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

<p>UTAH INSURANCE DEPARTMENT, Complainant, v. UNITED WEST TITLE INSURANCE AGENCY INC. Respondent.</p>	<p>STIPULATION AND ORDER</p> <p>Docket No. 2018-010 TI Enf. Case No. 3961</p> <p>Lisa Watts Baskin, J.D. Administrative Law Judge</p>
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STIPULATION

The Utah Insurance Department (“Department”), by and through its legal counsel, and United West Title Insurance Agency Inc. (“Respondent”), by and through its President, Lee Francis, hereby stipulate and agree as follows:

1. The Department has jurisdiction over the parties and subject matter of this administrative action.
2. Respondent acknowledges notice of agency action pursuant to Utah Code Section 63G-4-201; acknowledges that this Stipulation and Order is an informal proceeding pursuant to Utah Code Section 63G-4-202; and irrevocably waives the right to any hearing, review or appeal concerning this matter.

3. Respondent is aware of its right to be represented by legal counsel in this matter and has either sought the advice of legal counsel or waived its right to do so.

4. This signed Stipulation and the signed Order, along with any Findings of Fact and Conclusions of Law, shall not be subject to any reconsideration, renegotiation, modification, hearing or agency review or appeal.

5. The Findings of Fact and Conclusions of Law presented below are accepted by the parties.

6. The issuance of the signed and adopted Order proposed below is solely for the purpose of disposing of the specific matter entitled herein.

7. The only promises, agreements and understandings that the parties have regarding this matter are contained in this Stipulation.

8. Respondent enters into this Stipulation voluntarily, knowingly, and free from any coercion of any kind.

9. The persons signing this Stipulation on behalf of the named parties hereby affirm that they are authorized to sign and bind the parties.

Dated this 14th day of February, 2018

/s/ Lee Francis

Lee Francis, President
UNTIED WEST TITLE INSURANCE AGENCY INC.

Dated this 14th day of February, 2018

/s/ Helen A. Frohlich

Helen A. Frohlich, Assistant Attorney General
UTAH INSURANCE DEPARTMENT

Based upon the foregoing Stipulation and Department file, the Administrative Law Judge makes the following Findings of Fact:

FINDINGS OF FACT

1. Respondent, United West Title Insurance Agency Inc., is a title licensee with a license number of 331550. Respondent's business address is 1548 West 1825 North, Provo, Utah 84604.

2. Respondent's license lapsed on November 30, 2017 and was reinstated on December 11, 2017. On November 30, 2017, at the time Respondent's license lapsed, all associations with their licensed title and escrow producers also terminated. The associations were reinstated on December 11, 2017.

3. On January 18, 2018, Respondent indicated that it had conducted 23 closings and issued 18 commitments on behalf of the insurer between November 30, 2017 and December 11, 2017.

4. The Department and Respondent have agreed to an administrative forfeiture in the amount of \$1,500.00.

Based upon the foregoing Stipulation and Findings of Fact, the Administrative Law Judge enters the following Conclusions of Law:

CONCLUSIONS OF LAW

1. Utah Code Section 31A-23a-103 addresses the requirements for a title insurance agency to have an active license issued by the State and for its producers to be licensed in order for it to conduct business as follows:

31A-23a-103. Requirement of license.

(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, surplus lines producer, limited line producer, 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, surplus lines producer, limited line producer, 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. When Respondent continued to conduct title and escrow business during the period its license was lapsed, it was in violation of this statute.

3. Utah Code Section 31A-23a-302 requires that licensed producers be associated to an agency in order to act on its behalf as follows:

31A-23a-302. Agency designations.

(1) An agency shall designate an individual that has an individual producer, surplus lines producer, limited line producer, 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.

(2) An agency shall report to the commissioner, at intervals and in the form the commissioner establishes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (a) a new designation; and
- (b) a terminated designation.

(3) An agency shall notify an individual designee that the individual's designation is terminated by the agency and of the reason for termination at an interval and in the form the commissioner establishes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4)(a) An agency licensed under this chapter shall report to the commissioner the cause of termination of a designation if:

- (i) the reason for termination is a reason described in Subsection 31A-23a-111(5)(b); or
- (ii) the agency has knowledge that the individual licensee is found to have engaged in an activity described in Subsection 31A-23a-111(5)(b) by:
 - (A) a court;
 - (B) a government body; or

(C) a self-regulatory organization, which the commissioner may define by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The information provided the commissioner under Subsection (4)(a) is a private record under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) An agency is immune from civil action, civil penalty, or damages if the agency complies in good faith with this Subsection (4) in reporting to the commissioner the cause of termination of a designation.

(d) Notwithstanding any other provision in this section, an agency is not immune from an action or resulting penalty imposed on the reporting agency as a result of proceedings brought by or on behalf of the department if the action is based on evidence other than the report submitted in compliance with this Subsection (4).

(5) An agency licensed under this chapter may act in a capacity for which it is licensed only through an individual who is licensed under this chapter to act in the same capacity.

(6) An agency licensed under this chapter shall designate and report to the commissioner in accordance with any rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the name of the designated responsible licensed individual who has authority to act on behalf of the agency in the matters pertaining to compliance with this title and orders of the commissioner.

(7) If an agency has a contract with or designates a licensee in reports submitted under Subsection (2) or (6), there is a rebuttable presumption that the contracted or designated licensee acts on behalf of the agency.

(8)(a) When a license is held by an agency, both the agency itself and any individual contracted or designated under the agency license shall be considered to be the holder of the agency license for purposes of this section.

(b) If an individual contracted or designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the agency license, or assessing a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i), the commissioner may assess a forfeiture, suspend, revoke, or limit the license of, or take a combination of these actions against:

(i) the individual;

(ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participates in the act or failure to act that is the ground for assessing a forfeiture, or suspending, revoking, or limiting the license; or

(iii)

(A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (8)(b)(ii).

4. When Respondent's license lapsed, so did the designations/associations of its producers. Respondent violated the above when its agent(s) conducted 23 closings and issued 18 commitments on its behalf during the period the associations were lapsed.

5. An Administrative forfeiture in the amount of \$1,500.00 is appropriate under the circumstances of this case.


Based on the foregoing Findings and Fact and Conclusions of Law, the Commissioner enters the following Order:

ORDER

1. Respondent, United West Title Insurance Agency Inc. is assessed an administrative forfeiture in the amount of \$1,500.00 to be paid to the Department within 30 days of the fully signed Order.

DATED this 23rd day of February, 2018.

TODD E. KISER
Insurance Commissioner



LISA WATTS BASKIN, J.D.
Administrative Law Judge
Utah Insurance Department

ADOPTION OF RECOMMENDED ORDER AND IMPOSITION OF PENALTY

By a vote of 5 to 5, taken in open meeting on this date, the Title and Escrow Commission concurs with the order of the Commissioner.

DATED this 12 day of March, 2018.



ALLISON McCOY, Chair
Title and Escrow Commission

NOTIFICATION TO RESPONDENT

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.