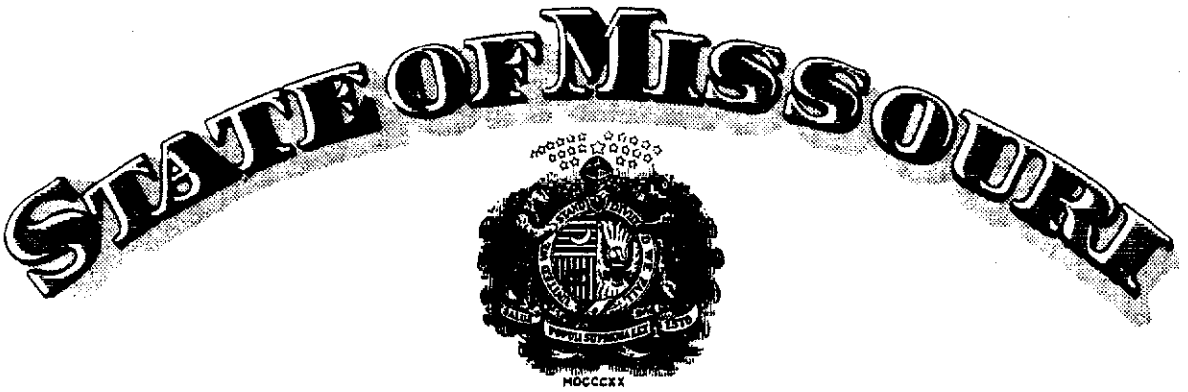

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

IN RE:	**TITLE ONE, LLC**	)	
		)	**Case No. 06_____**
SERVE:	Title One LLC	)	
	2222 Schuetz Rd., Ste. 114	)	
	St. Louis, Missouri 63146	)	

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. Title One, LLC (hereinafter "Title One") is a title agency licensed to conduct title insurance business in Missouri (License Number AG8015998).

2. W. Dale Finke is the Director of the Department of Insurance, Financial Institutions, and Professional Registration (hereinafter, the "Director"). The Director 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 conduct 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 to initiate and administer this proceeding is found in § 374.046.1, RSMo (Cum. Supp. 2006), which provides, in part:

> 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 was knowingly committed or which resulted in actual financial loss to consumers, but not to exceed an aggregate penalty 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) per violation but not to exceed an aggregate penalty of one hundred thousand dollars ($100,000) per annum.

6. The Director also has jurisdiction to administer this proceeding pursuant to the Unfair Trade Practices Act, 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, (2000) 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.

8. This proceeding is to the interest of the public.

ALLEGATIONS RELEVANT TO ALL COUNTS

9. The allegations set forth in paragraphs 1-8 are realleged and incorporated herein by reference.

10. Title One, as a licensed title insurance agency, has negotiated and sold title insurance to real estate buyers and/or sellers on behalf of Commonwealth Land Title Insurance Company ("Commonwealth"), and in conjunction with Title One's title insurance business, has determined the insurability of real estate title by conducting searches and examinations and clearing defects in title of the properties so insured.

11. Title One 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 and during closing, disclosure of material facts relating to title insurance policies to all parties to the transactions, including the purchasers of title insurance and title search and examination services.

COUNT I

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

13. Section 381.181.1, RSMo (1994), provides, in part:

> Every title insurer shall file with the director its premium schedules it proposes to use in any county of this state.

14. Section 381.181.2, RSMo (1994) provides, in part:

> No title insurer or title agent or agency may use or collect any premium after September 28, 1987, except in accordance with the premium schedules filed with the director as required by subsections 1 and 2 of this section.

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

16. 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." It further states that "[r]isk rate shall include the title insurance agent's commission but shall not include any charge as defined in subsection (1)(A)."

17. 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 charged 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...."

18. The facts are as follows:

a. Commonwealth filed premium rates with the Director as required by § 381.181.1, RSMo (1994), which rates were deemed effective or otherwise approved for use by Commonwealth and any of its licensed agents at all times relevant hereto. A copy of Commonwealth's premium rate filing is attached hereto as Exhibit A and is incorporated herein by reference.

b. Title One, as an agent for Commonwealth, uses and collects a single amount for title insurance premium, in addition to assessing other costs, fees and charges, including a settlement or closing fee.

c. The single amount used and collected by Title One for title insurance premium is not based on the rates filed with the Director. Rather, it is calculated based on rates set forth in its pricing sheet. A copy of this pricing sheet (hereinafter "pricing sheet") is attached hereto as Exhibit B, and is incorporated herein by reference.

