

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

In the Matter of:

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|---------------------------------|------------------------|--------------------------|
| RHONDA SCULLY | (NPN #9158566) | Docket No. 108772 |
| LAND TITLE SERVICES INC. | (NPN #8240708) | |
| LANDTITLE OF WICHITA | (NPN #15934354) | |

Respondents

NOTICE OF PROPOSED DEFAULT ORDER

PROPOSED DEFAULT ORDER
(Pursuant to K.S.A. 40-4909 and K.S.A. 77-501 et seq.)

The State of Kansas, through K.S.A. 40-103, has given the Commissioner of Insurance (“Commissioner”) “general supervision, control and regulation of corporations, companies, associations, societies, exchanges, partnerships, or persons authorized to transact the business of insurance, indemnity or suretyship in this state.” Additionally, K.S.A. § 40-1141 states the Commissioner may order penalties under K.S.A. 40-2406 *et seq.* (and its amendments) if they determine any person subject to its provisions has violated the insurance code of the State of Kansas. In turn, K.S.A. 40-2406 *et seq.* requires the Commissioner to conduct a hearing “in accordance with the provisions of the Kansas administrative procedures act.” *See also* Kan. Stat. Ann. § 77-513.

Additionally, pursuant to the authority granted to the Commissioner by K.S.A. 40-4909, they “may deny, suspend, revoke or refuse renewal of any license issued under this

act if the commissioner finds that the” person or entity violated any part of K.S.A. 40-4909(a)(1)-(17), or (b). *See also*, Kan. Stat. Ann. § 40-4909(e).

Therefore, pursuant to K.S.A. 40-4909, K.S.A. 40-1141, and K.S.A. 77-501 *et seq.*, **the Commissioner proposes to find facts to ORDER: (1) Each Respondent to IMMEDIATELY CEASE AND DESIST the transaction of the business of insurance in the State of Kansas; (2) that the Respondents provide the documents requested by the Department in the CEASE & DESIST ORDER (“C&D”) it issued on May 21, 2024, to the Respondents within 15 business days of this order becoming final; and (3) to revoke each of the Respondents’ insurance producer license by Default Order under K.S.A. 77-520.**

Findings of Fact

1. On May 21, 2024, the Kansas Department of Insurance (“Department”) issued a C&D to Rhonda Scully (NPN #9158566), Land Title Services Inc. (NPN #8240708), and Landtitle of Wichita (NPN #15934354) (“Respondents”) alleging they were “in noncompliance with Kansas law as it relates to the conduct of title insurance and escrow services business in the State of Kansas.” The C&D states specific statutes and the facts on which the Department relies for its allegations against the Respondents.

2. In the C&D, the Department ordered Respondents to: (1) “immediately CEASE AND DESIST the transaction of the business of insurance in the State of Kansas”; (2) each “pay a fine of \$5,000 for multiple violations of Kansas law”; and (3) “provide, within 15 business days of the date of this [C&D], the materials” previously requested by the Department.

3. In response, the Kansas Department of Insurance (“Department”) received a timely written request (dated June 4, 2024) for a hearing pursuant to K.S.A. 77-542 regarding the C&D. That timely written request also asked that a “new hearing . . . be conducted by a hearing panel that does not consist of any person who were present for the initial hearing.”

4. On June 21, 2024, the Commissioner appointed Bobbi Mariani as a Special Assistant Commissioner to act as the Presiding Officer (“Presiding Officer” or “Special Assistant Commissioner”) in this matter because of Respondents’ request for a new Presiding Officer.

5. After consultation with the parties, a Notice of Prehearing Conference (“Notice”) was mailed via the U.S. Postal Service and electronically mailed to Respondents via their counsel on July 30, 2024.

6. A Prehearing Questionnaire (“Questionnaire”) was also electronically mailed to Respondents via Counsel with the Notice sent on July 30, 2024. The Notice provided that the Prehearing Conference was scheduled for 2 p.m. August 12, 2024, and stated the following:

Enclosed with this Notice of Prehearing Conference is a Prehearing Questionnaire that must be completed and returned to the Department by 11:59 p.m. C.D.T. on Monday, August 5, 2024. Failure to do so may result in a default ruling.

(Emphasis in original.)

7. Respondents were also notified via a separate email sent on July 30, 2024, that the Questionnaire submission deadline was Monday, August 5, 2024. The

Questionnaire itself also states (in multiple locations) that the deadline for Respondents to submit the Questionnaire was August 5, 2024.

