

**DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

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

TO: Office of the President
Fidelity National Title Insurance Co., Inc.
601 Riverside Ave.
Jacksonville, FL 32204

RE: Missouri Market Conduct Examination #0612-67-PAC
Lawyers Title Insurance Corporation (NAIC #50024)

**STIPULATION OF SETTLEMENT AND
VOLUNTARY FORFEITURE**

It is hereby stipulated and agreed by John M. Huff, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, hereinafter referred to as "Director," and Lawyers Title Insurance Corporation, (hereafter referred to as "Lawyers"), as follows:

WHEREAS, John M. Huff is the Director of the Missouri 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 of Missouri; and

WHEREAS, Lawyers has been granted certificate(s) of authority to transact the business of insurance in the State of Missouri; and

WHEREAS, the Director conducted a Market Conduct Examination of Lawyers and prepared report number 0612-67-PAC in accordance with the laws and regulations of the State of Missouri in effect at the time of the actions examined and alleged during the scope of the examination; and

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

1. In some instances, Lawyers failed to maintain its direct underwriting files in such a way that they included adequate information to determine the identity of the agents who conducted work and closed title transactions, in violation of §§375.012.1(12) and 375.041.1, RSMo, 20 CSR 300-2.200(2) (as amended 20 CSR 100-8.040, eff. 7/30/08), and DIFP Bulletin 06-05.

2. In some instances Lawyers operated direct operation offices and employed producers who did not have a current Missouri agency and producer's licenses as required by §§375.022, 381.031.17, .18, and .19, and 381.071, RSMo, 20 CSR 500-7.200, 20 CSR 700-1.010(3)(B), and 20 CSR 700-1.020(1).

3. In some instances, Lawyers used policy forms which included language that had not previously been filed with the Department, thereby violating §381.211, RSMo, and 20 CSR 500-7.100(3).

4. In some instances, Lawyers failed to timely record the security instrument within three days after closing the transaction and failed to maintain sufficient documentation to show when the policies were actually issued to insureds, thereby violating §§374.205(2)2, 381.412, RSMo, and 20 CSR 300-2.200(2) (as amended 20 CSR 100-8.040, eff. 7/30/08).

5. In some instances, Lawyers used risk rates that were incorrect, not the actual risk rate charged by the Company, and not previously filed with the Department, thereby violating §381.181, RSMo, 20 CSR 500-7.100(3)(B), and DIFP Bulletin 93-09.

6. In some instances, Lawyers failed to document or maintain its records in such a manner that the total amount charged on policies could reasonably be ascertained, in violation of §381.031.4 and .14, RSMo, 20 CSR 500-7.100(3)(B), and 20 CSR 300-2.200(2) (as amended 20 CSR 100-8.040, eff. 7/30/08).

7. In some instances Lawyers charged improper fees, including fees that were in excess of the actual amount charged or for documents that were never recorded, in violation of §486.351.1, RSMo, and the Real Estate Settlement Procedures Act of 1974 (RESPA), §8(b); 12 USCA §2607(a-b) and 24 CFR §3500.14.

8. In some instances, Lawyers' direct agent failed to obtain a title search from a proper title plant, as required by §381.071, RSMo, and 20 CSR 500-7.200.

9. In some instances, Lawyers failed to properly determine insurability by using sound underwriting practices when issuing policies and failed to properly document the searches and maintain evidence of the searches in some instances, thereby violating §381.071.1(2), .2 and .3, RSMo, 20 CSR 500-7.200 and 20 CSR 300-2.200(2) (as amended 20 CSR 100-8.040, eff. 7/30/08).

10. In some instances, affiliated agents of Lawyers used exceptions in title policies and commitment forms that were different than the forms previously filed with the Department, thereby violating §381.211, RSMo, and 20 CSR 500-7.100(3).

11. In some instances, agents and affiliated agents of Lawyers failed to record the security instruments within three business days after closing the transaction, as required by §381.412, RSMo.

12. In some instances, affiliated agents of Lawyers used risk rates that were not the same as the rates previously filed with the Department, thereby violating §381.181, RSMo, 20 CSR 500-7.100(3)(B).

13. In some instances, affiliated agents of Lawyers charged fees that were in excess of the actual amount charged, in violation of §486.351.1, RSMo, and RESPA, §8(b); 12 USCA §2607(a-b) and 24 CFR §3500.14.

14. In some instances, affiliated agents of Lawyers failed to use sound underwriting practices when issuing policies, thereby violating §381.071.1(2), RSMo.

15. In some instances, Lawyer's agents used exceptions in policy and commitment forms which included language that had not previously been filed with the Department or that had the tendency to mislead the consumer, in violation of §§375.1007(1) and 381.211, RSMo, 20 CSR 100-1.120(1), and 20 CSR 500-7.100(3).

16. In some instances, Lawyers' agents charged incorrect risk rates and total charges and reported risk rates and total charges that were different than those filed with the Department, thereby violating §§381.013.4 and .14, 381.171, and 381.181. RSMo, 20 CSR 500-7.100(1)(D) and (3)(B).

17. In some instances Lawyers' agents charged recording and notary fees in excess of the actual fees, in violation of §486.351.1, RSMo, and RESPA, §8(b); 12 USCA §2607(a-b) and 24 CFR §3500.14.

18. In some instances, Lawyers' agents failed to use sound underwriting practices when issuing policies and included language in a policy that may be misleading as to the benefits, coverages, and other provisions of the policy, thereby violating §§375.1007(1), 381.071.1(2), RSMo, and 20 CSR 100-1.020(1).

19. In some instances, agents for Lawyers failed to properly disclose or document an affiliated business arrangement, as required by §381.029.2, RSMo (Supp. 2009).

20. A non-attorney agent for Lawyers collected a charge for deed preparation, in violation of §§384.010 and 484.020, RSMo.

21. In some instances, Lawyers and its agencies failed to maintain documentation that allowed the examiners to determine the date policies were issued, the risk rate for the policies, and whether an examination of title was actually performed, thereby violating §§374.205(2)2, 381.071.3, RSMo, and 20 CSR 300-2.200(2) (as amended 20 CSR 100-8.040, eff. 7/30/08).

22. One of Lawyers' agents acted as a title insurer by purporting to issue the policy of title insurance, in violation of §§381.031.19 and 381.041, RSMo.

23. In some instances, Lawyers failed to acknowledge receipt of certain claims within 10 working days of their receipt, as required by §375.1007(3), RSMo, 20 CSR 100-1.010(1)(G) and 20 CSR 100-1.030(1).

24. In some instances, Lawyers and its agents failed to maintain its books, records, documents, and other business records and to provide relevant materials, files, and documentation in such a way to allow the examiners to sufficiently ascertain the rating and underwriting and claims handling and payment practices of the company, thereby violating §§374.205.2(2) and 381.071.3, RSMo, and 20 CSR 300-2.200(2) and (3) (as amended 20 CSR 100-8.040, eff. 7/30/08).

22. In some instances, Lawyers failed to timely provide examiners with requested files and respond to criticisms and formal requests of the examiners, thereby violating §374.205.2(2), RSMo, and 20 CSR 300-2.200(6) (as amended 20 CSR 100-8.040, eff. 7/30/08).

