

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

In the Matter of the Kansas Title)	
Insurance Agency License of)	Docket No. 72126-S0
Southwest Kansas Title LLC)	
License no. 810701355-000)	

SUMMARY ORDER

(Pursuant to K.S.A. 40-2406, K.S.A. 40-4909, and 77-501)

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-4909, and K.S.A. 40-1141, the Commissioner hereby revokes the agency license of Respondent, Southwest Kansas Title LLC (“Respondent”). 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. Southwest Kansas Title, LLC (“Respondent”) was licensed as a Kansas resident title insurance agency on June 10, 2006, and remains licensed to date.
2. Respondent’s legal and mailing address of record is 108 N. 14th Ste. D-3, Dodge City, KS 67801.
3. On or about December 11, 2017 KID received a notice of cancellation of an escrow, settlement or closing accounts bond from Great American Insurance Company.
4. On December 11, 2017, KID wrote to Respondent asking for information on the cancellation and inquiring if there was a replacement bond, as required by statute.
5. Respondent failed to submit 2017 title auditing report due January 30, 2018.
6. The Kansas Insurance Department (“KID”) sent a letter to Respondent on or about April 12, 2018 requesting the auditing report, and assessing a \$100 penalty.

7. On or about June 13, 2018, KID sent a formal letter to Respondent reminding them of outstanding requirements, and notifying it of potential license revocation for failure to comply. This notice gave Respondent fifteen business days to respond.
8. As of the date of this Order, Respondent has not paid the required fine, remitted the auditing report, or responded to KID's requests to contest the findings.

Applicable Law

1. **K.S.A. 40-2,125 Violation of insurance laws; failure to file reports; penalties; emergency temporary cease and desist orders; definitions** states, in 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;
- (2) suspension or revocation of the person's license or certificate if such person knew or reasonably should have known that such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder; or
- (3) that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the commissioner will carry out the purposes of the violated or potentially violated provision.

(b) If any person fails to file any report or other information with the commissioner as required by statute or fails to respond to any proper inquiry of the commissioner, the commissioner, after notice and opportunity for hearing, may impose a civil penalty of up to \$1,000, for each violation or act, along with an additional penalty of up to \$500 for each week thereafter that such report or other information is not provided to the commissioner.

...

2. **K.S.A. 40-1137(d)** states:

(d) 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.

3. **K.S.A. 40-1139(a) states:**

(a) The title insurance agent who handles escrow, settlement or closing accounts shall file with the commissioner a surety bond or irrevocable letter of credit in a form acceptable to the commissioner, issued by an insurance company or financial institution authorized to conduct business in this state, securing the applicant's or the title insurance agent's faithful performance of all duties and obligations set out in K.S.A. 40-1135 through 40-1141, and amendments thereto.

4. **K.S.A. 40-1141. Same; violations and penalties.**

If the commissioner determines that the title insurance agent or any other person has violated this act, or any rules and regulation or order promulgated thereunder, after notice and opportunity to be heard, the commissioner may order that such person be subject to the penalties provided in K.S.A. 40-2406 et seq., and amendments thereto.

5. **K.S.A. 40-2406(a) states:**

(a) Whenever the commissioner has reason to believe that any such person has been engaged or is engaging in this state in any unfair method of competition or any unfair or deceptive act or practice, whether or not defined in K.S.A. 40-2404, 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 provisions of the Kansas administrative procedure act.

6. **K.S.A. 40-4909 Same; suspension, denial of, revocation or refusal to renew license; grounds; hearing; powers of commissioner** states, in 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...

(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.

(c) Any action taken under this section which affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedures act.

(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:

- (1) Such violation was not reported to the insurance commissioner by such business entity;
or
- (2) such business entity failed to take any corrective action.

Conclusions of Law

1. The Commissioner has jurisdiction over Respondent as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
2. The Commissioner finds that Respondent has failed to comply with statutory requirements or pay penalties associated with late filing and has not responded to proper inquiries of the Commissioner.
3. The Commissioner concludes that sufficient grounds exist for the revocation of the insurance agent's license of **Southwest Kansas Title LLC**, pursuant to the above-cited law.

Orders

Based on the Findings of Fact, Applicable Law, and conclusions cited above, **THE COMMISSIONER OF INSURANCE THEREFORE ORDERS THAT:**

1. The Kansas nonresident Insurance Agent's License of **Southwest Kansas Title, LLC** is hereby **REVOKED** the effective date of this Order.
2. **IT IS FURTHER ORDERED** that **Southwest Kansas Title LLC** 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.

IT IS SO ORDERED THIS 21st DAY OF AUGUST, 2018, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Ken Selzer, CPA
Commissioner of Insurance

BY:

Diane Minear
Diane Minear
General Counsel

NOTICE AND OPPORTUNITY FOR HEARING

Southwest Kansas Title LLC, 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:

Diane Minear, General Counsel
Kansas Insurance Department
420 S.W. 9th 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.

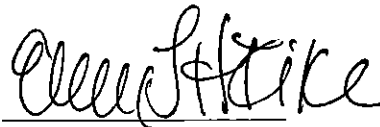
In the event the Respondent files a petition for judicial review, the agency officer designated pursuant to K.S.A. 77-613(e) to receive service of a petition for judicial review on behalf of the Kansas Insurance Department is:

Diane Minear, General Counsel
Kansas Insurance Department
420 S.W. 9th St.
Topeka, Kansas 66612

CERTIFICATE OF SERVICE

21 The undersigned hereby certifies that he served the above and foregoing Summary Order on this day of August, 2018, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Southwest Kansas Title LLC
108 N. 14th Ste. D-3
Dodge City, KS 67801


Elizabeth J. Hickert Fike
Staff Attorney