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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:**

AMERICAN PREFERRED TITLE  
INSURANCE AGENCY  
5711 South 1475 East, Suite 120  
South Ogden, UT 84403  
License No. 91641

**STIPULATION AND ORDER**

Docket No. 2012-101 PC

Enf. Case No. 3116

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**STIPULATION**

1. Respondent, American Preferred Title Insurance Agency is a licensed title insurance agency in the State of Utah, holding License 91641.
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 and Title and Escrow Commission 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 Title and Escrow Commission is solely for purpose of disposition of the matter entitled herein.

DATED this 29 day of May, 2012.

  
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AMERICAN PREFERRED TITLE INS. AGENCY  
John W. Lish, President

  
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UTAH INSURANCE DEPARTMENT  
M. Gale Lemmon, Assistant Attorney General

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

**FINDINGS OF FACT**

1. On May 3, 2011, the Department received a complaint alleging that Respondent was conducting escrows and charging fees not in accordance with their filed rates.
2. On June 20, 2011, via email, a Department investigator requested the title and escrow documents relating to the escrow referred to in the complaint received.
3. On June 20, 2011, the requested documents were received from Talia Yamamoto, Vice President of Respondent. The HUD-1 showed a "settlement or closing fee" of \$50.00 which was less than the filed rate. It also showed a "title search fee" of \$400, which is actually a part of the title premium (which had already been paid), resulting in a double charge for those services.
4. On November 15, 2011, the Department sent a letter to Respondent requesting an appointment for an audit on December 7, 2011. This letter was returned by the post office on November 29, 2011, because the Respondent had moved and failed to notify the Department of a change of address within 30 days of that move. Respondent was contacted by telephone and instructed to update their address via SIRCON immediately, which was done.
5. The audit was rescheduled and conducted on January 18, 2012. Upon arrival at Respondent's offices, the auditor noted that the sign outside the business listed the Respondent as American Preferred Title rather than American Preferred Title Insurance Agency. Respondent was required to change its sign to reflect the correct name of the agency.
6. During the audit it was discovered that the Respondent's license had lapsed on

December 31, 2011, for non-renewal. The Respondent reinstated its license, associated its agents and initiated steps to be appointed by its underwriters on January 18, 2012.

7. During the period of time from December 31, 2011 through January 18, 2012, while its license was lapsed, Respondent, continued to act as a title insurance producer, conducting 107 closings.

8. During the audit it was found that Respondent's trust account checks and statements were not labeled as trust accounts.

9. Respondent failed to pay its annual title assessment which was due on or before December 30, 2011, until January 19, 2012.

10. Respondent has been the subject of previous administrative actions taken by the Department, including: an action on June 18, 2008, failure to timely file its Annual and Controlled Business Reports, assessing a forfeiture of \$1,000.00; an action on March 3, 2010, for charging fees less than filed rates, assessing a forfeiture of \$2,500.00; and an action on June 21, 2011, for failure to pay annual title assessment timely, assessing a forfeiture of \$750.00.

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

#### **CONCLUSIONS OF LAW**

1. In charging fees less than its filed rates and in charging a fee for a service for which it had already been paid, Respondent violated Utah Code Ann. 31A-19a-209(6).

2. In failing to notify the Department of a change of address within 30 days after the change, Respondent violated Utah Code Ann. § 31A-23a-412(1)(c).

3. In using signage that did not have the full name of the Respondent as appearing on its license, Respondent violated Utah Admin. Code Rule R590-154-7.A.2.

4. In holding itself out as being in the Title and Escrow business and in conducting closings on 107 transactions while its license was lapsed, Respondent violated Utah Code Ann. § 31A-23a-103(1)(a).

5. In failing to have the term “Trust Account” on its trust account checks and statements, Respondent violated Utah Admin. Code Rule R590-170-4(1).

6. In failing to pay its annual title assessment when due, Respondent violated Utah Code Ann. § 31A-23a0414 and Utah Admin. Code Rule R590-102-16(2) & (3).

Based upon the Stipulation of the parties and the foregoing Findings of Fact and Conclusions of Law, the presiding officer now enters the following Recommended Order:

**RECOMMENDED ORDER**

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

1. Respondent American Preferred Title Insurance Agency, be assessed an administrative forfeiture in the amount of \$15,000.00 payable to the Department within thirty (30) days of the date of the imposition of the penalty by the Title and Escrow Commission.

2. Respondent’s title agency license be placed on probation for a period of 24 months, beginning with the date the penalty is imposed by the Title and Escrow Commission. The terms of probation to be:

A. Respondent shall pay the forfeiture assessed herein in a timely manner;

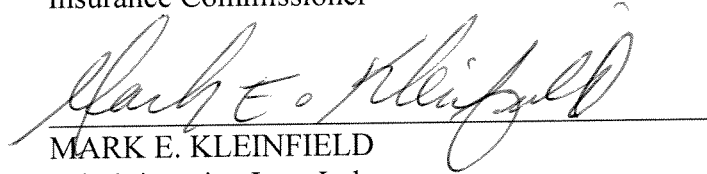
B. Respondent shall, within 30 days of the imposition of the penalty by the Title and Escrow Commission, submit to the Department a comprehensive business plan that outlines specific policies and procedures designed to assure the timely renewal of agency and individual licenses;

C. Respondent shall, during the period of probation, conduct training of all its escrow officers on charging the rated filed with the Department; and

D. Respondent shall have no further violation of the Utah Insurance Code, Utah Administrative Rules or any Order of the Commissioner.

DATED this 21<sup>st</sup> day of June, 2012.

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 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 9<sup>th</sup> day of JULY, 2012.



TITLE AND ESCROW COMMISSION

Larry Blake Chairman

**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 \$5,000.00 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 \$10,000.00 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 9<sup>th</sup> day of July, 2012.

NEAL T. GOOCH  
INSURANCE COMMISSIONER

  
MARK E. KLEINFELD  
Administrative Law Judge