WHEREAS, Lawyers hereby agrees to take remedial action bringing it into compliance with the statutes and regulations of Missouri and agrees to maintain those corrective actions at all times, including, but not limited to, taking the following actions:

1. Lawyers agrees to take corrective action to reasonably assure that the errors noted in the above-referenced market conduct examination reports do not recur, including, but not limited to issuing bulletins and other educational materials to its agents regarding their duties and responsibilities relating to the use of accurate risk rates and exceptions in its title policies. Lawyers will provide a copy of all such bulletins and educational materials to be used to the DIFP within 60 days after a final Order concluding this exam is entered by the Department; and

2. With regard to policy files containing incorrect risk rates and other charges, Lawyers agrees to cooperate with the Department in an effort to calculate and file reasonable and adequate risk rates to be used for all of its policies. With regard to its policy files containing incorrect risk rates and other charges, Lawyers agrees to review those files and refund any overcharge to the consumer. Payments to the consumers will include a letter stating that the payments are being paid “as a result of findings from a market conduct examination performed by the Missouri Department of Insurance, Financial Institutions and Professional Registration.” Evidence will be provided to the DIFP that such payments have been made within 120 days after a final Order concluding this exam is entered by the Department. The report to the DIFP shall include the total number of policies reviewed, the total number of policies affected by the incorrect charge, the dollar amount refunded on each affected policy, and the total dollar amount refunded overall, as a result of this review.

WHEREAS, the parties also agree to the following:

1. The Department may initiate a follow-up market conduct examination targeted on the issues raised in the above-referenced market conduct examination after 12 months from the date of the Department's final Order concluding this exam. Any follow-up examination of the Company shall be conducted using the following criteria:

a. Selections for any follow-up market conduct examination conducted by the Department shall be done consistent with the procedures, guidelines and standards established by the NAIC Market Regulation Handbook (hereafter "Handbook"); and

b. The scope of the follow-up market conduct examination will cover a period starting on or after six months from the date of the Department's final Order in this examination.

2. The Company acknowledges that it will be immediately subject to a monetary penalty equal to ½ of the "DIFP demand," as outlined in Appendix A which is attached hereto and made a part herein. Upon completion of the follow-up examination, the Company acknowledges that it will be subject to a monetary penalty equal to ½ of the "DIFP demand" plus any applicable restitution if the follow-up examination reveals an error rate that exceeds an error rate of 7% for claims errors and 10% for non-claims related errors. The additional monetary penalty shall not exceed ½ of the "DIFP demand" for each "report section."

3. The Company shall be deemed in compliance with its obligations established by this Stipulation of Settlement and Voluntary Forfeiture and not subject to a possible penalty as described above unless the Department's follow-up examination of the Company reveals that the Company exceeded the maximum tolerance standard of ten percent (10%) for non-claims related items examined and seven percent (7%) for claims-related items examined as established by the Handbook in regard to the Company's obligations established by this Stipulation of Settlement and Voluntary Forfeiture.

WHEREAS, the parties hereto agree that neither this instrument nor the agreements, settlement and compromise contemplated herein are to be deemed as an admission of any violation, fault, improper conduct or negligence on the part of Lawyers and that this agreement shall not be interpreted to impair the validity of Lawyers' existing contracts with its agents in the State of Missouri; and

WHEREAS, the Company's satisfaction of the corrective actions listed above fully and finally resolves its obligations established by this Stipulation of Settlement and Voluntary Forfeiture; and

WHEREAS, this Stipulation of Settlement and Voluntary Forfeiture is a compromise of disputed factual and legal allegations, and that payment of a forfeiture is merely to resolve the disputes and avoid litigation without conceding that the agreements, settlement and compromise contemplated herein settle any question of law asserted by either party; and

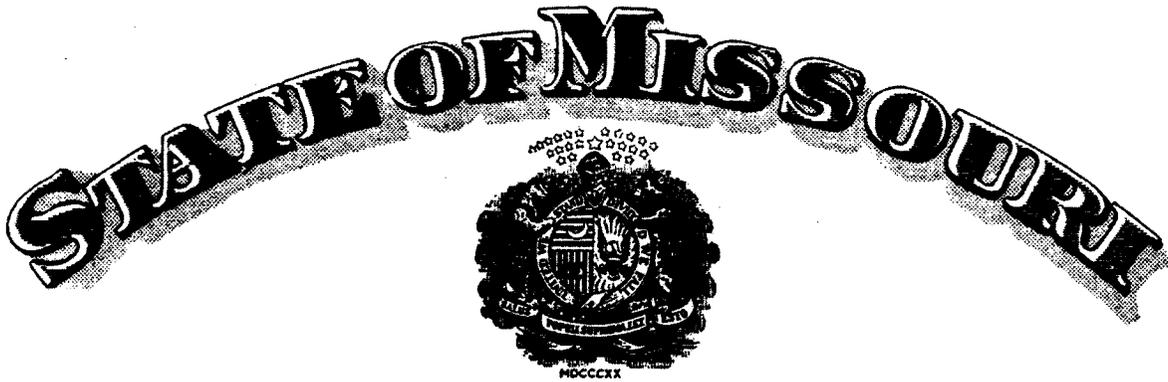
WHEREAS, Lawyers, after being advised by legal counsel, does hereby voluntarily and knowingly waive any and all rights for procedural requirements, including notice and an opportunity for a hearing, which may have otherwise applied to Market Conduct Exam #0612-67-PAC; and

WHEREAS, Lawyers hereby agrees to the imposition of the ORDER of the Director and as a result of Market Conduct Examination # 0612-67-PAC further agrees, voluntarily and knowingly to surrender and forfeit the sum of \$179,100.60.

NOW, THEREFORE, in lieu of the institution by the Director of any action for the SUSPENSION or REVOCATION of the Certificate(s) of Authority of Lawyers to transact the business of insurance in the State of Missouri or the imposition of other sanctions, Lawyers does hereby voluntarily and knowingly waive all rights to any hearing, does consent to an ORDER of the Director and does surrender and forfeit the sum of \$179,100.60, such sum payable to the Missouri State School Fund, in accordance with §374.280, RSMo.

DATED: _____

President
Lawyers Title Insurance Corporation



**DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

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

In re:)
) Examination No. 0612-67-PAC
Lawyers Title Insurance Corporation)
(NAIC #50024))

ORDER OF DIRECTOR

NOW, on this 1ST day of FEBRUARY, 2010, Director John M. Huff, after consideration and review of the market conduct examination report of Lawyers Title Insurance Corporation, (NAIC #50024), (hereafter referred to as "Lawyers") report numbered 0612-67-PAC, prepared and submitted by the Division of Insurance Market Regulation pursuant to §374.205.3(3)(a), RSMo, and the Stipulation of Settlement and Voluntary Forfeiture ("Stipulation") does hereby adopt such report as filed. After consideration and review of the Stipulation, 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) and 374.280, RSMo and §374.046.15. RSMo (Supp. 2008), is in the public interest.

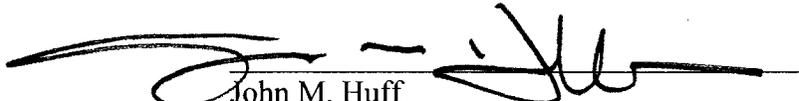
IT IS THEREFORE ORDERED that Lawyers and the Division of Insurance Market Regulation have agreed to the Stipulation and the Director does hereby approve and agree to the Stipulation.

