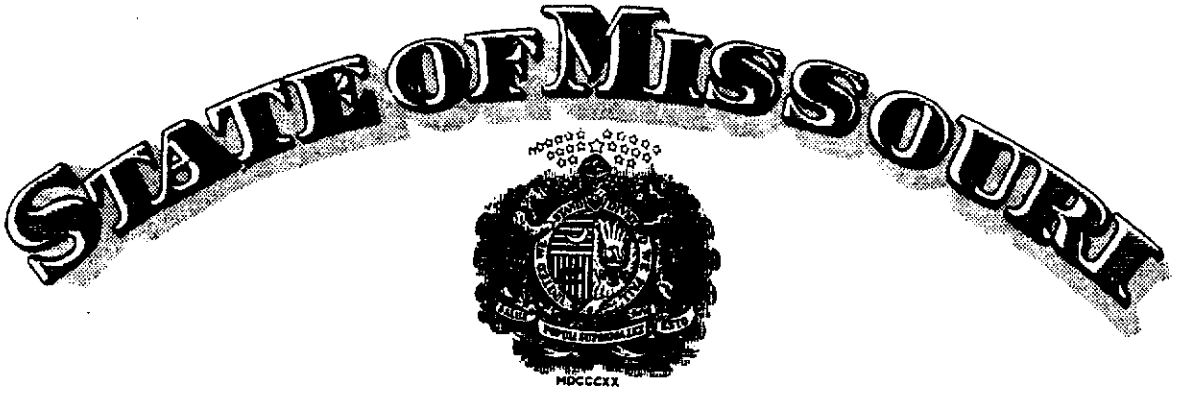

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

P.O. Box 690, Jefferson City, Mo. 65102-0690

IN RE:	**CHAMPION TITLE, LLC**	)
		) **Case No. 061113329C**
SERVE:	Champion Title, LLC	)
	117 Triad West Dr.	)
	O'Fallon, Missouri 63366	)

STATEMENT OF CHARGES

The Division of Consumer Affairs of the Department of Insurance, Financial Institutions, and Professional Registration, by and through counsel, requests the Director of the Department of Insurance, Financial Institutions, and Professional Registration to issue a cease and desist order, order payment of a monetary penalty and order payment of costs of investigation based on the following statement of charges:

PARTIES

1. Champion Title, LLC (hereinafter "Champion Title") is a title agency licensed to conduct title insurance business in Missouri.

2. The Director of the Department of Insurance, Financial Institutions, and Professional Registration has the duty to administer Chapters 374, 375, and 381, RSMo,

which includes the supervision, regulation, and discipline of title insurers and their agents licensed to operate and to do business in the state of Missouri.

3. The Consumer Affairs Division of the Department of Insurance, Financial Institutions, and Professional Registration ("Consumer Affairs Division") has the duty of conducting investigations into the unfair or unlawful acts of insurance companies and agents under the insurance laws of this state and has been authorized by the Director to initiate this action before the Director to enforce the insurance laws of this state.

JURISDICTION

4. The jurisdiction of the Director, and the specific procedure to initiate and administer this proceeding is found in § 374.046.1, RSMo (Cum. Supp. 2006) which provides:

> If the director determines based upon substantial and competent evidence that a person has engaged, is engaging in or has taken a substantial step toward engaging in an act, practice, omission, or course of business constituting a violation of the laws of this state relating to insurance in this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo, or a rule adopted or order issued pursuant thereto or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of the laws of this state relating to insurance in this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo, or a rule adopted or order issued pursuant thereto, the director may order the following relief:
> (1) An order directing the person to cease and desist from engaging in the act, practice, omission, or course of business;
> (2) A curative order or order directing the person to take other action necessary or appropriate to comply with the insurance laws of this state;
> (3) Order a civil penalty or forfeiture as provided in section 374.049; and
> (4) Award reasonable costs of the investigation.

