

M. GALE LEMMON #4363
Assistant Attorney General
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Attorney General
Attorneys for Utah Insurance Department
State Office Building, Room 3110
Salt Lake City, UT 84114
Telephone (801) 538-3872

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH**

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENTS:

MOUNTAIN VIEW TITLE & ESCROW, INC.

License No. 2164

RICK D. HENDRY

License No. 84726

5732 South 1475 East, Suite 100

Ogden, UT 84403

STIPULATION

&

ORDER

Docket No.

2008-119 PC

Enf. Case Nos. 2114 & 2115

STIPULATION

1. Respondent, Mountain View Title & Escrow, Inc. ("Mountain View"), is a licensed title insurance agency in the State of Utah, holding License No. 2164. Respondent Rick D. Hendry ("Hendry"), is a licensed title insurance agent in the State of Utah, holding License No. 84726, and is an appointed agent for Respondent Mountain View.

2. Respondents stipulate with the Complainant, Utah Insurance Department, as follows:

a. If a hearing were held, witnesses called by the Complainant could offer and introduce evidence that would support the Findings of Fact herein;

- b. Respondents admit the Findings of Fact and Conclusions made therefrom;
- c. Respondents stipulate to the summary entry of the Order herein which shall be in lieu of other administrative proceedings by Complainant in this matter; and
- d. Respondents and Complainant have negotiated the terms of the Order entered herein and Respondents agree to its entry and further agree to be bound by all its terms.

3. Respondents are aware of their right to a hearing at which they may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived their right to such hearing and to any appeal related thereto.

4. Respondents admit the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.


5. Respondents are acting herein free from any duress or coercion of any kind or nature, having been advised fully as to their rights set forth herein.

6. Respondents acknowledge that the issuance of this Order by the Commissioner is solely for the purpose of disposition of the matter entitled herein.

DATED this 14 day of AUGUST, 2008.


MOUNTAIN VIEW TITLE & ESCROW, INC.
Mike Hendry, President


RICK D. HENDRY


UTAH INSURANCE DEPARTMENT
M. Gale Lemmon, Assistant Attorney General

Based upon the foregoing Stipulation and information in the file, the Presiding Officer makes the following Findings of Fact:

FINDINGS OF FACT

1. On or about June 21, 2007, Respondent Hendry, acting as an agent for Respondent Mountain View, closed a simultaneous double real estate transaction commonly known as a “flip”.
2. In the first transaction the property sold for \$379,100.00. In the second transaction closed on the same date for the same property the sale price was \$638,226.00.
3. The purchaser in the first transaction did not pay the full purchase price to purchase the property in the first transaction and was the seller in the second transaction and received net proceeds from the two transactions of about \$146,456.00.
4. “Flip” transactions where there is a substantial increase in the sale price of the property in the second transaction, particularly where the buyer in the first transaction does not pay the full purchase price in the first transaction, is an indicator that the transaction may be a fraud on the lender, and Respondent Hendry violated his fiduciary duty to the lender by failing to inform it of the facts in these transactions, which he knew may constitute a fraud on the lender, prior to closing the transactions.
5. In failing to notify the lender, a participant in the escrow, of the true nature of the transaction, Respondent Hendry made a communication relating to an insurance policy to the lender that was false or misleading because it was incomplete.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

CONCLUSIONS OF LAW

1. In failing to notify the lender of the true nature of the transaction, Respondent Hendry violated Utah Code Annotated § 31A-23a-402(1)(a)(i) by making a communication relating to an insurance policy that contained false or misleading information, including information that is false or misleading because it is incomplete.

2. Pursuant to Utah Code Annotated § 31A-23a-111(5)(c), a person named on the license of an agency is also considered to be a holder of the agency license.

3. Pursuant to Utah Code Annotated § 31A-2-308, the commissioner may assess a penalty of up to \$2,500.00 for an individual and of up to \$5,000.00 for an agency for each violation of the Utah Insurance Code.

Based upon the foregoing Stipulation, Findings of Fact and Conclusions of Law, the Presiding Officer herewith enters the following Order:

ORDER

THE PRESIDING OFFICER RECOMMENDS THAT THE TITLE AND ESCROW COMMISSION IMPOSE THE FOLLOWING PENALTIES:

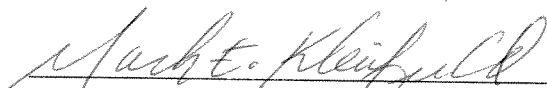
1. Respondent Rick D. Hendry be assessed an administrative forfeiture in the amount of \$2,000.00, to be paid within 30 days of the date of the imposition of the penalty by the Title and Escrow Commission.