IT IS FURTHER ORDERED that Lawyers shall not engage in any of the violations of law and regulations set forth in the Stipulation and shall implement procedures to place Lawyers in full compliance with the requirements in the Stipulation and the statutes and regulations of the State of Missouri and to maintain those corrective actions at all times.

IT IS FURTHER ORDERED that Lawyers shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept, the Voluntary Forfeiture of \$190,000.00, payable to the Missouri State School Fund in accordance with §374.280, RSMo.

IT IS SO ORDERED.

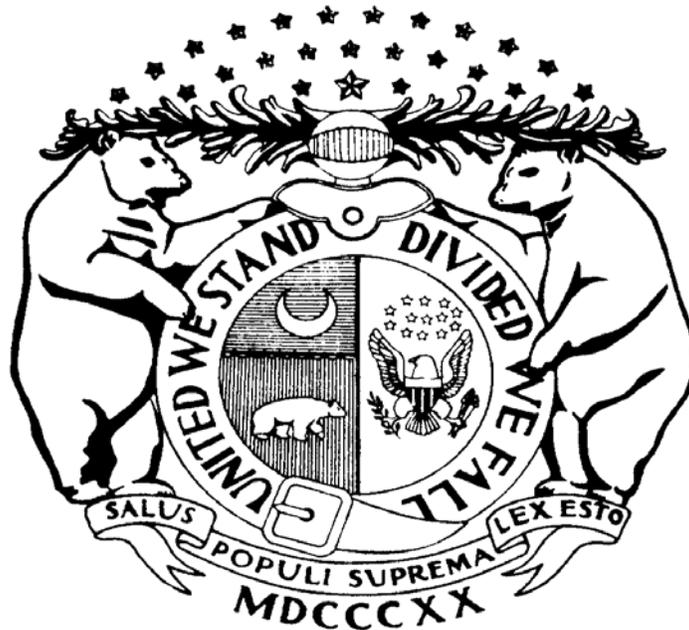
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office in Jefferson City, Missouri, this 1st day of FEBRUARY, 2010.


John M. Huff
Director

STATE OF MISSOURI

DEPARTMENT OF INSURANCE FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Final Market Conduct Examination Report
For
Lawyers Title Insurance Corporation
NAIC # 50024



January 11, 2010

Home Office
5600 Cox Road
Glen Allen VA, 23060
Examination Number 06-1267-PAC

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FOREWORD

This market conduct examination report of the Lawyers Title Insurance Corporation “LTIC” is, overall, a report by exception. Examiners cite errors the company made; however, failure to comment on specific files, products, or procedures does not constitute approval by the Missouri Department of Insurance, Financial Institutions, and Professional Registration.

Examiners use the following in this report:

“Company” and “LTIC” to refer to Lawyers Title Insurance Corporation;

“DIFP” and “Department” to refer to the Department of Insurance, Financial Institutions and Professional Registration;

“NAIC” to refer to the National Association of Insurance Commissioners;

“RSMo.” to refer to the Revised Statutes of Missouri; and

“CSR” to refer to the Code of State Regulations.

SCOPE OF EXAMINATION

The DIFP has authority to conduct this examination pursuant to, but not limited to, Sections 374.110, 374.190, 374.205, 375.445, 375.938, and 375.1009, RSMo, and Chapter 381, RSMo. In addition, Section 447.572, RSMo, grants authority to the DIFP to determine compliance with the Uniform Disposition of Unclaimed Property Act, Section 447.500 et seq. RSMo.

The purpose of this examination is to determine if LTIC complied with Missouri statutes and DIFP regulations and to consider whether Company operations are consistent with the public interest. The primary period covered by this review is July 1, 2005, through June 30, 2006; however, examiners include all discovered errors in this report.

This report focuses on general business practices of LTIC. The DIFP has adopted the NAIC published error tolerance rate guidelines. Examiners apply a 10 percent (10%) error tolerance criterion to underwriting and rating practices and a seven percent (7%) tolerance criterion to claims handling practices. Error rates greater than the tolerance suggest a general business practice.

The examination included, but was not limited to, a review of the Company's Sales and Marketing, Underwriting and Rating, Claims Practices, Consumer Complaints, and Unclaimed Property.

LTIC was incorporated in Virginia in 1992. LTIC is a part of Land America Financial Group, Inc., ("LandAmerica"), a Virginia Corporation. As part of LandAmerica, LTIC is engaged in a host of inter-company agreements with other members of the holding company system. LTIC's two largest affiliated title insurers are Transnation Title Insurance Company and Commonwealth Land Title Insurance Company. LTIC and these other two companies re-domesticated to Nebraska in the summer of 2006.

LTIC provides products and services to facilitate the purchase, sale, transfer and financing of residential and commercial real estate. Such products include title insurance, title search and examination, and escrow and closing functions.

LTIC has its statutory home office and its main administrative office at 5600 Cox Road, Glen Allen, VA. The Company's complaint files were reviewed at the DIFP office in St. Louis, MO. LTIC maintains a claims office in Dallas, TX. The large claims were reviewed at the Dallas, TX office. The claims and a portion of the underwriting files were reviewed in the St. Louis office on Walton Road. The examiners reviewed a portion of the agent underwriting files at the agent offices throughout the state.

The Company is licensed by the DIFP under Chapter 381, RSMo, to write title insurance as set forth in its Certificate of Authority.

EXECUTIVE SUMMARY

The examination found the following areas of concern:

The examiners could not determine the agent who prepared the commitments in many of the direct underwriting files reviewed.

OneStop, a direct operation office, is not licensed as an agency in Missouri, and had two unlicensed agencies acting as agents for the Company.

The Company employed someone without a title insurance license.

The Company and its agents use forms that are not filed with the DIFP.

The Company and its agents fail to record security instruments for transactions where they act as closing agents within three business days.

The Company and its agents use rates that are different from those rates filed with the DIFP.

The Company and its agents charged notary fees greater than the fee set by statute.

The Company and its agents charged recording fees greater than the actual cost to record the documents.

The Company and its agents failed to conduct adequate title searches.

EXAMINATION FINDINGS

I. Sales and Marketing

A. Licensing of agents and agencies

In 91 of the 94 direct underwriting files reviewed, the examiners could not determine the agent who prepared the commitment, conducted the escrow transaction or otherwise negotiated the price or the terms of the policy of title insurance.

Reference: Sections 375.012.1(12) and 375.041.1, RSMo, and DIFP Bulletin 06-05

The direct operation office, OneStop, is located in Pennsylvania and does not have a Missouri agency license. The following unlicensed agencies are providing title searches to OneStop, who is acting as an agent for LTIC.

Reference: Section 381.071, RSMo, and 20 CSR 500-7.200

S & L Title Search, Arkansas
Richter Abstracts, Inc, California

The following employee was involved in sales and marketing to national lenders who may or may not have ordered title insurance on Missouri property. This employee is not licensed as a title insurance agent with the DIFP.

Reference: Section 381.031.17, 18, 19, RSMo, 20 CSR 700-1.010(3)(B), and 20 CSR 700-1.020(1)

Jordana Parker

B. Marketing practices

The examiners noted no errors in this review.

II. Underwriting and Rating Practices

In this section of the report, the examiners report their findings of the Company's title insurance underwriting and rating practices. These practices include the use of policy forms, adherence to underwriting guidelines, and premiums charged. Because of the time and cost involved in reviewing each policy file, the examiners use scientific sampling. The most appropriate statistic to measure the

company’s compliance is the percent of files in error. Errors can include, but are not limited to, any miscalculation of the premium based on file information, failure to timely record a Deed of Trust, and failure to otherwise observe Missouri statutes or DIFP regulations.

