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BEFORE THE UTAH INSURANCE COMMISSIONER

<p>UTAH INSURANCE DEPARTMENT, Complainant, vs. CAPITAL CITY CLOSING and BENJAMIN MOORE, Respondents.</p>	<p>CEASE AND DESIST ORDER Docket No. 2020-4238</p>
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COMES NOW, Todd E. Kiser, Utah Insurance Commissioner (“Commissioner”), through his presiding officer, and in support of this Cease and Desist Order states:

JURISDICTION

Pursuant to Utah Code § 31A-2-201(4)(a), the Commissioner shall issue prohibitory orders to secure compliance with Utah Code, Title 31A. Pursuant to Utah Code § 31A-1-105(2), any person purporting to do an insurance business is subject to the jurisdiction of the Commissioner.

Based upon the investigation and file information of the Utah Insurance Department (“the Department”), the Commissioner, through his presiding officer, makes and enters the following:

FINDINGS OF FACT

1. Capital City Closing is an unlicensed entity holding itself out as an agency title insurance producer. Capital City Closing is not licensed in Utah or any other state.

2. Benjamin Moore is an unlicensed individual holding himself out as an individual title insurance producer. Mr. Moore holds himself out as the Escrow Officer/Manager of Capital City Closing. Mr. Moore is not licensed in Utah or any other state.

3. Capital City Closing maintains a website at www.capitalcityclosing.com. The website provides a physical address of 57 W 200 S, Ste 105, Salt Lake City, Utah 84101, which belongs to the law firm of Arnold & Wiggins. Market Conduct Examiner Adam Martin (“Martin”) sent a letter to this address on May 7, 2020, which was returned on May 20, 2020 for “no business here by that name.”

4. Capital City Closing’s website states that it is licensed by the Department. Capital City Closing is not licensed by the Department, and it is not licensed to do insurance business in any other state. Capital City Closing is not registered with the Utah Division of Corporations.

5. Capital City Closing’s website states that it is underwritten by Stewart Title Guaranty Company and Old Republic National Title Insurance Company. Neither of these insurers have an active appointment with Capital City Closing.

6. Martin sent emails requesting information to Capital City Closing on May 7, 2020 and May 13, 2020. Although “Customer Support” responded on May 7, 2020, the Department’s concerns about licensing and underwriting were not addressed.

7. On May 26, 2020, Martin sent a third email request to Escrow Officer/Manager Benjamin Moore, requesting that he contact the Department ASAP. Mr. Moore did not respond.

8. Martin left voicemails at the phone number listed on Capital City Closing's website on May 7, 2020 and June 29, 2020 and did not receive a return call.

CONCLUSIONS OF LAW

1. Utah Code § 31A-23a-103(1)(a) states that a person may not perform, offer to perform, or advertise any service as a producer, in Utah, without a valid individual or agency license issued under this chapter. Neither Capital City Closing nor Benjamin Moore have a valid insurance license issued by the Department.

2. Utah Admin. Code R590-244-5(1)(a) states that a person must have an active license matching the type and line of insurance being sold, solicited, or negotiated in order to sell, solicit, or negotiate insurance. Neither Capital City Closing nor Benjamin Moore have an active insurance license issued by the Department.

3. Utah Admin. Code R590-130-6.A. states that the format and content of an advertisement shall be sufficiently complete and clear to avoid deceiving or misleading the reader, viewer, or listener. Capital City Closing's website is deceiving and misleading as it states that Capital City Closing is licensed by the Utah Insurance Department and is underwritten by Stewart Title Guaranty Company and Old Republic National Title Insurance Company.

4. Utah Code § 31A-31-103(1)(d) provides that a person commits a fraudulent insurance act if that person with intent to deceive or defraud intentionally, knowingly, or recklessly devise a scheme or artifice to obtain fees for anything of value, including professional services, by means of false or fraudulent pretenses, representations, promises, or material omissions. Respondents deceived the public by holding themselves out as being licensed by the Department and by stating that they are underwritten by title insurance companies.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby ordered that:

1. Capital City Closing shall immediately Cease and Desist from conducting any unlicensed insurance business in the State of Utah, including acting or holding itself out as a an agency title insurance producer or proposing to make any unauthorized insurance contract, taking or receiving or forwarding any application for insurance, collecting or receiving, in full or in part, any insurance premium or fees, issuing or delivering any insurance policy, certificate of insurance, or other evidence of an insurance contract, publishing or disseminating any advertisement or information for insurance, or representing or assisting any person to do insurance business in the State of Utah.

