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BEFORE THE UTAH INSURANCE COMMISSIONER

<p>UTAH INSURANCE DEPARTMENT, Complainant, vs. LYDOLPH & WEIERHOLT TITLE INSURANCE AGENCY, Respondent.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER Docket No. 2020-4252</p>
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Complainant, Utah Insurance Department ("Department") and Respondent, Lydolph & Weierholt Title Insurance Agency ("Respondent"), have stipulated to entry of the following Findings of Fact, Conclusions of Law and Order. Based upon that stipulation, and good cause appearing, the following are made and entered:

FINDINGS OF FACT

1. Respondent is a resident producer organization holding Utah license number 477792.
2. Respondent's mailing address is 131 S 700 E, Ste. 103, American Fork, Utah, 84003.
3. On May 26, 2020, the Department began investigating a consumer complaint against the Respondent for disbursing funds to a builder without the consumer's written consent.

4. During the investigation, the Department determined that Respondent had conducted two escrow closings and comingled construction funds in the Respondent's agency trust account.

5. Fifteen construction draws were deposited and disbursed from the agency trust account to a builder as the construction project developed.

6. The Department and Respondent have agreed to an administrative forfeiture of \$4,833.00.

CONCLUSIONS OF LAW

1. The Utah Insurance Commissioner ("Commissioner") has jurisdiction over the parties and this informal adjudicative proceeding pursuant to Utah Code §§ 31A-1-105 and 31A-2-201.

2. The Commissioner has legal authority to impose penalties on the Department's licensees who violate the Utah Insurance Code. Utah Code § 31A-2-308.

3. Utah Code § 31A-23a-406(1)(f)(i) states that a title insurance producer may do escrow involving real property transactions if the escrow does not require the agency title insurance producer to hold construction money. Respondent violated this provision by conducting two escrow closings and holding construction funds in the Respondent's agency trust account.

4. Utah Code § 31A-23a-409(1)(a) provides that a licensee is a trustee for money that is paid to, received by, or collected by a licensee for forwarding to insurers or insureds. Respondent violated this section by holding, depositing, and disbursing funds from the agency trust account to a builder, who is not an insurer or insured.

5. Utah Code § 31A-23a-409(1)(b)(i)(B) provides that a licensee may not comingle trust funds with money held in any other capacity. Respondent comingled construction funds with agency trust account funds and deposited/dispursed fifteen construction draws from the

Respondent's agency trust account.

6. As penalties for the violations in this case, Respondent should be ordered to pay a forfeiture of \$4,833.00.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby Ordered that:

1. Respondent shall pay a forfeiture of \$4,833.00 for the violations described in the Conclusions of Law.

2. Respondent is ordered not to commit the violations described in the Conclusions of Law in the future.

DATED this 1st day of September, 2020.

TODD E. KISER
Utah Insurance Commissioner


Utah Insurance Department
3110 State Office Building
Salt Lake City, UT 84114
801-538-3860
Email: uidadmincases@utah.gov

NOTICE 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.

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BEFORE THE UTAH INSURANCE COMMISSIONER

<p>UTAH INSURANCE DEPARTMENT, Complainant, vs. LYDOLPH & WEIERHOLT TITLE INSURANCE AGENCY, Respondent.</p>	<p>COMPLIANCE WITH UTAH CODE § 31A-2-404(1)(b)(ii) Docket No. 2020-4252</p>
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Pursuant to Utah Code § 31A-2-404(1)(b)(ii) the Utah Insurance Commissioner consulted with and sought the concurrence of the Title and Escrow Commission (“Commission”), in an open meeting, regarding the imposition of the penalty set forth in the Findings of Fact, Conclusions of Law and Order in this matter.

By a vote of 4 to 0, the Commission:

concurred

did not concur

with the imposition of the penalty.

Dated: 09/28/2020, 2020.


Chase Phillips (Sep 28, 2020 11:28 MDT)

Chase Phillips, Chair
Title and Escrow Commission

BEFORE THE UTAH INSURANCE COMMISSIONER

UTAH INSURANCE DEPARTMENT,

Complainant,

vs.

LYDOLPH & WEIERHOLT TITLE
INSURANCE AGENCY,

Respondent.

**IMPOSITION OF PENALTY IN
COMPLIANCE WITH UTAH CODE
§ 31A-2-404(1)(b)(ii)**

Docket No. 2020-4252

Pursuant to Utah Code § 31A-2-404(1)(b)(ii), I Todd E. Kiser, Utah Insurance Commissioner consulted with and sought the concurrence of the Title and Escrow Commission, in an open meeting, regarding the imposition of the penalty set forth in the Findings of Fact, Conclusions of Law and Order in this matter. I hereby agree with and impose said penalty.

Dated: 09/28/2020, 2020.

Todd Kiser

Todd Kiser (Sep 28, 2020 11:26 MDT)

Todd E. Kiser

Utah Insurance Commissioner

RIGHT TO AGENCY REVIEW

Pursuant to Utah Code § 63G-4-301, any party may file a written request for agency review within 30 days of the date of this order.

RIGHT TO JUDICIAL REVIEW

Pursuant to Utah Code § 63G-4-401, either party may obtain judicial review of final agency action by filing a petition for judicial review within 30 days of the date the order constituting final agency action is issued.