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INSURANCE DEPT

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

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**COMPLAINANT:**

UTAH INSURANCE DEPARTMENT

**RESPONDENT:**

MOUNTAIN VIEW TITLE & ESCROW,  
INC.

5732 South 1475 East, Suite 100  
Ogden, UT 84403  
License No. 2164

**STIPULATION AND ORDER**

Docket No. 2014-004 PC

Enf. Case No. 3395

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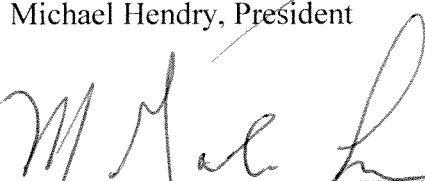
**STIPULATION**

1. Respondent, Mountain View Title & Escrow, Inc. ("Mountain View"), is an active licensed title agency in the State of Utah, holding license number 2164.
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.
7. If this agreement is not accepted or the penalty not imposed as agreed upon by the parties, then this Stipulation will be void and of no effect.

DATED this 4 day of December, 2013.

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

  
\_\_\_\_\_  
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 November 13, 2012, the Department was visited by an individual alleging that a producer for Respondent, Mountain View, had engaged in “illegal activities.” The complainant produced a document entitled “Escrow Hold and Disbursement Agreement for Construction” and stated that Respondent had taken money from him and had issued construction payout distributions. The complainant further alleged that there remained some outstanding construction liens against his home.

2. The complainant was asked to submit a written narrative of the events and allegations made orally on November 13, 2012. A comprehensive written narrative was never received by the Department.

3. On May 8, 2013, the Department initiated an audit of Mountain View. The Department’s SIRCON licensing database records indicated that Respondent’s license had lapsed on March 31, 2013 with a reinstatement date of April 4, 2013. At the time of the audit, Respondent had no active company appointments/associations. It was noted that Respondent was not using its approved name on its logo, letterhead, business cards and internet site; it was using “Mountain View Title & Escrow, Co.” instead of Mountain View Title & Escrow, Inc.

4. During the audit, Respondent disclosed that 74 closings/orders were conducted during the period its license was lapsed. The audit also revealed that on four separate occasions, one of Respondent’s producers conducted an escrow holding construction funds and made four separate construction pay outs without issuing title insurance, and had used an unapproved form for construction hold/disbursement agreement for the construction escrow.

5. The audit also discovered that trust funds had been co-mingled, that Respondent had failed to report to the Department a branch office opened in 2007, and that Respondent had failed to maintain a current email address with the Department.

6. Respondent's President, Michael Hendry was cooperative and forthcoming during the audit and acknowledged responsibility for the above violations. The Respondent has agreed to an administrative forfeiture in the amount of \$10,500.00 and probation for a period of one year.

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. Section 31A-23a-302(7)(a) makes a title agency responsible for the actions of its producers.

2. Utah Code Ann. Section 31A-23a-406 prohibits an agency producer from conducting escrow without issuing title insurance, which provision Respondent violated when its producer held construction funds for distribution and conducted escrow without issuing title insurance.

3. Respondent violated Utah Code Ann. Section 31A-23a-201 when it used unapproved forms, and violated Utah Code Ann. Section 31A-19a-209 when it conducted escrow but did not use filed rates.

4. Respondent co-mingled construction funds with escrow trust account funds in violation of Utah Code Ann. Section 31A-23a-409.

5. Respondent violated Utah Code Ann. Section 31A-23a-103 when it conducted 74 closings during the period its license was lapsed. Without active appointments/associations on file when the 74 closings were conducted, Respondent was also in violation of Section 31A-23a-

302.

6. Respondent violated Utah Admin. Code R592-10-5 when it failed to file an “Office Report Form” for its branch office from April 2, 2007 to the time of the audit.

7. Respondent violated Utah Admin. Code R590-154-7 when it used the name Mountain View Title & Escrow Co. on its business and marketing materials rather than its approved name, Mountain View Title & Escrow, Inc.

3. An administrative forfeiture in the amount of \$10,500.00 and probation for a period of one year is appropriate in this matter.

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**

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

1. Respondent, Mountain View Title & Escrow, Inc. be assessed an administrative forfeiture in the amount of \$10,500.00 to be paid 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 insurance license shall be placed on probation for a period of one year commencing with the date of the imposition of the penalty by the Title and Escrow Commission.

3. The conditions of probation shall be:

- a. Respondent shall pay the forfeiture assessed in a timely manner;
- b. Respondent shall prepare and submit a comprehensive business plan that


outlines specific policies and procedures regarding agency/individual license requirements;

c. Respondent's president or chief operating officer shall attend training regarding licensing renewal requirements, Section 31A-23a-406 addressing title insurance producers business, and Department Rule 592-6 addressing unfair inducements and marketing practices in obtaining title insurance business; and

d. Respondent shall have no further violations of the Utah Insurance Code, Department Rules, or any order of the Commission.

DATED this 10<sup>th</sup> day of December, 2013.

TODD E. KISER  
Insurance Commissioner

  
MARK E. KLEINFELD  
Administrative Law Judge  
Utah Insurance Department

**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 13<sup>th</sup> day of January 2014 2013.

  
KIRK D. SMITH Chairman  
Title and Escrow Commission

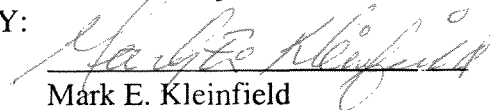
**COMMISSIONER CONCURRENCE**

**WITH COMMISSION IMPOSED PENALTIES**

The Commissioner of the Utah Insurance Department hereby concurs with the above and forgoing Utah Title and Escrow Commission imposed penalties in the present adjudicative proceedings.

Dated this 13<sup>th</sup> day of January, 2014.

TODD E. KISER,  
Commissioner,  
Utah Insurance Department,  
BY:



Mark E. Kleinfield  
Administrative Law Judge