5. Section 374.049, RSMo (Cum. Supp. 2006) authorizes the director to impose a monetary penalty or forfeiture of not more than one thousand dollars ($1,000) for each violation which resulted in actual financial loss to consumers or which was knowingly committed, but not to exceed an aggregate penalty or forfeiture of fifty thousand dollars ($50,000) per annum, unless the violation was committed in conscious disregard of the law, in which case the monetary penalty or forfeiture may be up to five thousand dollars ($5,000) for each violation but not to exceed an aggregate penalty of one hundred thousand dollars ($100,000) per annum.

6. Authority and specific procedure for administrative enforcement pursuant to the Unfair Trade Practices Act is found in § 375.940, RSMo (2000) which provides, in part:

> 1. Whenever the director shall have reason to believe that any person or insurer has been engaged or is engaging in this state in any unfair method of competition or any unfair or deceptive act or practice, and that a proceeding by him in respect thereto would be to the interest of the public, he shall issue and serve upon such person or insurer a statement of the charges in that respect and a notice of hearing thereon to be held at a time and place fixed in the notice which shall not be less than twenty days after the date of service thereof.

7. In addition to the authority to issue a cease and desist order, § 375.942, RSMo authorizes the imposition of a monetary penalty of not more than one thousand dollars ($1,000) for each violation but not to exceed an aggregate penalty of one hundred thousand dollars ($100,000), unless the violation was committed in conscious disregard of the law, in which case the penalty may be up to twenty-five thousand dollars ($25,000) per violation but not to exceed an aggregate penalty of two hundred fifty thousand dollars ($250,000) in a twelve month period.

ALLEGATIONS RELEVANT TO ALL COUNTS

8. The Consumer Affairs Division incorporates by reference the allegations set forth in paragraphs 1-7.

9. Champion Title as a licensed title agency has negotiated and sold title insurance to real estate buyers and sellers on behalf of several title insurance companies, and in conjunction with this title insurance business has determined the insurability of real estate title by conducting searches and examinations and clearing defects. A copy of Champion Title's Business Entity Producer License is attached hereto as Exhibit 1 and incorporated herein by reference.

10. Champion Title has made and entered into a management agreement with Security Title Insurance Agency, LLC (hereinafter "Security Title) whereby Security Title is responsible for performing a variety of duties on behalf of Dependable Title, including but not limited to establishing and maintaining an accounting system, providing advice regarding underwriting requirements, providing technology and computer support and maintenance, and when mutually agreed upon, processing and performing title examinations, issuing title insurance commitments, providing and performing escrow closing services and issuing title policies in commercial real estate transactions. A copy of the Management Agreement is attached hereto as Exhibit 2 and incorporated herein by reference.

11. Champion Title has also served as an escrow, settlement or closing agent and contributed to the preparation of real estate settlement documents intended to provide, prior to closing, material disclosure to all parties to the transaction, including the purchasers of title insurance and title search and examination services.

COUNT I

12. Champion Title violated § 381.181, RSMo (1994) by using and collecting premiums at rates that had not been filed with the Director.

13. Section 381.181.2, RSMo (1994) provides, in part that "[n]o title insurer or title agent or agency may use or collect any premium ... except in accordance with the premium schedules filed with the director as required by ... this section."

14. Section 381.031(14), RSMo (1994) defines "Premium" as "risk rates charged to the insured."

15. Pursuant to 20 CSR 500-7.100(1)(D), "risk rate" means "the total consideration paid by or on behalf of the insured for a title insurance policy."

16. Finally, the term "charge", pursuant to 20 CSR 500-7.100(1)(A), means "any fee charged to the insured, or paid for the benefit of the insured for the performance of title-related services other than the risk rate for title insurance. This charge shall include, but is not limited to, fees for abstracts, title search and examination, handling of escrows, settlements or closings . . . ."