19. The title insurance rates used and collected by Title One comprise "premium" as they do not include "charges," and are not the premium rates filed with the director, thus violating § 381.181 RSMo (1994).

COUNT II

20. Title One violated § 375.934, RSMo (2000) by engaging in an unfair trade practice defined by § 375.936(4), RSMo (2000).

21. Section 375.934, RSMo (2000), provides:

> It is an unfair trade practice for any insurer to commit any practice 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.

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

> Any of the following practices, if committed in violation of section 375.934, are hereby defined as unfair trade practices in the business of insurance: . . .
> (4) "False information and advertising generally", making . . . or causing, directly or indirectly, to be made, . . . in any other way, . . . [a] statement containing any assertion, representation or statement with respect to the business of insurance, . . . which is untrue, deceptive or misleading;

23. Title One made untrue, deceptive, and misleading statements in connection with the business of insurance by completing and issuing various forms to purchasers of title insurance, in which it listed as the cost of title insurance the premium rate calculated based on its pricing sheet, rather than stating the premium rates as filed and approved for use by Commonwealth and its authorized agents.

24. Such statements of cost were (i) untrue, as the true cost of each such policy was governed by the premium rates filed and approved by the Director; and (ii) deceptive or misleading, insofar as the costs did not reveal what the premium rates were for the policy or policies sold in each transaction, thereby preventing purchasers of title insurance from knowing what portion of the costs were governed by the premium rates filed and approved by the Director, and which others were negotiable.

25. Title One committed the aforesaid violations in conscious disregard of §§ 375.934 and 375.936, RSMo (2000).

26. Title One committed the aforesaid violations with such frequency as to indicate a general business practice to engage in that type of conduct.

COUNT III

27. The Director realleges the allegations set forth above in paragraphs 20-26 and incorporates them herein by reference.

28. Title One violated § 375.934, RSMo (2000) by engaging in an unfair trade practice defined by § 375.936(6), RSMo (2000).

29. Section 375.934, RSMo (2000), provides:

> It is an unfair trade practice for any insurer to commit any practice 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.

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

> Any of the following practices, if committed in violation of section 375.934, are hereby defined as unfair trade practices in the business of insurance: . . .
>
> (6) "Misrepresentations and false advertising of insurance policies", making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustrations, circular or statement, sales presentation, omission, or comparison which:
>
> > (a) Misrepresents the benefits, advantages, conditions, or terms of any policy; . . .

31. During the course of every closing performed by Title One involving a property for which Title One was to issue a title insurance policy, Title One made and issued various documents to the parties of each transaction, including settlement statements, which contained statements that misrepresented the premium rates for title insurance policies.

32. The premium rate of a title insurance policy is a term and/or condition of each such policy contract.

33. The statements of premium rates for each policy were misrepresentations insofar as they did not accurately reflect the premium rate of each policy, as regulated by the premium rates filed and approved for use by Commonwealth and its agents.

34. Title One made the aforementioned statements in conscious disregard of §§ 375.934 and 375.936, RSMo (2000).

35. Title One made the foregoing statements with such frequency as to indicate a general business practice to engage in that type of conduct.

COUNT IV

36. The Director realleges the allegations set forth above in paragraphs 20-35 and incorporates them herein by reference.

37. Title One 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 cost of title insurance.

38. 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;

39. The material facts that were misrepresented, concealed or suppressed, include the following:

a. Information regarding the actual premium rates of title insurance policies, which must be calculated in accordance with the premium rates filed and approved by the Director;

b. Information regarding charges or fees for services related to the issuance of a title insurance policy, including search and examination expenses, clearing title defects, and other charges that are not included in the filed risk rate and which may be discounted or negotiated without limitation; and

RELIEF

WHEREFORE, the Consumer Affairs Division requests the Director:

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

B. Issue an order prohibiting Title One 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 Title One to pay a civil penalty for each unlawful act or unfair practice;

D. Order Title One to pay reasonable costs of investigation; and

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

Respectfully submitted,

Jeremy J. Ray
Missouri Bar # 58142
Senior Enforcement Counsel
Missouri Department of Insurance,
Financial Institutions & Professional
Registration
P.O. Box 690
Jefferson City, MO 65102-0690
Telephone: (573) 751-1924
Facsimile: (573) 526-5492

ATTORNEY FOR DIVISION OF
CONSUMER AFFAIRS

MISSOURI DEPARTMENT OF INSURANCE
UNIFORM PREMIUM (RISK RATE) REPORTING FORM

Note: Risk rates must be filed with the Department in accordance with 381.181 RSMo.