The examiners conducted three separate underwriting samples. The examiners’ samples include one for Direct Operations, one for “Affiliated” Agents, and one for Independent Agents who sell policies underwritten by LTIC.

A. Direct Operation

1. Forms and Filing

The examiners reviewed LTIC’s policy forms to determine compliance with filing, approval and content requirements. This helps to assure that the contract language is not ambiguous and is adequate to protect those insured.

The examiners found the following errors in their review of direct underwriting files.

The Company used commitment forms that are not the same as the commitment forms filed with the Director. The forms used had standard exceptions that are not included in the filed commitment. In addition, the filed form proposes to include standard exceptions only in an owner’s policy. The limiting language is omitted from the form used.

The following commitment forms also contain the following exception: “Rights of dower, homestead or other marital rights of the spouse, if any, of any individual insured.” Rights of dower were outlawed in Missouri in 1956. Homestead should not be an issue in a properly underwritten policy. Homestead rights are not a type of marital right. Marital rights are inchoate and should not be an issue in properly underwritten title insurance policies. Furthermore, the insured, in each and all of these policies, is an institutional lender that presumably has no spouse.

Reference: Section 381.211, RSMo, and 20 CSR 500-7.100(3)

<u>File No.</u>	<u>Policy No.</u>	<u>Agent</u>
10683415	10683415	Direct
10732204	10732204	Direct
1362060VT	1362060VT	OneStop
1552146VT	1552146VT	OneStop
1521326VT	1521326VT	OneStop
1426160VT	1426160VT	OneStop
1539478VT	1539478VT	OneStop

1546919VT	1546919VT	OneStop
1556062VT	1556062VT	OneStop
1554259VT	1554259VT	OneStop
1569301VT	1569301VT	OneStop
1569688VT	1569688VT	OneStop
1544899VT	1544899VT	OneStop
1580133VT	1580133VT	OneStop
1546897VT	1546897VT	OneStop
<u>File No.</u>	<u>Policy No.</u>	<u>Agent</u>
1555704VT	1555704VT	OneStop
1561468VT	1561468VT	OneStop
1565151VT	1565151VT	OneStop
1572289VT	1572289VT	OneStop
1575470VT	1575470VT	OneStop
1577073VT	1577073VT	OneStop
1527250VT	1527250VT	OneStop
1534635VT	1534635VT	OneStop
1691621VT	1691621VT	OneStop
1704724VT	1704724VT	OneStop
1713941VT	1713941VT	OneStop
1739207VT	1739207VT	OneStop
1632557VT	1632557VT	OneStop
1743231VT	1743231VT	OneStop
1758343VT	1758343VT	OneStop
1760611VT	1760611VT	OneStop
1772160VT	1772160VT	OneStop
1748878VT	1748878VT	OneStop
1762308VT	1762308VT	OneStop
1791884VT	1791884VT	OneStop
1831048VT	1831048VT	OneStop
1820438VT	1820438VT	OneStop
1815561VT	1815561VT	OneStop
1840630VT	1840630VT	OneStop
1894500VT	1894500VT	OneStop
1819543VT	1819543VT	OneStop
1841653VT	1841653VT	OneStop
1857833VT	1857833VT	OneStop
1864422VT	1864422VT	OneStop
1882688VT	1882688VT	OneStop

1877907VT	1877907VT	OneStop
1894500VT	1894500VT	OneStop
1701812VT	1701812VT	OneStop
1754528VT	1754528VT	OneStop
1703619VT	1703619VT	OneStop
1656316VT	1656316VT	OneStop
1705387VT	1705387VT	OneStop
1660384VT	1660384VT	OneStop
1647161VT	1647161VT	OneStop
1677876VT	1677876VT	OneStop
1667962VT	1667962VT	OneStop
1648341VT	1648341VT	OneStop
<u>File No.</u>	<u>Policy No.</u>	<u>Agent</u>
1642963VT	1642963VT	OneStop
1640998VT	1640998VT	OneStop
1637939VT	1637939VT	OneStop
1635639VT	1635639VT	OneStop
1626039VT	1626039VT	OneStop
1610051VT	1610051VT	OneStop
1631250VT	1631250VT	OneStop
1589243VT	1589243VT	OneStop
1594800VT	1594800VT	OneStop
1616525VT	1616525VT	OneStop
1589439VT	1589439VT	OneStop
1581771VT	1581771VT	OneStop
1581161VT	1581161VT	OneStop
1621495VT	1621495VT	OneStop
1539478VT	1539478VT	OneStop
1521326VT	1521326VT	OneStop
1572463VT	1572463VT	OneStop
1583548VT	1583548VT	OneStop
1588862VT	1588862VT	OneStop
1606071VT	1606071VT	OneStop
1585545VT	1585545VT	OneStop
1595110VT	1595110VT	OneStop
1637116VT	1637116VT	OneStop
1654916VT	1654916VT	OneStop
1676072VT	1676072VT	OneStop
1675192VT	1675192VT	OneStop

1689192VT	1689192VT	OneStop
1646129VT	1646129VT	OneStop
1667325VT	1667325VT	OneStop
1712547VT	1712547VT	OneStop
1653823VT	1653823VT	OneStop
10722204	10722204	Direct
C0504157	C0504157	Direct

2. Underwriting and Rating General Handling

Field Size: 1905
Sample Size: 94
Type of Sample: Random
Number of Errors: 83
Error Rate: 88%
Within Dept. Guidelines: No

The original sample included 100 files. Six files that were sampled were not Missouri property. Those six files were subtracted from the field size, resulting in the sample size noted above.

NOTE: A star (*) after a policy number denotes the policy was cited earlier in the underwriting studies for a different error, but was only counted once in the number of errors.

a. Failure to Timely Record

The agency acted as settlement agent and failed to record the security instrument for the following transactions within three business days. In some cases the company failed to document the date the security instrument was recorded. The company failed to maintain their records so that their business practices could be easily ascertained by the examiners.

Reference: Section 381.412, RSMo, and 20 CSR 300-2.200(2) (as amended 20 CSR 100-8.040, eff. 7/30/08)

<u>File No.</u>	<u>Date of Disbursement</u>	<u>Date Recorded</u>	<u>No. Bus. of Days</u>	<u>Agent</u>
10683415	6/29/2005	9/27/2005	62	Direct
1864422VT	5/22/2006	Unknown	Unknown	OneStop
1894500VT	6/29/06	Unknown	Unknown	OneStop
1882688VT	6/22/06	Unknown	Unknown	OneStop
C0504157	3/14/2006	3/31/2006	13	Troy, MI
1841653VT	5/12/2006	Unknown	Unknown	OneStop