2. Respondent Mountain View Title & Escrow, Inc. be assessed an administrative forfeiture in the amount of \$2,000.00, to be paid within 30 days of the date of the imposition of

the penalty by the Title and Escrow Commission.

DATED this 8th day of September, 2008.

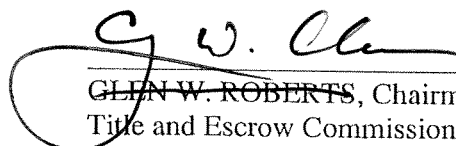
D. KENT MICHIE
INSURANCE COMMISSIONER


MARK E. KLEINFELD, Esq.
Administrative Law Judge
Utah Insurance Department

IMPOSITION OF PENALTY

By a vote of 4 to 0, taken in open meeting on this date, the Title and Escrow Commission hereby imposes the penalties recommended in the Order herein above.

Dated this 14 day of October, 2008.


GLEN W. ROBERTS, Chairman
Title and Escrow Commission

NOTIFICATION

Respondents are hereby notified that failure to abide by the terms of this Order may subject them to further penalties, including additional forfeitures of up to \$2,500.00 per violation for an individual and of up to \$5,000.00 per violation for an agency, and the suspension or revocation of your licenses, and the filing of an action to enforce this Order in the District Court, which may impose penalties of up to \$10,000.00 per day for continued violation.


You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

CONCURRENCE WITH COMMISSION IMPOSED PENALTY

On behalf of the Commissioner of the Utah Insurance Department I hereby concur
with the penalty imposed by the Utah Title and Escrow Commission in the above matter.

DATED this 14 day of October, 2008.

D. KENT MICHIE
INSURANCE COMMISSIONER



MARK E. KLEINFELD
Administrative Law Judge

UTAH
Invoice - Original

Printed Date: October 14, 2008
Invoice Date: October 14, 2008
Balance Due: \$2,000.00
Due Date: November 07, 2008
Invoice ID: 393237
Payor ID: 32525

HENDRY RICK D
930 EAST CHAMBERS STREET
SUITE 3
SOUTH OGDEN UT 84403

Item Description	Amount
10/14/2008 Monetary Penalty Individual	\$2,000.00
E-case 2115 Docket 2008 119 PC	
Original Amount Due	<u>\$2,000.00</u>

UTAH
Invoice - Original

Invoice Date: October 14, 2008
Balance Due: \$2,000.00
Due Date: November 07, 2008
Invoice ID: 393237
Payor ID: 32525
Payor Name: HENDRY, RICK D

Make checks payable to: Utah Insurance Department

Send payment to:

Utah Insurance Department
3110 State Office Building
Salt Lake City, UT 84114-6901

UTAH
Invoice - Original

Printed Date: October 14, 2008
Invoice Date: October 14, 2008
Balance Due: \$2,000.00
Due Date: November 07, 2008
Invoice ID: 393238
Payor ID: 6547

CAROLYN ROBINSON
MOUNTAIN VIEW TITLE ESCROW INC
5732 SOUTH 1475 EAST STE 100
OGDEN UT 84403

Item Description	Amount
10/14/2008 Monetary Penalty Agency E-Case 2114 Docket 2008- <i>119</i> PC	\$2,000.00
Original Amount Due	\$2,000.00

UTAH
Invoice - Original

Invoice Date: October 14, 2008
Balance Due: \$2,000.00
Due Date: November 07, 2008
Invoice ID: 393238
Payor ID: 6547
Payor Name: MOUNTAIN VIEW
TITLE & ESCROW,
INC

Make checks payable to: Utah Insurance Department

Send payment to:

Utah Insurance Department
3110 State Office Building
Salt Lake City, UT 84114-6901

CERTIFICATE OF MAILING

I do hereby certify that on this date I mailed, by regular mail, postage prepaid a true and correct copy of the attached:

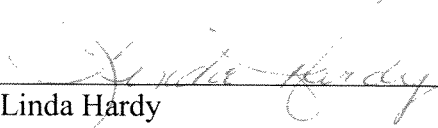
STIPULATION
&
ORDER

To the following:

Rick D. Henry
930 East Chambers Street
Suite 3
South Ogden, Utah 84403
&

Carolyn Robison
Mountain View Title Escrow, Inc
5732 South 1475 East Suite 100
Ogden, Utah 84403

DATED this 14th day of October 2008.


Linda Hardy Court Clerk
Utah Department of Insurance
State Office Building, Room 3110
Salt Lake City, UT 84114-6901