Effective Date: November 1, 2004

COMMONWEALTH LAND TITLE INSURANCE COMPANY

Risk Classifications

Description of Risk Amount	Original Title Insurance for Owner's and Leasehold Owner's Policies	Reissue Title Insurance for Owner's & Leasehold Owner's Policies	Original Title Insurance for Loan Policies	Reissue Title Insurance for Loan Policies	Simultaneous Issue Policies (Actual Amount not per $1000)	Title Insurance for Substitution	Title Insurance for Construction Loans
Up to $50,000 of Liability Written	$1.40 per thousand	$0.84 per thousand	$1.00 per thousand	$0.60 per thousand	$4.00	$0.60 per thousand	See Below (*)
Over $50,000 and up to $100,000, Add	$1.20 per thousand	$0.72 per thousand	$0.80 per thousand	$0.48 per thousand	$4.00	$0.48 per thousand	See Below (*)
Over $100,000 and up to $5,000,000 Add	$0.80 per thousand	$0.48 per thousand	$0.70 per thousand	$0.42 per thousand	$4.00	$0.42 per thousand	See Below (*)
Over $5,000,000 and up to $10,000,000 Add	$0.70 per thousand	$0.42 per thousand	$0.60 per thousand	$0.36 per thousand	$4.00	$0.36 per thousand	See Below (*)
Over $10,000,000 and up to $15,000,000 Add	$0.60 per thousand	$0.36 per thousand	$0.50 per thousand	$0.30 per thousand	$4.00	$0.30 per thousand	See Below (*)
Over $15,000,000 Add	$0.50 per thousand	$0.30 per thousand	$0.40 per thousand	$0.24 per thousand	$4.00	$0.24 per thousand	See Below (*)
Minimum Premium	$4.00	$4.00	$4.00	$4.00	$4.00	$4.00	See Below (*)

FILED
JAN 25 2005
DIRECTOR OF INSURANCE
STATE OF MISSOURI

Rates filed by Commonwealth Land Title Insurance Company, Missouri Office: 2019 Walton Road, St. Louis, Missouri 63114

(*) CONSTRUCTION LOANS: The herein-stated filed rate for original title insurance, for re-issue title insurance, or for title insurance for substitution, whichever is applicable, will be charged at the rate shown above to the builder, developer or consumer at the time title insurance policies for acquisition, construction financing or other title insurance policies are required. Credit may be applied, up to the full amount charged, for all income derived from policies issued for construction loans to the cost of policies issued for permanent financing.

EXHIBIT
A

Title One, LLC
2222 Schuetz Road, Suite 114
St. Louis, MO 63146
(314) 567-7367
Fax (314) 567-7255

PURCHASES

Amount of Insurance	Insurance Charge
50,000 or less	$325.00
50,001 to 55,000	$350.00
55,001 to 60,000	$375.00
60,001 to 65,000	$400.00
65,001 to 70,000	$425.00
70,001 to 75,000	$450.00
75,001 to 80,000	$475.00
80,001 to 85,000	$500.00
85,001 to 90,000	$525.00
90,001 to 95,000	$550.00
95,001 to 100,000	$575.00
100,001 and over	Add $2.00 per thousand

Refinances

Loan Amount	Insurance Charge
Under 50,000	175.00
50,001 – 55,000	185.00
55,001 – 60,000	195.00
60,001 – 65,000	205.00
65,001 – 70,000	215.00
70,001 – 75,000	225.00
75,001 – 80,000	235.00
80,001 – 85,000	245.00
85,001 – 90,000	255.00
90,001 – 95,000	265.00
95,001 – 100,000	275.00
100,001 and over	Add $2.00 per thousand

Closing Fee.....$150.00
Courier Fee.....$45.00
Wire Fee.....$20.00
Recording.....$145.00
Exam Fee $125.00
**plus $33 for each additional release/quit claim deed/marital waiver, etc.

Out of the local St. Louis areas, please add $200.00 additional for a search fee. This will cover the cost of wiring funds to the customer if need be. **Out of Missouri**, please add $300.00 additional for a search fee. This will cover the costs of wiring funds to the customer if need be. Please keep in mind an additional $100.00 - $200.00 closing fee for the mobile closer.

We currently are unable to do purchase loans outside of Missouri.

For second mortgages where there is a first and second combo, please use the above rates with the closing fee being $75.00 on the second mortgage. Recording fees are reduced to $112.00 on 2nd mortgages.

EXHIBIT B