10732204	9/8/2005	10/28/2005	32	Richmond, VA
1552146VT	6/25/2005	Unknown	Unknown	OneStop
1556062VT	7/18/2005	Unknown	Unknown	OneStop
1362060VT	11/15/2004	11/29/2004	9	OneStop
1544899VT	8/4/2005	8/24/2005	14	OneStop
1580133VT	8/4/2005	Unknown	Unknown	OneStop
1565151VT	7/26/2005	9/8/2005	32	OneStop
1572289VT	7/26/2005	9/8/2005	32	OneStop
1575470VT	7/26/2005	9/13/2005	35	OneStop
1577073VT	7/26/2005	9/21/2005	41	OneStop
1527250VT	8/2/2005	8/9/2005	5	OneStop
1717659VT	11/29/2005	12/29/2005	22	OneStop
1743231VT	1/3/2006	Unknown	Unknown	OneStop
1760611VT	1/24/2006	Unknown	Unknown	OneStop
1772160VT	1/25/2006	Unknown	Unknown	OneStop
1748878VT	2/17/2006	Unknown	Unknown	OneStop
1762308VT	2/24/2006	Unknown	Unknown	OneStop
1831048VT	4/5/2006	Unknown	Unknown	OneStop
1820438VT	4/10/2006	Unknown	Unknown	OneStop
<u>File No.</u>	<u>Date of Disbursement</u>	<u>Date Recorded</u>	<u>No. Business of Days</u>	<u>Agent</u>
1815561VT	4/21/2006	5/16/2006	17	OneStop
1819543VT	4/25/2006	Unknown	Unknown	OneStop
1857833VT	5/17/2006	Unknown	Unknown	OneStop
1554259VT	6/21/2005	Unknown	Unknown	OneStop
1569301VT	7/1/2005	Unknown	Unknown	OneStop
1569688VT	7/18/2005	Unknown	Unknown	OneStop
1731686VT	12/12/2005	Unknown	Unknown	OneStop
1736341VT	12/12/2005	Unknown	Unknown	OneStop
1534635VT	8/10/2005	Unknown	Unknown	OneStop
1713941VT	12/9/2005	Unknown	Unknown	OneStop
1704724VT	11/30/2005	Unknown	Unknown	OneStop
1791884VT	3/24/06	5/30/06	46	OneStop
1754528VT	2/6/2006	Unknown	Unknown	OneStop
1758343VT	1/23/2006	Unknown	Unknown	OneStop
10825623	3/14/2006	Unknown	Unknown	Direct
1703619VT	11/28/05	12/14/05	13	OneStop
1653823VT	9/30/05	11/3/05	23	OneStop
1712547VT	11/18/05	12/06/05	12	OneStop

1667325VT	10/17/05	11/1/05	10	OneStop
1646129VT	9/26/05	11/8/05	23	OneStop
1656316VT	11/1/05	12/12/05	26	OneStop
1705387VT	11/16/05	12/06/05	12	OneStop
1689192VT	11/7/05	12/7/05	20	OneStop
1675192VT	10/31/05	11/7/05	5	OneStop
1660384VT	9/30/05	11/28/05	19	OneStop
1647161VT	10/26/05	11/4/05	7	OneStop
1677876VT	10/15/05	Not filed		OneStop
1676072VT	10/12/05	10/20/05	6	OneStop
1667962VT	10/01/05	11/30/05	19	OneStop
1648341VT	10/1/05	10/28/05	20	OneStop
1642963VT	10/1/05	11/8/05	21	OneStop
1640998VT	10/1/05	11/2/05	23	OneStop
1637939VT	10/1/05	11/29/05	41	OneStop
1635639VT	10/1/05	11/18/05	35	OneStop
1626039VT	10/1/05	12/02/05	43	OneStop
1654916VT	10/3/05	11/8/05	19	OneStop
1610051VT	8/29/05	9/21/05	21	OneStop
1631250VT	9/26/05	11/08/05	29	OneStop
1637116VT	9/14/05	11/30/05	53	OneStop
1589243VT	8/10/05	9/21/05	39	OneStop
1594800VT	9/14/05	10/28/05	27	OneStop
<u>File No.</u>	<u>Date of Disbursement</u>	<u>Date Recorded</u>	<u>No. Business of Days</u>	<u>Agent</u>
1616525VT	9/1/05	10/26/05	39	OneStop
1589439VT	9/1/05	9/29/05	20	OneStop
1572463VT	8/5/05	11/7/05	44	OneStop
1583548VT	8/4/05	8/25/05	15	OneStop
1588862VT	8/8/05	9/15/05	27	OneStop
1581771VT	8/15/05	8/31/05	12	OneStop
1606071VT	8/22/05	10/6/05	13	OneStop
1581161VT	8/30/05	11/22/05	17	OneStop
1585545VT	8/31/05	9/20/05	13	OneStop
1621495VT	8/30/05	9/27/05	20	OneStop
1595110VT	8/31/05	10/4/05	22	OneStop
1539478VT	7/1/05	8/29/05	52	OneStop
1521326VT	7/1/05	8/15/05	40	OneStop

b. Incorrect Risk Rate

The agent reported an incorrect risk rate on the policy in that the risk rate used was not the same as that filed with the DIFP. In some cases the company failed to document the risk rate on the policy. In those cases, company failed to maintain their records so that their business practices could be easily ascertained by the examiners.

Reference: Section 381.181, RSMo, 20 CSR 500-7.100(3)(B), and 20 CSR 300-2.200(2) (as amended 20 CSR 100-8.040, eff. 7/30/08)

<u>File No.</u>	<u>Policy</u>	Amount listed on <u>Policy</u>	Filed Risk <u>Rate</u>	<u>Agent</u>
1552146VT*	1552146VT	\$450.10	\$72.40	OneStop
1539478VT*	1539478VT	\$90.96	\$151.04	OneStop
1546919VT	1546919VT	\$89.28	\$148.17	OneStop
1544899VT*	1544899VT	\$350.00	\$157.76	OneStop
1527250VT*	1527250VT	\$61.56	\$125.00	OneStop
1534635VT*	1534635VT	\$32.88	\$54.80	OneStop
1713941VT*	1713941VT	\$39.12	\$64.56	OneStop
1736341VT*	1736341VT	\$96.00	\$160.00	OneStop
1731686VT*	1731686VT	\$74.16	\$123.60	OneStop
1739207VT	1739207VT	\$26.40	\$43.20	OneStop
1758343VT*	1758343VT	\$79.20	\$132.00	OneStop
1760611VT*	1760611VT	\$44.88	\$74.40	OneStop
1772160VT*	1772160VT	\$72.48	\$99.80	OneStop
1762308VT*	1762308VT	\$28.80	\$47.50	OneStop
<u>File No.</u>	<u>Policy</u>	Amount listed on <u>Policy</u>	Filed Risk <u>Rate</u>	<u>Agent</u>
1791884VT*	1791884VT	\$205.20	\$300.00	OneStop
1831048VT*	1831048VT	\$98.10	\$163.50	OneStop
1820438VT*	1820438VT	\$59.88	\$99.80	OneStop
1877907VT	1877907VT	\$38.64	\$64.00	OneStop
1703619VT*	1703619VT	\$71.22	\$119.26	OneStop
1656316VT*	1656316VT	\$350.00	\$104.21	OneStop
1705387VT*	1705387VT	\$32.40	\$53.92	OneStop
1660384VT*	1660384VT	\$528.50	\$83.50	OneStop
1677876VT*	1677876VT	\$61.98	\$103.30	OneStop
1667962VT*	1667962VT	\$350.00	\$71.52	OneStop

1648341VT*	1648341VT	\$350.00	\$59.92	OneStop
1642963VT*	1642963VT	\$350.00	\$60.44	OneStop
1640998VT*	1640998VT	\$350.00	\$157.00	OneStop
1637939VT*	1637939VT	\$350.00	\$96.51	OneStop
1635639VT*	1635639VT	\$350.00	\$35.00	OneStop
1626039VT*	1626039VT	\$350.00	\$135.22	OneStop
1631250VT*	1631250VT	\$98.52	\$163.85	OneStop
1616525VT*	1616525VT	\$350.00	\$72.84	OneStop
1581771VT*	1581771VT	\$69.12	\$119.20	OneStop
1621495VT*	1621495VT	\$33.84	\$56.40	OneStop
10683415*	10683415	Not shown		Direct
10732204*	10732204	Not shown		Direct
10825623*	10825623	Not shown		Direct

c. Total Charges

No policy, standard form endorsement or simultaneous instrument which provides title insurance coverage shall be issued unless it contains the total amount paid for the issuance of the policy and the risk rate. Charges include but are not limited to fees for document preparation, fees for the handling of escrows, settlements or closing. None of the policies listed below document or otherwise informed the examiner the total charged amount on the policy.