8. Respondents were notified via email on August 6, 2024, by the Presiding Officer's acting legal assistant that the Prehearing Questionnaire had not been returned by the August 5, 2024, deadline. In that email, Respondents were told that the Presiding Officer extended the submission deadline for the Questionnaire, that the Questionnaire must be returned by August 7, 2024, or the Prehearing Conference would be cancelled, and that the Presiding Officer may issue a default order if Respondents failed to meet the extended deadline.

9. Additionally, the Presiding Officer's acting legal assistant called the office of Respondents' then attorney ("Prior Counsel") on August 6, 2024, and left a message with their office stating that the Questionnaire had not been received, and that this may result in a default order. Respondents' Prior Counsel responded that day via email stating that new counsel ("Current Counsel") had been obtained and cc'd Current Counsel and "representatives of [his] client, so that all are aware of the extended deadline to submit the [Questionnaire] and the potential for a default ruling if the deadline is not met."

10. On August 9, 2024, Respondents were notified by email that the Prehearing Conference scheduled for August 12th, 2024, at 2 p.m. was cancelled because they failed to submit their Questionnaire by the extended deadline.

11. To date, the Respondents have not submitted the Questionnaire. Further, Respondents did not communicate with the Presiding Officer regarding the Questionnaire

or the Prehearing Conference until after the Presiding Officer indicated her intent to issue a Notice of Proposed Default Order (“Notice of Proposed Default Order”).

Applicable Law

12. Under Kansas law, the Commissioner of Insurance (“Commissioner”) “may deny, suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the” person or entity violated any part of K.S.A. 40-4909(a)(1)-(17), or (b).

13. Pursuant to K.S.A. 40-4909(d), “[a]ny action taken under this section that 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.”

14. Pursuant to K.S.A. 40-1138, title agents must maintain sufficient records “so that the commissioner may ensure” the agent is complying with applicable Kansas laws. Additionally, the agents “shall make available for inspection by the commissioner, or the commissioner’s representatives, all records relating to the title insurance agent’s escrow, settlement and closing business, and any other fiduciary trust accounts required to be kept.” Kan. Stat. Ann. § 40-1138.

15. Pursuant to K.S.A. 40-1141, “[i]f the commissioner finds that any person has violated this act, . . . 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.*”

16. Pursuant to K.S.A. 40-2406, the Commissioner is required to hold a hearing in accordance with the Kansas Administrative Procedures Act (“KAPA”) before acting under K.S.A. 40-2407.

17. In turn, K.S.A. 40-2407, allows the Commissioner to issue a cease and desist order, issue monetary penalties, and suspend or revoke the person’s license for such violations.

18. Pursuant to KAPA, “[i]f a party fails to attend or participate in a prehearing conference, hearing or other stage of an adjudicative proceeding, the presiding officer may serve upon all parties written notice of a proposed default order, including a statement of the grounds.” Kan. Stat. Ann. § 77-520(a).

19. Pursuant to K.S.A. 77-520(b), Respondents may file a written motion requesting this Proposed Default Order be vacated stating the grounds relied on within seven (7) days after the service of this Proposed Default Order.

20. Pursuant to K.S.A. 77-520(c), “[t]he proposed default order shall become effective after expiration of the time within which the party may file a written motion under subsection (b) unless a written motion to vacate the order is filed with the agency within such time.”

21. Pursuant to K.S.A. 77-520(e), “[i]f the presiding officer is the agency head, or has been designated under K.S.A. 77-514, and amendments thereto, to issue a final order, the order shall be deemed a final order.”

22. Pursuant to K.S.A. 77-514(e), “[i]f a substitute is required for a person who is disqualified or becomes unavailable for any other reason, any action taken by a duly

appointed substitute for a disqualified or unavailable person is as effective as if taken by the latter.”

Conclusions of Law

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

24. The Special Assistant Commissioner of Insurance was lawfully appointed by the Commissioner in accordance with K.S.A 77-514 and K.S.A. 77-547.

25. The Special Assistant Commissioner of Insurance is acting on behalf of the Commissioner of Insurance as the agency head and is empowered to act as the Presiding Officer and issue a Final Order. Kan. Stat. Ann. § 77-547. *See*, Kan. Stat. Ann. § 77-514; Kan. Stat. Ann. § 77-526.

