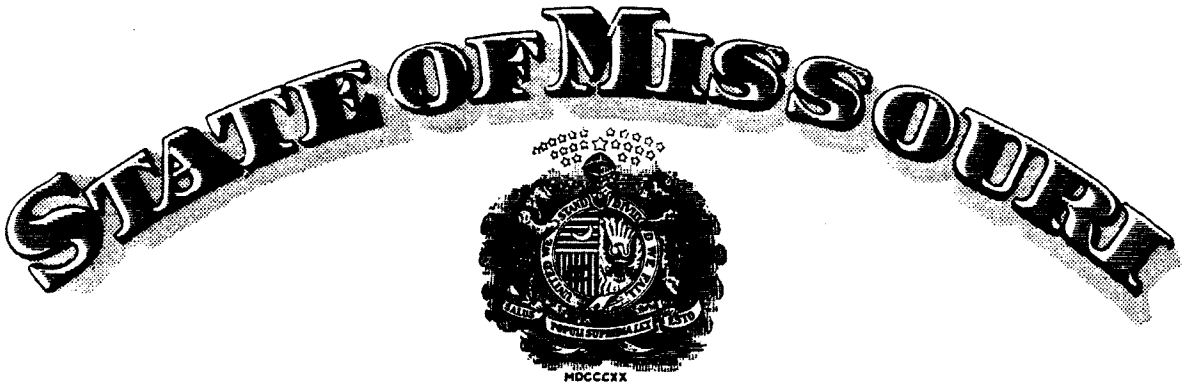

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

In re:	)	
Guarantee Title Insurance Company,	)	
in Liquidation	)	Examination No. 0509-28-TLE
(NAIC #50034)	)	

ORDER OF THE DIRECTOR

NOW on this 22 day of October, Linda Bohrer, Acting Director of the Department of Insurance, Financial Institutions and Professional Registration (hereafter referred to as "the Department"), an agency of the State of Missouri, created and established for administering and enforcing all laws in relation to insurance companies doing business in the State in Missouri, finds and concludes as follows:

WHEREAS, Guarantee Title Insurance Company, (hereafter referred to as "Guarantee Title") was granted a certificate of authority to transact the business of insurance in the State of Missouri;

WHEREAS, the Department conducted a Market Conduct Examination of Guarantee Title and prepared report number 0509-28-TLE;

WHEREAS, the report of the Market Conduct Examination revealed that:

1. In some instances, Guarantee Title failed to assure that all of its employees who are involved in the solicitation of, negotiation of, or procurement, or making of title insurance contracts were properly licensed as title agents, as required by §§381.031.17, .18, and .19, RSMo.

2. In some instances, Guarantee Title failed to appoint or secure licenses for some of its agencies although it allowed them to act as its agent for the purpose of soliciting, negotiating, or procuring title insurance contracts, thus violating §§381.031.17, .18, and .19, and 375.022, RSMo.

3. In some instance, Guarantee Title used and issued title policies without having certain relevant forms or form language filed with the Department, as required by §§381.071.1(2), and 381.211, RSMo, and 20 CSR 500-7.100(3)(A).

4. In some instances, Guarantee Title failed to furnish the insurer's phone number in its policy form, as required by §375.924, RSMo.

5. In some instances, Guarantee Title used exceptions in its title policies that were inappropriate, generic in form, or not specific to the property or the transaction, thereby violating §381.071.1(2), RSMo.

6. In some instances, Guarantee Title used a risk rate that was not included on the face of the policy, and also used risk rates that were either incorrect or were not the actual risk rate charged by the Company, thereby violating §§381.031, and 381.181, RSMo, and 20 CSR 500-7.100(1) and (3).

7. In some instances, Guarantee Title's policies contained incorrect total charges or failed to contain the total charges at all on the policies, as well as charged fees for work connected to closing certain transactions by entities not licensed as title agents, and paid a referral fee to an entity for its referral of business, thereby violating in violation of §381.031.4 and .14, RSMo, 20 CSR 500-7.100(1) and (3), and 24 CFR 3500.8.

8. In some instances, Guarantee Title's agency acted as settlement agent and failed to timely record the security instrument for several transactions, thereby violating §381.412, RSMo.

9. In some instances, Guarantee Title failed to conduct an adequate title search and examination to adequately establish marketability of title, show all outstanding, enforceable recorded items, liens, other interests, and exceptions for a known risk to the title to be insured, thus failing to determine insurability in accordance with sound underwriting practices as required by §381.071.1, .2 and .3, RSMo.

10. In some instances, Guarantee Title failed to insure or issue a policy as agreed to by the parties, thereby violating §376.936(5)(b), RSMo.