2. Benjamin Moore shall immediately Cease and Desist from conducting any unlicensed insurance business in the State of Utah, including acting or holding himself out as a an individual title insurance producer or proposing to make any unauthorized insurance contract, taking or receiving or forwarding any application for insurance, collecting or receiving, in full or in part, any insurance premium or fees, issuing or delivering any insurance policy, certificate of insurance, or other evidence of an insurance contract, publishing or disseminating any advertisement or information for insurance, or representing or assisting any person to do insurance business in the State of Utah.

3. Capital City Closing shall immediately remove all references on its website that falsely mention being licensed by the Utah Insurance Department and being underwritten by Stewart Title Guaranty Company and Old Republic National Title Insurance Company.

4. Pursuant to Utah Code § 63G-4-203(1)(i) and Utah Admin. Code R590-160-7(1), this Order shall become final and take full effect, 15 days after this Order is emailed to Respondents unless a request for a hearing on this matter is received from Respondents prior to that date.

5. A request for a hearing shall be sent by email to uidadmincases@utah.gov or by U.S. mail to Office of the Administrative Law Judge, Utah Insurance Department, 3110 State Office Building, Salt Lake City, UT 84114. The request for hearing shall be signed by the person making the request and shall state the basis for the relief requested.

6. Failure to request a hearing will be deemed a failure to exhaust administrative remedies and will preclude any further administrative or judicial review or appeal of this matter.

DATED this 21st day of July, 2020.

TODD E. KISER
Insurance Commissioner


Utah Department of Insurance
State Office Building, Room 3110
Salt Lake City, UT 84114
Telephone (801) 538-3800
Email: uidadmincases@utah.gov

NOTIFICATION

You are hereby notified that failure to obey this Order of the Commissioner, pursuant to Utah Code § 31A-2-308, will subject you to all applicable penalties, including forfeitures of up to \$5,000 per violation and the filing of an action in District Court, which may impose forfeitures of up to \$10,000 per day for any continued violation.

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

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

UTAH INSURANCE DEPARTMENT,

Complainant,

vs.

CAPITAL CITY CLOSING and BENJAMIN
MOORE,

Respondents.

DECLARATION OF ADAM MARTIN

Docket No. 2020-4238

Adam Martin, declarant herein, states as follows:

1. I am over the age of eighteen, competent to testify, and have personal knowledge of the matters in this declaration.
2. I am currently employed as a Market Conduct Examiner by the Utah Insurance Department (“Department”). I have held this position for 13 years.
3. My current job duties and responsibilities include conducting fiduciary audits of title agencies and investigating all title and escrow related complaints.
4. On May 7, 2020, I reviewed the website of Capital City Closing (“CCC”) (www.capitalcityclosing.com). The website gives a physical address of 57 W 200 S, Ste

105, Salt Lake City, Utah 84101. This address belongs to the law firm of Arnold & Wiggins. I sent a letter to this address on May 7, 2020, which was returned to the Department on May 20, 2020 for “no business here by that name.” *See Exhibit 1.*

5. CCC’s website states that it is licensed by the Department. CCC is not licensed with the Department and the agency is not registered with the Utah Division of Corporations. I conducted a check of the NAIC website and determined that CCC is not licensed in any other state. *See Exhibit 2.*
6. CCC’s website states that they are underwritten by Stewart Title Guaranty Company and Old Republic National Title Insurance Company. Neither of these insurers have an active appointment with CCC. *See Exhibit 3.*
7. On May 7, 2020, I sent a letter to CCC by email and regular mail requesting that a representative contact the agency immediately. I also left a voice message at the phone number listed on the website.
8. CCC responded by email on May 7, 2020 as follows “Hey Adam, We were informed by the third party provider who sold us the domain and created the website for us that the website would be licensed. However if thats not the case we would touch base with them and have them remove any information from the website that may mention that. Regards, Customer Support.” *See Exhibit 4.*
9. On May 13, 2020, I sent a second email request asking for a representative of CCC to contact the Department immediately.
10. On May 26, 2020, I sent a third email request to Escrow Officer/Manager Benjamin Moore, requesting him to contact the Department ASAP. Mr. Moore is not licensed in

Utah or any other state.

11. On June 29, 2020, I called CCC and left a message on both contact numbers requesting a return call.
12. Aside from the initial email from CCC's Customer Support, I have not received a response.
13. As of today, CCC's website continues to state that it is licensed by the Department and underwritten by Stewart Title Guaranty Company and Old Republic National Title Insurance Company.

Dated this 17th day of July, 2020.



Adam Martin, Market Conduct Examiner
Utah Insurance Department