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UTAH STATE  
INSURANCE DEPT

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BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH

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**COMPLAINANT:**

UTAH INSURANCE DEPARTMENT

**RESPONDENT:**

MORGAN TITLE & ESCROW, INC.  
202 East 800 South, Suite 101  
Orem, UT 84058

License No. 242670

**STIPULATION AND ORDER**

Docket No. 2010-141 PC

Enf. Case No. 2704

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**STIPULATION**

1. Respondent, Morgan Title & Escrow, Inc. is a licensed insurance agent in the State of Utah, holding License No. 242670.
2. Respondent stipulates 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. Respondent admits the Findings of fact and Conclusions made therefrom;

- c. Respondent stipulates to the Summary entry of the Order herein which shall be in lieu of other administrative proceedings by Complainant in this matter; and
- d. Respondent and Complainant have negotiated the terms of the Order entered herein and Respondent agrees to its entry and further agrees to be bound by all its terms.


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

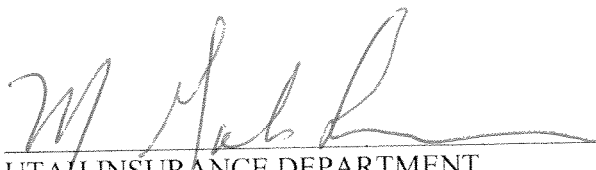
4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to its rights set forth herein.

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

DATED this 10 day of September, 2010.

  
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MORGAN TITLE & ESCROW, INC.  
By Hillary J. Morgan, President

  
\_\_\_\_\_  
UTAH INSURANCE DEPARTMENT  
M. Gale Lemmon  
Assistant Attorney General

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

**FINDINGS OF FACT**

1. In December 2009 Respondent Morgan Title & Escrow, Inc. distributed 5 poinsettia plants to loan officers at Wells Fargo Bank in Provo, UT.

2. Attached to the plants was a holiday greeting card displaying a logo and the name “Morgan Title & Escrow.”

3. Respondent was contacted by a Department investigator after a complaint was received from another title agency suggesting that the distribution of the plants by Respondent may be in violation of the Rule regarding self-promotional items.

4. Respondent answered the investigator’s inquiry by confirming that the cost of the each plant with card was under the \$5.00 limit and was non-edible.

5. The investigator then informed Respondent that merely attaching a card, tag or business card to an item did not meet the criteria for “self promotional” as contemplated by the Rule.

6. Respondent agreed to a forfeiture of \$2,500~~0~~ for the distribution of five poinsettias with the holiday card attached to the loan officers at Wells Fargo Bank.

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

**CONCLUSIONS OF LAW**

1. Utah Code Ann. § 31A-23a-402 (2009) defines unfair marketing practices and provides that the Title and Escrow Commission shall make rules that define any other unfair

method of competition or any other unfair or deceptive act or practice. . . .

2. Department Rule R592-6-5 states the following:

Except as otherwise specifically prohibited in Section R592-6-4 above, the following are permitted:

(5) A title insurer, agency or producer may distribute self-promotional items having a value of \$5 or less to clients, consumers and members of the general public. These self-promotional items shall be novelty gifts which are non-edible and may not be personalized or bear the name of the donee. Self-promotional items may only be distributed in the regular course of business. Self-promotional items may not be given to clients or trade associations for redistribution by these entities.

3. The distribution of the poinsettias with a card attached violated the above Rule in that merely placing, sticking, or otherwise affixing an agency logo, business card, or other form of advertising does not meet the criteria of "self-promotional" as contemplated by the Rule.

4. An administrative forfeiture of \$2,500.00 to be paid in monthly installments is appropriate under the circumstances.

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

**RECOMMENDED ORDER**

**IT IS RECOMMENDED THAT THE TITLE AND ESCROW COMMISSION IMPOSE THE FOLLOWING PENALTY:**

1. Respondent Morgan Title & Escrow, Inc. be assessed an administrative forfeiture in the amount of \$2,500.00 to be paid to the Department of Insurance in monthly installments in the

amount of \$250.00 beginning within 30 days of issuance of the Order and continuing each month until paid in full.

DATED this 14 day of September, 2010.

NEAL T. GOOCH  
Acting Insurance Commissioner



MARK E. KLEINFELD  
Administrative Law Judge  
Utah Insurance Department  
State Office Building, Room 3110  
Salt Lake City, Utah 84114  
Telephone: (801) 538-3800

**ADOPTION OF RECOMMENDED ORDER AND IMPOSITION OF PENALTY**

By a vote of 3 to ~~0~~, taken in open meeting on this date, the Title and Escrow Commission hereby adopts the recommended order of the presiding officer and imposes the penalty recommended herein above.

DATED this 11<sup>th</sup> day of October, 2010.



CORTLUND G. ASHTON Chairman  
Title and Escrow Commission

NOTIFICATION

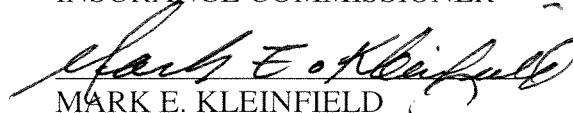
You are hereby notified that a failure to obey an Order of the Commissioner may subject you to further penalties, including forfeiture of up to \$5,000 per violation and the suspension or revocation of your license and the filing of an action in district court, which may impose forfeitures of up to \$10,000 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 11<sup>th</sup> day of October, 2010.

NEAL T. GOOCH  
INSURANCE COMMISSIONER

  
MARK E. KLEINFELD  
Administrative Law Judge

## CERTIFICATE OF MAILING

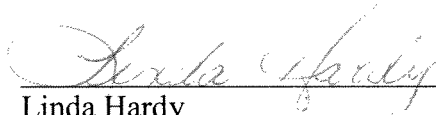
I do hereby certify that on this date I mailed, by regular mail, postage prepaid a true and correct copy of the attached:

### STIPULATION & ORDER

To the following:

Morgan Title & Escrow  
202 East 800 South, Suite 101  
Orem, UT 84058

DATED this 12<sup>th</sup> day October, 2010



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