17. The facts are as follows:

a. Transnation Title Insurance Company (hereinafter "Transnation") and Stewart Title Insurance Company (hereinafter "Stewart") filed premium rates with the Director as required by § 381.181.1, RSMo (1994). Such rates were deemed effective or otherwise approved for use by Transnation, Stewart, and any of their licensed agents at all time relevant hereto. A copy of Transnation's Premium Rate Filing is

attached hereto as Exhibit 3 and incorporated by reference. A copy of Stewart's Premium Rate Filing is attached hereto as Exhibit 4 and incorporated herein by reference.

b. Champion Title, as an agent for Transnation and Stewart, advertises and collects a single amount for title insurance premium, in addition to charging other fees including a settlement or closing fee. A copy of the agency agreement between Transnation and Champion Title is attached hereto as Exhibit 5 and incorporated herein by reference. A copy of the agency agreement between Stewart and Champion Title is attached hereto as Exhibit 6 and incorporated herein by reference.

c. The single amount advertised and collected for title insurance by Champion Title is not based on the rates filed with the Director.

d. The single amount advertised and collected for title insurance by Champion Title has not been filed with the Director before Champion Title used or collected premium based upon the unfiled rate.

18. The conduct of Champion Title, as described in the aforementioned facts, constitutes a violation of § 381.181, RSMo (1994).

COUNT II

19. Champion Title violated § 375.144, RSMo (Cum. Supp. 2005) by misrepresenting, concealing or suppressing from purchasers at the time of negotiation and sale of the insurance, material facts concerning the title charges.

20. Section 375.144, RSMo (Cum. Supp. 2005) provides, in part:

> It is unlawful for any person, in connection with the offer, sale, solicitation or negotiation of insurance, directly or indirectly, to:
> . . .
>
> (2) As to any material fact, make or use any misrepresentation, concealment or suppression;

21. Champion Title misrepresented, concealed, or suppressed from purchasers, at the time of negotiation and sale of the insurance, material facts including but not limited to:

a. Information regarding the actual rate of title insurance, which must be calculated in accordance with a filed premium rate and may not be discounted or negotiated except as provided for in the filed rate plan; and

b. Information regarding charges or fees for related services, including search and examination expenses, clearing title defects, and other charges that are not included in the filed premium rate and may be discounted or negotiated without limitation.

22. The conduct of Champion Title, as described in the aforementioned facts, constitutes a violation of § 375.144, RSMo (Cum. Supp. 2005).

COUNT III

23. Champion Title violated § 375.934, RSMo (2000) by making any statement, sales presentation or omission which misrepresented the terms or conditions of a policy for title insurance.

24. Section 375.934, RSMo (2000) provides:

It is an unfair trade practice for any insurer to commit any practice that is defined in section 375.936 if:
(1) It is committed in conscious disregard of sections 375.930 to 375.948 or of any rules promulgated under sections 375.930 to 375.948; or
(2) It has been committed with such frequency to indicate a general business practice to engage in that type of conduct

25. Section 375.936, RSMo (2000) provides, in part:

(6) "Misrepresentation ... of insurance policies", making ... or causing to be made ... any statement, sales presentation, omission ... which:
(a) Misrepresents the benefits, advantages, conditions, or terms of any policy;

26. The facts are as follows:

a. The Consumer Affairs Division incorporates by reference the allegations set forth in paragraphs 13-16.

b. Champion Title lists an all-inclusive "title insurance" fee on real estate closing documents when only a small portion of that fee is a filed insurance premium rate and most of this all-inclusive fee is not title insurance, but instead, charges subject to negotiation and discount.

27. The conduct of Champion Title, as described in the aforementioned facts, constitutes a violation of § 375.934, RSMo (2000).

RELIEF

WHEREFORE, the Consumer Affairs Division of the Department of Insurance, Financial Institutions, and Professional Registration requests that the Director issue an order granting the following relief:

A. Find that Champion Title engaged in the unlawful acts and unfair practices alleged herein;

B. Issue an order prohibiting Champion Title and its agents and employees from:

a. Violating or materially aiding in any violation of § 381.181, RSMo (1994).

b. Violating or materially aiding in the violation of § 375.144, RSMo (Cum. Supp. 2005).

c. Violating or materially aiding in the violation of § 375.934, RSMo (2000).

C. Order Champion Title to pay a civil penalty for each unlawful act or unfair practice;

D. Order Champion Title to pay reasonable costs of investigation.

E. Such other relief as the Director deems just in this proceeding.

Respectfully submitted,

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ATTORNEY FOR DIVISION OF
CONSUMER AFFAIRS