

RECEIVED

DEC 27 2011

UTAH STATE
INSURANCE DEPT.

M. GALE LEMMON #4363
Assistant Attorney General
MARK L. SHURTLEFF #4666
Attorney General
Attorneys for Utah Insurance Department
160 East 300 South, Fifth Floor
PO Box 140874
Salt Lake City, UT 84114
Telephone: 801-366-0375

BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH

<p>COMPLAINANT:</p> <p>UTAH INSURANCE DEPARTMENT</p> <p>RESPONDENT:</p> <p>LIBERTY TITLE WEST, LLC 2363 South Foothill Drive #300 Salt Lake City, UT 84109 License No. 365696</p>	<p>STIPULATION AND ORDER</p> <p>Docket No. 2011-258 T</p> <p>Enf. Case No. 3030</p>
---	--

STIPULATION

1. Respondent, Liberty Title West LLC is a licensed title insurance agency in the State of Utah, holding License No. 365696.
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.

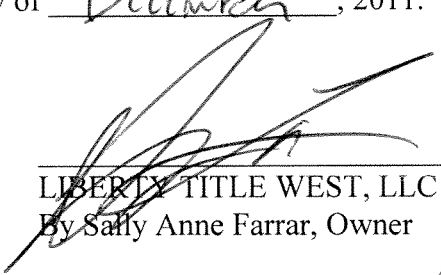
3. Respondent is aware of its right to a hearing at which it may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived its right to such hearing and to any appeal related thereto.

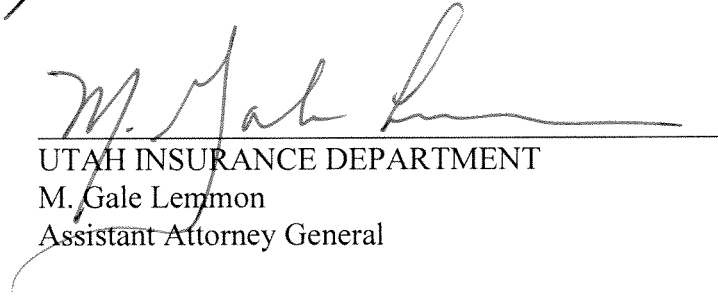
4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

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 23 day of December, 2011.


LIBERTY TITLE WEST, LLC
By Sally Anne Farrar, Owner


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 August 31, 2011, the Department conducted an audit of the Respondent Liberty Title West LLC (“Liberty”). Building signs for advertisements showed Respondent was using the name “Liberty Title,” a name other than the approved name on its license. Business cards, letterheads, and brochures also used of the same name, Liberty Title.

2. The audit also revealed that Respondent had not filed its 2010 annual report, nor had it filed its escrow rates with the Department.

3. A check of SIRCON found that the individual license of a producer for Liberty, Ashley Rae Money, had lapsed on June 30, 2011, with no reinstatement. SIRCON also revealed that Ms. Money had never been associated with Liberty.

4. Audit follow-up correspondence from Liberty’s owner indicated that Ms. Money had conducted four closings between the dates of June 30, 2011 and August 31, 2011.

5. Respondent’s owner cooperated in the audit and took the following immediate corrective actions:

On August 31, 2011, Liberty’s owner had all signage corrected with the approved name;
On August 31, 2011, Liberty filed its 2010 annual report;
On August 31, 2011, Ashley Rae Money’s license was reinstated;
On August 31, 2011, Ms. Money was associated with Liberty;
Escrow rates were reported to the Department by September 9, 2011; and
All advertising was corrected by September 12, 2011.

6. Respondent has agreed to an administrative forfeiture of \$5,000, probation for a period of 12 months, and will submit a comprehensive business plan that outlines specific policies and procedures with regards to the timely renewal of agency/individual licenses.

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

CONCLUSIONS OF LAW

1. Utah Administrative Code R590-154-7 prohibits the sale, solicitation, or negotiation of insurance “using a name other than the exact name appearing on the producer, limited line producer or consultant agency license.” Respondent violated this Rule by using signage that did not reflect its exact name as licensed.

2. Utah Code Ann. § 31A-19a-209(2)(a) states:

- (2) (a) Every title insurance insurer, agency, and title insurance producer shall file with the commissioner:
 - (i) a schedule of the escrow charges that the title insurance insurer, agency, or title insurance producer proposes to use in this state for services performed in connection with the issuance of policies of title insurance; and
 - (ii) any changes to the schedule of the escrow charges described in Subsection (2)(a)(I).

Respondent violated the above statute when it failed to timely file a rate schedule with the Commissioner.

3. Utah Code Ann. § 31A-23a-413 states that “[e]very title insurance producer shall annually file with the commissioner, by a date, and in a form the commissioner specifies by rule, a verified statement of the producer’s financial condition, transactions, and affairs as of the end of the preceding calendar year.” Because Respondent was delinquent in filing its 2010 annual report, it was in violation of this provision.

4. Utah Code Ann. § 31A-23a-103 addresses the requirement of license 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.

At the time of the audit, Respondent was utilizing the services of an unlicensed producer, in violation of the above provision.

5. Utah Code Ann. § 31A-23a-302 requires that “an agency shall designate an individual that has an individual producer, limited line producer, customer service representative, consultant, managing general agent, or reinsurance intermediary license to act on the agency’s behalf in order for the licensee to do business for the agency in this state.” At the time of the audit Respondent was utilizing a producer’s services without a designation, in violation of the above statute.

RECOMMENDED ORDER

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

1. Respondent, Liberty Title West LLC, be assessed an administrative forfeiture in the amount of \$5,000.00 to be paid to the Department within 30 days of issuance of the Commission’s Order.

2. Respondent be placed on probation for a period of 12 months, commencing with the date of the Commission’s Order. The terms of probation are that Respondent shall have no

further violations of the Insurance Code, Department Rules, or any order of the Commission.

3. Within 30 days, Respondent shall submit to the Department a comprehensive business plan that outlines specific policies and procedures with regards to the timely renewal of the agency and individual licenses.

DATED this 28th day of December, 2011.

NEAL T. GOOCH
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 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 4th day of January, 2011¹².



DIRK DONALD KEYES, 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 forfeitures 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.

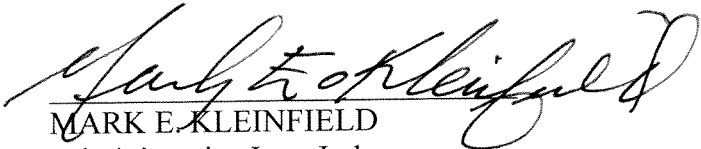
You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

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 9th day of January, 2012.

NEAL T. GOOCH
INSURANCE COMMISSIONER


MARK E. KLEINFELD
Administrative Law Judge