26. The Commissioner, through the Special Assistant Commissioner, finds that Respondents failed to submit the Prehearing Questionnaire or timely respond to communications regarding the Prehearing Questionnaire.

27. Based on the foregoing, the Respondents have failed to participate in a stage of an adjudicative proceeding, and a Proposed Default Order should be served in accordance with K.S.A. 77-520.

IT IS THEREFORE ORDERED THAT THE RESPONDENT MUST SUBMIT A WRITTEN REQUEST TO VACATE THIS PROPOSED DEFAULT ORDER WITHIN SEVEN (7) DAYS OF THE DATE OF THIS PROPOSED DEFAULT ORDER (PLUS THREE [3] DAYS FOR SERVICE BY MAIL OR ELECTRONIC MEANS PURSUANT TO K.S.A. 77-531). The written request to

vacate must be accompanied by a completed Prehearing Questionnaire. If a written request to vacate, along with the completed Prehearing Questionnaire, is not timely received, the Respondents' proceeding will be DISMISSED.

IT IS FURTHER ORDERED THAT RESPONDENTS' FAILURE TO FILE A TIMELY WRITTEN MOTION TO VACATE WILL RESULT IN THIS ORDER BECOMING EFFECTIVE AS A FINAL ORDER AND RESPONDENTS SHALL BE ORDERED TO: (1) CEASE AND DESIST THE TRANSACTION OF THE BUSINESS OF INSURANCE IN THE STATE OF KANSAS; (2) PROVIDE THE DOCUMENTS REQUESTED BY THE DEPARTMENT IN THE CEASE AND DESIST ORDER IT ISSUED ON MAY 21, 2024, TO THE RESPONDENTS WITHIN 15 BUSINESS DAYS OF THIS ORDER BECOMING FINAL; AND (3) TO REVOKE EACH OF THE RESPONDENTS' INSURANCE PRODUCER LICENSES BY DEFAULT ORDER UNDER K.S.A. 77-520.

IT IS SO ORDERED THIS 22nd DAY OF AUGUST, 2024, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



VICKI SCHMIDT
COMMISSIONER OF INSURANCE

BY: *B. Mariani*
Bobbi Mariani
Special Assistant Commissioner
Presiding Officer

NOTICE OF RIGHT TO FILE A MOTION TO VACATE

Pursuant to K.S.A. 77-520(b), Respondents are entitled file a Motion to Vacate. A Motion to Vacate must be filed within seven (7) days of service of this Proposed Default Order (plus three [3] days for service by mail or electronic means pursuant to K.S.A. 77-531).

In the event Respondents file a Motion to Vacate pursuant to K.S.A 77-520(b), the Agency Officer to be served on behalf of the Kansas Insurance Department is:

Justin L. McFarland, General Counsel
Kansas Insurance Department
1300 SW Arrowhead Road
Topeka, KS 66604

NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to K.S.A. 77-601 through K.S.A. 77-631, Respondents are entitled to judicial review, if this Proposed Default Order becomes a Final Order. The petition for judicial review must be: filed within thirty (30) days of service of the date the Proposed Default Order becomes a Final Order (plus three [3] days for service by mail or electronic means pursuant to K.S.A. 77-531). In the event Respondents file a petition for judicial review pursuant to K.S.A. 77-613, the Agency Officer to be served on behalf of the Kansas Insurance Department is:

Justin L. McFarland, General Counsel
Kansas Insurance Department
1300 SW Arrowhead Road
Topeka, KS 66604

Certificate of Service

The undersigned hereby certifies that he served a true and correct copy of the above and foregoing NOTICE OF PROPOSED DEFAULT ORDER on this 22nd day of August, 2024, by causing the same to be electronically mailed and placed in the United States Mail, first class postage prepaid addressed to the following:

Rhonda Scully, Land Title Services Inc., and LandTitle of Wichita
c/o
Hartenstein Poor & Foster LLC
200 W. Douglas Ave., Ste. 350
Wichita, KS 67202

Counsel for the Respondents

And hand-delivered to the following:

Justin L. McFarland
General Counsel
Kansas Department of Insurance
1300 SW Arrowhead Road
Topeka, KS 66604
Counsel for the Kansas Insurance Department



Bretton W.H. Kreifel
Attorney
Acting Legal Assistant