were in violation of the Kansas Unfair Trade Practices Act when they mailed postcards to Kansas residents following the March 16, 2012 Final Order.
19. The Commissioner finds that Respondent shall pay a monetary penalty of Five Thousand Dollars (\$5,000) in addition to the Four Thousand Dollar (\$4,000) monetary penalty assessed in the March 16, 2012 Final Order, for a combined total of Nine Thousand Dollars (\$9,000), for knowingly violating K.S.A. 40-2403, 40-2404, and 40-2406.
20. The Commissioner finds that permitting Respondent to continue mailing deceptive and misleading postcards to Kansas residents would pose an immediate danger to the well-being of Kansans.
21. The Commissioner shall retain jurisdiction over this matter to issue any Order(s) deemed necessary and appropriate.

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE** that Lead Generating Services, LLC shall immediately **CEASE AND DESIST** its practice of mailing insurance solicitations of Kansas residents. Lead Generating Systems, LLC is ordered to pay a monetary fine of **FIVE THOUSAND DOLLARS (\$5,000)** for violations of Kansas law.

**NOTICE OF RIGHTS**

Lead Generating Services, LLC (“Respondent”) is entitled to a hearing pursuant to K.S.A. 77-537, the Kansas Administrative Procedure act. If Respondent desires a hearing, the company must file a written request for a hearing with:

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

This request must be filed within fifteen (15) days from the date of service of this Order. If Respondent requests a hearing, the Kansas Insurance Department will notify the company 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 the same.

If a hearing is not requested in the time and manner stated above, this Summary 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 Respondent 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 R. Wine, Jr.  
General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> Street  
Topeka, Kansas 66612

IT IS SO ORDERED THIS \_\_9th\_\_ DAY OF AUGUST, 2013, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



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

BY:

\_/s/ John R. Wine\_\_\_\_\_  
John R. Wine, Jr.  
General Counsel

**Certificate of Service**

The undersigned hereby certifies that above and foregoing Summary Order was served via the United States Postal Service, first-class postage prepaid, on this \_\_9th\_\_ day of August, 2013, addressed to the following:

Matthew Dilday  
Lead Generating Services, LLC  
620 E. Smith Rd.  
Suite W-20  
Medina, OH 44256

\_/s/ Jana L. Beethe\_\_\_\_\_  
Jana L. Beethe  
Legal Assistant  
For Diane Minear  
Staff Attorney