

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

In the Matter of Kansas Certificate of
Registration of CALDWELL LEGAL U.S.A.

Docket No. 2731-RC

**ORDER OF AGENCY HEAD ON REMAND
FOR FUTHER PROCEEDINGS**

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-4209 and 40-4210. and K.S.A. 1998 Supp. 77-527, this matter comes on for agency head review. After reviewing the record, petition submitted by Caldwell Legal U.S.A. and the statements of parties, and having been well advised in the premises, the Commissioner hereby remands the above captioned matter to the Presiding Officer for further findings and orders. The Commissioner makes the following findings of fact, conclusions and order as required by K.S.A. 1998 Supp. 77-527 (h) and K.S.A. Supp. 77-526(c) to wit:

FINDINGS OF FACT

1. On April 7, 1999 a hearing was held before the Presiding Officer. The Kansas Insurance Department appeared and presented evidence. Caldwell Legal U.S.A. did not appear nor request a continuance prior to the scheduled hearing.

2. On April 8, 1999 a Notice of Proposed Default Order and Proposed Default Order was issued.

3. Caldwell Legal U.S.A. responded to that notice and order on April 16, 1999 by filing a Motion To Vacate the Proposed Default Order. They contend that they did not receive the notice of hearing and were not aware of the April 7, 1999 hearing until they received the Notice of Proposed Default Order.

4. The Notice of Hearing certificate of service had an additional number in the zip code, i.e. '955824-5778, instead of the correct number "95824-5778." The rest of the address was correct. The Notice of Hearing was not returned "undeliverable."

5. The Presiding Officer issued an Initial Order on April 20, 1999 denying Caldwell Legal USA's motion to vacate the proposed default order and the Default Order was put into effect. The Presiding Officer further found in that order that the Kansas Certificate of Registration for Caldwell Legal U.S.A. is not renewed because it is not competent, trustworthy, financially responsible, or of good personal business reputation and therefore there are not sufficient grounds to not renew the certificate for registration pursuant to K.S.A. 40-4209(b).

6. On May 4, 1998 counsel of Caldwell Legal U.S.A. filed a petition for review requesting that the Initial Order be set aside or in the alternative all issues be remanded to the Presiding Officer for further proceedings.

LEGAL AUTHORITY
AND CONCLUSIONS OF LAW

7. K.S.A. 40-4209 grants the Commissioner the authority to issue, renew, and revoke certificate of registration for prepaid legal plans.

8. After reviewing the record and petition for review the Commissioner finds and concludes that this matter be remanded for further proceedings before the Presiding Officer. Caldwell Legal U.S.A. has requested that they be given an opportunity to correct past problems that lead to this action. Further Caldwell Legal U.S.A. has not appeared and given evidence on their behalf.

9. The parties to this action have stated to the Commissioner that it is their desire to enter into an agreed order setting our conditions and actions that Caldwell Legal will be required to take in order to continue to maintain their certificate of registration in Kansas.

10. A remand to the Presiding Officer would give the parties sufficient time and opportunity to reach an agreement on this matter.

POLICY REASONS

11. The Commissioner finds and concludes that this matter shall be remanded to Presiding officer for further proceedings, specifically to give the parties the opportunity to reach an agreed order to submit to the Presiding Officer.

**IT IS THEROFRE ORDERED BY THECOMMISSIONER OF INSURANCE
THAT:**

1. That this matter is remanded to the Presiding Officer for further proceedings, specifically for the purposes of the parties reaching an agreed order on this matter.

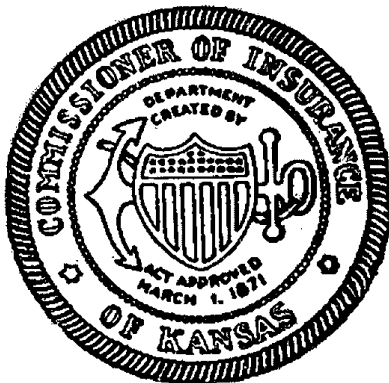
NOTICE OF FINAL AGENCY AND JUDICIAL REVIEW

The issuance of the Order on Remand constitutes final agency action in this matter. Accordingly, all administrative remedies available to the Petitioner are hereby

deemed exhausted, and the filing of a petition for reconsideration is not a prerequisite for judicial review.

The Petitioner may, within (30) days of service of this Order on Remand, file a petition for judicial review in the appropriate court, as provided for by K.S.A. 77-613. In the event, the Petitioner files a petition for judicial review, the agency officer to be served on behalf of the Kansas Insurance Department is: Kathy Greenlee, General Counsel, Kansas Insurance Department, 420 SW 9th. Street, Topeka, Kansas 66612.

IT IS SO ORDERED THIS 17th DAY OF MAY 1999, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



/s/_____
Kathleen Sebelius
Commissioner of Insurance

By: /s/_____
Kathy Greenlee
General Counsel

PREPARED APPROVED BY:

/s/_____
Rebecca A. Sanders, Staff Attorney

And

/s/_____
Richard L. Berry Ks. Bar #9528
Attorney for Caldwell Legal U.S.A.