In some cases the company failed to document the total charges on the policy. In those cases, the company failed to maintain their records so that their business practices could be easily ascertained by the examiners.

Reference: Section 381.181, RSMo, Section 381.031.4 & 14, RSMo, 20 CSR 500-7.100(3)(B), and 20 CSR 300-2.200(2) (as amended 20 CSR 100-8.040, eff. 7/30/08)

<u>File No.</u>	<u>Policy</u>	<u>Total Charges on Policy</u>	<u>Agent</u>
1552146VT*	1552146VT	None Shown	OneStop
1521326VT*	1521326VT	None Shown	OneStop
1526160VT*	1526160VT	None Shown	OneStop
1539478VT*	1539478VT	None Shown	OneStop

1546919VT*	1546919VT	None Shown	OneStop
1544899VT*	1544899VT	None Shown	OneStop
1546897VT*	1546897VT	None Shown	OneStop
1555704VT*	1555704VT	None Shown	OneStop
1561468VT*	1561468VT	None Shown	OneStop
1565151VT*	1565151VT	None Shown	OneStop
1572289VT*	1572289VT	None Shown	OneStop
1575470VT*	1575470VT	None Shown	OneStop
1577073VT*	1577073VT	None Shown	OneStop
1527250VT*	1527250VT	None Shown	OneStop
1534635VT*	1534635VT	None Shown	OneStop
1691621VT*	1691621VT	None Shown	OneStop
1718659VT*	1718659VT	None Shown	OneStop
1713941VT*	1713941VT	None Shown	OneStop
1736341VT*	1736341VT	None Shown	OneStop
1731686VT*	1731686VT	None Shown	OneStop
1739207VT*	1739207VT	None Shown	OneStop
1632557VT*	1632557VT	None Shown	OneStop
1743231VT*	1743231VT	None Shown	OneStop
1758343VT*	1758343VT	None Shown	OneStop
1760611VT*	1760611VT	None Shown	OneStop
1772160VT*	1772160VT	None Shown	OneStop
1748878VT*	1748878VT	None Shown	OneStop
1762308VT*	1762308VT	None Shown	OneStop
1791884VT*	1791884VT	None Shown	OneStop
1831048VT*	1831048VT	None Shown	OneStop
1820438VT*	1820438VT	None Shown	OneStop
1815561VT*	1815561VT	None Shown	OneStop
1877907VT*	1877907VT	None Shown	OneStop
1704724VT*	1704724VT	None Shown	OneStop
1554259VT*	1554259VT	None Shown	OneStop
1569301VT*	1569301VT	None Shown	OneStop
		Total	
<u>File No.</u>	<u>Policy</u>	<u>Charges on</u>	<u>Agent</u>
		<u>Policy</u>	
1569688VT*	1569688VT	None Shown	OneStop
1580133VT*	1580133VT	None Shown	OneStop
1819543VT*	1819543VT	None Shown	OneStop
1841653VT*	1841653VT	None Shown	OneStop

1857833VT*	1857833VT	None Shown	OneStop
1864422VT*	1864422VT	None Shown	OneStop
1882688VT*	1882688VT	None Shown	OneStop
1891289VT	1891289VT	None Shown	OneStop
1894500VT*	1894500VT	None Shown	OneStop
1701812VT	1701812VT	None Shown	OneStop
1703619VT*	1703619VT	None Shown	OneStop
1656316VT*	1656316VT	None Shown	OneStop
1705387VT*	1705387VT	None Shown	OneStop
1660384VT*	1660384VT	None Shown	OneStop
1647161VT*	1647161VT	None Shown	OneStop
1677876VT*	1677876VT	None Shown	OneStop
1667962VT*	1667962VT	None Shown	OneStop
1648341VT*	1648341VT	None Shown	OneStop
1642963VT*	1642963VT	None Shown	OneStop
1640998VT*	1640998VT	None Shown	OneStop
1637939VT*	1637939VT	None Shown	OneStop
1635639VT*	1635639VT	None Shown	OneStop
1626039VT*	1626039VT	None Shown	OneStop
1610051VT*	1610051VT	None Shown	OneStop
1631250VT*	1631250VT	None Shown	OneStop
1589243VT*	1589243VT	None Shown	OneStop
1594800VT*	1594800VT	None Shown	OneStop
1616525VT*	1616525VT	None Shown	OneStop
1589439VT*	1589439VT	None Shown	OneStop
1581771VT*	1581771VT	None Shown	OneStop
1581161VT*	1581161VT	None Shown	OneStop
1621495VT*	1621495VT	None Shown	OneStop
1539478VT*	1539478VT	None Shown	OneStop
1521326VT*	1521326VT	None Shown	OneStop
1572463VT*	1572463VT	None Shown	OneStop
1583548VT*	1583548VT	None Shown	OneStop
1588862VT*	1588862VT	None Shown	OneStop
1606071VT*	1606071VT	None Shown	OneStop
1585545VT*	1585545VT	None Shown	OneStop
1595110VT*	1595110VT	None Shown	OneStop
		Total	
<u>File No.</u>	<u>Policy</u>	<u>Charges on</u>	
		<u>Policy</u>	<u>Agent</u>

1637116VT*	1637116VT	None Shown	OneStop
1654916VT*	1654916VT	None Shown	OneStop
1676072VT*	1676072VT	None Shown	OneStop
1685299VT	1685299VT	None Shown	OneStop
1675192VT*	1675192VT	None Shown	OneStop
1689192VT*	1689192VT	None Shown	OneStop
1646129VT*	1646129VT	None Shown	OneStop
1667325VT*	1667325VT	None Shown	OneStop
1712547VT*	1712547VT	None Shown	OneStop
1653823VT*	1653823VT	None Shown	OneStop
10683415*	10683415	None Shown	OneStop
10732204*	10732204	None Shown	OneStop
10825632*	10825632	None Shown	OneStop

d. Improper Fees

In the following files, the agent charged notary fees to the buyer in excess of the actual fee.

Reference: Section 486.350.1, RSMo, Real Estate Settlement Procedures Act of 1974, Sec 8(b); 12 USCA sec. 2607(a-b); and 24 CFR sec. 3500.14.

<u>File No</u>	<u>Charge</u>	<u>Notarized Signature maintained in File</u>	<u>Agent</u>
1362060VT*	\$150.00	5 (\$10.00)	OneStop
1857833VT*	\$200.00	4 (\$8.00)	OneStop
1831048VT*	\$175.00	2 (\$4.00)	OneStop
1527250VT*	\$150.00	2(\$4.00)	OneStop
1583548VT*	\$125.00	4(\$8.00)	OneStop

In the following files, the agent charged recording fees in excess of the actual amount of recording or for documents they did not record.