11. In some instances, Guarantee Title made a false entry of a material fact in its records of policies actually issued, thereby violating §§358.080.4, and 381.071.2, RSMo.

12. In some instances, Guarantee Title incorrectly dated the effective date of a title policy, thereby violating §381.071.1(2), RSMo.

13. In some instances, Guarantee Title failed to deliver and disburse funds for closing in the proper form and manner, as required by §381.412, RSMo.

14. In some instances, Guarantee Title took more than 10 working days to acknowledge certain claims, failed to reply to correspondence within 10 working days to certain claim, failed to accept and notify the claimants of its acceptance of certain claims within 15 working days after receipt, failed to complete the investigation of certain claims within 30 days of the initial notification of the claim, and failed to notify claimants in writing every 45 days regarding the status of their claims, thereby violating §375.1007(2), RSMo, and 20 CSR 100-1.010(1)(G), 20 CSR 100-1.030(1) and (2), and 20 CSR 100-1.050(1)(A).

15. In some instances, Guarantee Title failed to adequately add to its reserves to take into account the losses arising from claims as required by §381.101, RSMo.

16. In some instances, Guarantee Title failed to attempt in good faith to effectuate a prompt, fair, and equitable settlement of its claims, in that it failed to properly investigate claims and implement reasonable standards for the prompt investigation and reasonable settlement of claims, unreasonably denied or failed to settle claims, thereby violating §§375.1007(3) and (4), and 381.041, RSMo, and 20 CSR 100-1.030(1) and 20 CSR 100-1.050(1)(A) and (D).

17. In some instance, Guarantee Title failed to maintain its policy files, claim files, and other business records in a manner so that the claims' handling practices of the insurer may be readily ascertained during the exam as required by §381.071.3, RSMo, and 20 CSR 300-2.200(2).

18. In some instances, Guarantee Title failed to fully disclose to the first party claimant all pertinent benefits, coverages, or other provisions of the policy, as required by §375.1007(1) and (4), RSMo, and 20 CSR 100-1.020(1) and 20 CSR 100-1.050(1)(A).

19. In some instances, Guarantee Title issued an indemnity letter for a policy that was never issued, in violation of §381.071.1(2), RSMo.

20. In some instances, Guarantee title failed to maintain adequate complaint handling procedures, as required by §375.936(3), RSMo.

WHEREAS, prior to the closing of the aforementioned Examination, the Cole County, Missouri, Circuit Court on October 3, 2008, entered a Judgment, Decree and Order of Liquidation with Finding of Insolvency against Guarantee Title (hereafter, "Order of Liquidation") and appointed Linda Bohrer, Acting Director of the Department of Insurance, Financial Institutions and Professional Registration as Liquidator in accordance with the Verified Petition for Final Judgment, Decree, and Order of Liquidation as against Guarantee Title and directed her to take possession of the assets of Guarantee Title and to administer them under the court's supervision. This Order resulted in the ceasing of all business operations of Guarantee Title in Missouri, Kansas, Oklahoma and Tennessee, and any other jurisdictions in which it conducted the business of insurance. It also

ordered the Acting Director, as Liquidator to liquidate Guarantee Title's assets and to discharge the outstanding claims of residents in those states, including, but not limited to those in Missouri;

WHEREAS, §375.1218.6, RSMo, designates the claims of states for a penalty or forfeiture against the Company as a Class 6 claim. Whatever forfeiture or penalty the Acting Director were to impose upon Guarantee Title as a result of the findings enumerated in the above-referenced market conduct examination report fall under this statute and are considered Class 6 claims;

WHEREAS, it is unlikely that the Department will be able to recover any such forfeitures or penalties against Guarantee Title, based upon the information obtained by the Department regarding Guarantee Title's assets and liabilities following the entry of the Order of Liquidation.

NOW, on this 22 day of October, 2008, the Acting Director, after consideration and review of the market conduct examination report of Guarantee Title, report numbered 0509-28-TLE, prepared and submitted by the Division of Insurance Market Regulation pursuant to §374.205.3(3)(a), RSMo, does hereby adopt such report as filed. After consideration and review of the report, relevant workpapers, and any written submissions or rebuttals, the findings and conclusions of such report is deemed to be the Director's findings and conclusions accompanying this order pursuant to §374.205.3(4), RSMo.

This order, issued pursuant to §§374.205.3(4), RSMo, and §374.046.15. RSMo Cum. Supp. 2006, is in the public interest.

So Adopted, Found, Concluded, and Ordered.

Linda Bohrer

Linda Bohrer
Acting Director