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BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH

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<p><b>COMPLAINANT:</b></p> <p>UTAH INSURANCE DEPARTMENT</p> <p><b>RESPONDENT:</b></p> <p>JAMES TYLER HOLDEN 5732 South 1475 East, Suite 100 South Ogden, UT 84403 License 216762</p>	<p><b>STIPULATION AND ORDER</b></p> <p>Docket No. 2011-062 LC</p> <p>Enf. Case No. 2786</p>
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**STIPULATION**

1. Respondent, James Tyler Holden (“Holden”) is an active licensed title agent in the State of Utah, holding License No. 216762.
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 his right to a hearing at which he may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived his 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 his 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 27<sup>th</sup> day of APRIL, 2011.

  
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JAMES TYLER HOLDEN

  
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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. On or about December 6, 2010, the department generated a list of all agency and individual title producers who had reinstated their licenses during November, 2010. A review of department data revealed that Respondent Holden, whose license had lapsed on August 31, 2010, reinstated his license on November 15, 2010.
2. Due to the lapse in license, Respondent's association with Mountain View Title & Escrow, Inc. was terminated on August 31, 2010.
3. On November 20, 2010 a market conduct examiner sent a request to Respondent requesting a narrative statement regarding any title insurance business conducted during the period September 1, 2010, through November 15, 2010.
4. On or about December 28, 2010, Respondent Holden responded with a written reply. Respondent stated that he had been involved in 26 closings during the time period, but also stated that during the time, any closings to which he was assigned were "prepared and funded by other parties in the company." He said he did not prepare documents, deposit or disburse funds, and only notarized documents for recording. He further stated that he took no part in the recording or policy preparation process.
5. The HUD-1 documents, however, indicated James Tyler Holden as the closing settlement agent.
6. On November 22, 2010, the Utah State Tax Commission filed a tax warrant (judgment), Second District civil number 106907963, against Respondent in the amount of \$641.43 for tax year 2005.

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-103 states as follows:
  - (1) (a) Unless exempted from the licensing requirement under Section **31A-23a-201** or **31A-23a-207**, a person may not perform, offer to perform, or advertise any service as a producer, limited line producer, customer service representative, consultant, managing general agent, or reinsurance intermediary in Utah, without a valid individual or agency license issued under this chapter.
  - (b) A valid license includes at least one license type and one line of authority pertaining to that license type.
  - (c) A person may not utilize the services of another as a producer, limited line producer, customer service representative, consultant, managing general agent, or reinsurance intermediary if that person knows or should know that the other does not have a license as required by law.
  - (2) This part may not be construed to require an insurer to obtain an insurance producer license.
  - (3) An insurance contract is not invalid as a result of a violation of this section.
  
2. Utah Code Ann. § 31A-2-302(6), requires that all information submitted to the Commissioner to be accurate and complete.
  
3. Utah Code Ann. § 31A-23a-111 states in part that if the Commissioner makes a finding as part of an administrative adjudication, the Commissioner may revoke or suspend a license if the licensee does not pay a final judgment rendered against that person in the State of Utah within 60 days of the judgment becoming final.
  
4. Respondent was in violation of Section 31A-23a-103 when he conducted 26 closings between September 1, 2010 and November 15, 2010 without an active license or association.
  
5. Respondent violated Section 31A-2-202 by submitting false, inaccurate, and incomplete information in his written statement.

6. Respondent Holden agrees that an administrative forfeiture in the amount of \$3,000.00 and probation for 12 months is appropriate.

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 James Tyler Holden be assessed an administrative forfeiture in the amount of \$3,000.00 to be paid to the Department of Insurance within 30 days of the adoption of this Order by the Title and Escrow Commission.

2. Respondent be placed on probation for a period of 12 months. The terms of probation are that (1) Respondent shall pay the \$3,000.00 forfeiture in a timely manner; (2) Respondent shall pay the \$641.43 judgment filed by the Utah State Tax Commission; and (3) Respondent shall have no further violations of the Utah Insurance Code, Department Rules, or any order of the Commissioner.

DATED this 3<sup>rd</sup> day of May, 2011.

NEAL T. GOOCH  
Insurance Commissioner



MARK E. KLEINFELD, Presiding Officer  
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 5 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 9<sup>th</sup> day of May, 2011.

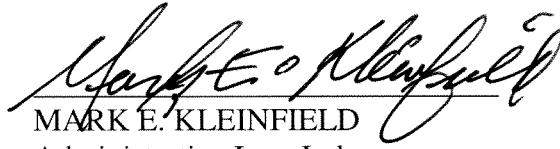
  
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CORTLUND G. ASHTON, Chairman  
Title and Escrow Commission

**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 9<sup>th</sup> day of May, 2011.

NEAL T. GOOCH  
INSURANCE COMMISSIONER

  
MARK E. KLEINFELD  
Administrative Law Judge