Reference: Section 486.350.1, RSMo, Real Estate Settlement Procedures Act of 1974, Sec 8(b); 12 USCA sec. 2607(a-b); and 24 CFR sec. 3500.14.

<u>File No</u>	<u>Charge</u>	Actual Recording Fee Paid by <u>Agent</u>	<u>Agent</u>
1362060VT*	\$125.00	\$84.00	OneStop
1857833VT*	\$90.00	0	OneStop
1772160VT*	\$120.00	\$93.00	OneStop
1760611VT*	\$150.00	\$90.00	OneStop

The following files contain commitments to insure which report a recorded second deed of trust. In each case, the mortgage was not paid as part of the escrow transaction and there is no indication that the second deed of trust was to be released. The company charged a “subordination fee” of \$100.00 on the settlement state. However there has been no subordination recorded. The second deed of trust was not paid, not released and not subordinated, and it is not shown as an exception to title in the loan policy. It is not sound underwriting to fail to report an exception for a known deed of trust that was not paid, released, or subordinated to the insured deed of trust.

Reference: Section 381.071.1, RSMo

<u>File No</u>	<u>Agent</u>
1575470VT*	OneStop
1555704VT*	OneStop
1577073VT*	OneStop

e. Plant Law

In the following files, the company obtained search information from a company called Armstrong Document Retrieval in Prairie Village, Kansas. Armstrong Document Retrieval is not licensed by the Director as a title agent. The company is required to obtain a search of title that is made from a geographically indexed record encompassing all of the property located in the county where the land is located. LandAmerica OneStop is reportedly a subsidiary of LandAmerica. Commonwealth Land Title insurance Company is also a subsidiary of LandAmerica. Commonwealth has access to a geographically indexed title plant encompassing all of the property located in Jackson County. The company failed to obtain the search of title from a geographically indexed title plant that was reasonably available for its use.

Reference: Section 381.071, RSMo, and 20 CSR 500-7.200

<u>File No.</u>	<u>Agent</u>
1703619VT*	OneStop

1660384VT*	OneStop
1631250VT*	OneStop
1637939VT*	OneStop
1606071VT*	OneStop
<u>File No.</u>	<u>Agent</u>
1539478VT*	OneStop
1526160VT*	OneStop
1554259VT*	OneStop
1894500VT*	OneStop
1864422VT*	OneStop
1760611VT*	OneStop

Before a title policy can be written, the title insurer or its licensed agent must cause a search of the title based upon evidence prepared from a current set of record maintained in order to show all matters affecting the title to the property or interest which is to be insured. The set of records used in the search of the title shall be indexed geographically and shall encompass all properties in the county for which the set of records are maintained. If a geographically indexed set of records is in existence for the county at a reasonable charge and is available in a reasonable time frame, the Agent must use that index.

In the following files, the OneStop obtained search information from a company called SMS Searches, Inc. in St. Louis, MO. SMS Searches, Inc. is licensed by the DIFP as a title agent. OneStop is a direct operation of Commonwealth. Commonwealth has access to a geographically indexed title plant encompassing all of the property located in St. Louis County. The Company failed to obtain the search of title from a geographically indexed title plant that was reasonably available for its use.

Reference: Section 381.071, RSMo, and 20 CSR 500-7.200

<u>File No.</u>	<u>Agent</u>
1653823VT*	OneStop
1656316VT*	OneStop
1705387VT*	OneStop
1677876VT*	OneStop
1642963VT*	OneStop
1637116VT*	OneStop
1616525VT*	OneStop
1583548VT*	OneStop
1819543VT*	OneStop
1815561VT*	OneStop
1575470VT*	OneStop

1577073VT*	OneStop
1561468VT*	OneStop
1544899VT*	OneStop
1581161VT	OneStop
1717659VT*	OneStop
1739207VT*	OneStop
1527250VT*	OneStop
<u>File No.</u>	<u>Agent</u>
1585545VT*	OneStop
1595110VT	OneStop
1569688VT*	OneStop
1546897VT*	OneStop
1791884VT*	OneStop
1831048VT*	OneStop

f. Title Search

The following files contain title searches which are inadequate. Sound underwriting requires examination of title based up on evidence of title that a reasonable prudent person would depend upon in conducting his own affairs. The title information in this file does not satisfy the standard. In some cases, the agent failed to use a geographically indexed plant. The company relied on property reports provided by unlicensed agents. In some cases known mortgages were ignored, quit claim deeds were used to establish title without further verification of title, and in some cases marital interests were not adequately verified.

Reference: Section 381.071, RSMo, and 20 CRS 500-7.200

<u>File No.</u>	<u>Agent</u>
1713941VT*	OneStop
1762308VT*	OneStop
1758343VT*	OneStop
1760611VT*	OneStop
1820438VT*	OneStop
1831048VT*	OneStop
1841653VT*	OneStop
1717659VT*	OneStop
1534635VT*	OneStop
1704724VT*	OneStop
1362060VT*	OneStop

In the following files, the agent failed to document the title search. When using search information not obtained from a geographic title plant, the examiner is required to make a written statement verifying the method used in searching title for examination. The required written statement must follow a specific format. The file contains no such statement of exception.

Reference: Section 381.071, RSMo, and 20 CRS 500-7.200

<u>File No.</u>	<u>Agent</u>
1713941VT*	OneStop
1762308VT*	OneStop
1758343VT*	OneStop
1820438VT*	OneStop
1841653VT*	OneStop
1882688VT*	OneStop
1877907VT*	OneStop
1891289VT*	OneStop
1840630VT*	OneStop
1857833VT*	OneStop
10732204*	OneStop
1580133VT*	OneStop
1555704VT*	OneStop
1565151VT*	OneStop
1572289VT*	OneStop
1546919VT*	OneStop
1521326VT*	OneStop
1552146VT*	OneStop
1556062VT*	OneStop
1632557VT*	OneStop
1736341VT*	OneStop
1731686VT*	OneStop
1754528VT*	OneStop
1748878VT*	OneStop
1701812VT*	OneStop
1743231VT*	OneStop

g. Unsound Underwriting

In the following file, the company had information indicating that title was previously encumbered by a leasehold estate. The company did not obtain any information on the leasehold estate and did not report the leasehold estate as an exception to the title. When issuing an owner's policy of title insurance, the company must report all known and recorded matters affecting title.

Reference: Section 381.071, RSMo

<u>File No</u>	<u>Agent</u>
10825623**	Direct

In the following file, the company obtained a search showing two open mortgages, a recent decree of dissolution of marriage, and the copy of the related property settlement. The company reported the open mortgages as liens in the commitment to insure. The file contains no indication that the earlier mortgages were satisfied or released, although they are not reported as encumbrances in the policy issued 5/10/2006. It is not a sound underwriting practice to omit known mortgages from a title policy without evidence of satisfaction or release. The company failed to use sound underwriting practices.

Reference: Section 381.071, RSMo

<u>File No</u>	<u>Agent</u>
1841653VT*	OneStop

In the following file, the company obtained a search showing three open mortgages but issued a commitment to insure reporting only two. The commitment indicates that a search of title was performed 5/1/2006 and was amended 5/2/2006. There is no amended search in the file. It is not a sound underwriting practice to fail to except for a recorded mortgage when there is no indication of prior payment or release of the deed of trust.

Two mortgages were executed in the transaction leading to this policy, one intended to stand in first position and the other to be junior. The mortgage transactions were simultaneous and the lender was the same party in each loan. The second deed of trust was not shown as an exception to title in the policy. It is not a sound underwriting practice to fail to except for a known mortgage.

Reference: Section 381.071, RSMo

<u>File No</u>	<u>Agent</u>
1857833VT*	OneStop

In the following file, the policy of title insurance issued to the lender uses the land descriptions that had appeared in the commitment. That is not the land described in the deed conveying title to the

borrower. The company search of the title ignored information that the land had been re-subdivided. As such, the company failed to use sound underwriting practices.

Reference: Section 381.071, RSMo

<u>File No</u>	<u>Agent</u>
10732204*	OneStop

The company failed to conduct an adequate search of the title in the following file. The file contains no evidence that the insured mortgage has been examined or recorded. Specifically, the file includes no copy of the mortgage, no abstract of title, no examiner's notes, and no recording date for the mortgage to permit ready location of the document in the public record. The company is required to search the title prior to insuring and to make a determination of insurability in accordance with sound underwriting practices.

Reference: Section 381.071, RSMo

<u>File No</u>	<u>Agent</u>
10683415*	OneStop

The following file contains no indication that the lender made any loan to the borrower. The file contains no indication that any deed of trust has been executed or recorded, but the company issued a policy of title insurance. The file contains no indication that any of the two earlier mortgages reported in the commitment to insure have been satisfied or released, but the earlier mortgages are not shown as exceptions in the policy of title insurance. The company failed to use sound underwriting practice by failing to evidence that the mortgage has been recorded and serves as security for an obligation. It is not a sound underrating practice to insure title as free of earlier mortgages for which the company has no indication of satisfaction or release.

Reference: Section 381.071, RSMo

<u>File No</u>	<u>Agent</u>
1546919VT*	OneStop

The company's commitment to insure in the following files reported a second deed of trust. The mortgage was not paid as a part of the new loan transaction. There is no indication that the mortgage was to be released, nor that the bank had subordinated or had agreed to subordinate its earlier lien to the new deed of trust of the insured lender. The second deed of trust is not shown as an exception to title in the loan policy. It is not sound underwriting to fail to report an exception for a known deed of trust that has not been paid, released, or subordinated to the insured deed of trust.

Reference: Section 381.071, RSMo

<u>File No</u>	<u>Agent</u>
1521326VT*	OneStop
1544899VT*	OneStop

The following file does not contain documentation indicating who closed this loan transaction, nor any information indicating when or if the deed of trust was recorded. The commitment to insure reported an open mortgage. There is no indication in the file that the prior mortgages has been paid or released, although the final policy insures the title as free of the earlier mortgage. It is not a sound underwriting practice to insure title as free of an earlier mortgage without any assurance the mortgage has been paid or released.

Reference: Section 381.071, RSMo

<u>File No</u>	<u>Agent</u>
1877907VT*	OneStop
1891289VT*	OneStop

The policy insures an interest in land that is described as section land and is, by its description, located more than 500 feet from a public right-of-way. There is no indication the land described is adjacent to a public or private right of way. Because the policy provides coverage for losses arising by reason of lack of access, the company should take steps to assure that access exists or should make an appropriate exception. Failing to verify a right of access is both an unsound underwriting practice and contrary to the company's underwriting standards.

Reference: Section 381.071, RSMo

<u>File No</u>	<u>Agent</u>
1704724VT*	OneStop

The company failed to maintain evidence of the examination of title and determination of insurability for a period of at least 15 years.

Reference: Section 381.071.3, RSMo, and 20 CSR 300-2.200(2) (as amended 20 CSR 100-8.040, eff. 7/30/08)

<u>File No</u>	<u>Agent</u>
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1840630VT*	OneStop
1791884VT*	OneStop
1701812VT*	OneStop
1739207VT*	OneStop

3. Failure to Issue Policies in a Timely Manner

The long delay in issuing the policy practice is considered not in the best interest of the Consumers. This is not a violation of any statute or regulation. The underwriter is not aware of reportable premium until the policy is issued and may be unable to promptly pay premium taxes when due. The Company has not fully complied with record maintenance obligations until the policy has been issued. In addition, the insured does not receive notice of how to file a claim or the address and phone number of the underwriter until the policy is issued.

Note that SB 66, Section 381.038.3, RSMo, eff. 1/1/08 will require insurers to issue their policy within 45 days after completion of all requirements of the commitment for insurance.

<u>File No.</u>	<u>Date Co had Enough Information to Issue</u>	<u>Date Issued</u>	<u>No. Days to Issue</u>	<u>Agency</u>
1526160VT	8/15/05	5/24/06	282	OneStop
1595110VT	8/31/05	4/24/06	237	OneStop
1539478VT	8/29/05	5/26/06	270	OneStop
1521326VT	8/15/05	5/24/06	281	OneStop

The following policies were not issued to the insured.

<u>File No.</u>	<u>Date Co had Enough Information to Issue</u>	<u>Date Issued</u>	<u># Days to Issue</u>	<u>Agency</u>
1556062VT	7/18/05	Not issued	678+	OneStop
1362060VT	11/29/04	Not issued	918+	OneStop

The following files did not contain sufficient documentation to determine when the policy was issued to the insured.

Reference: 20 CSR 300-200(2) (as amended 20 CSR 100-8.040, eff. 7/30/08)

<u>File No.</u>	Date Co had Enough Information to Issue	<u>Date Issued</u>	<u>Agency</u>
1705387VT	Not determined	Not determined	OneStop
1660384VT	9/30/05	Not determined	OneStop
1647161VT	10/26/05	Not determined	OneStop
1676072VT	10/12/05	Not determined	OneStop
1667962VT	Not determined	Not determined	OneStop
1648341VT	Not determined	Not determined	OneStop
1642963VT	Not determined	Not determined	OneStop
1640998VT	Not determined	Not determined	OneStop
1637939VT	Not determined	Not determined	OneStop
1635639VT	Not determined	Not determined	OneStop
1626039VT	Not determined	Not determined	OneStop
1610051VT	8/29/05	Not determined	OneStop
1631250VT	9/26/05	Not determined	OneStop
1589243VT	Not determined	Not determined	OneStop
1594800VT	Not determined	Not determined	OneStop
1616525VT	Not determined	Not determined	OneStop
1589439VT	Not determined	Not determined	OneStop
1581771VT	8/15/05	Not determined	OneStop
1581161VT	Not determined	Not determined	OneStop
1621495VT	Not determined	Not determined	OneStop
1572463VT	8/5/63	Not determined	OneStop
1703619VT	11/28/05	Not determined	OneStop
<u>File No.</u>	Date Co had Enough Information to Issue	<u>Date Issued</u>	<u>Agency</u>
1653823VT	9/30/05	Not determined	OneStop
1712547VT	11/18/05	Not determined	OneStop
1637116VT	9/14/05	Not determined	OneStop
1675192VT	10/31/05	Not determined	OneStop
1689192VT	11/7/05	Not determined	OneStop
1646129VT	9/26/05	Not determined	OneStop
1667325VT	10/17/05	Not determined	OneStop
1712547VT	11/18/05	Not determined	OneStop
1654916VT	Not determined	Not determined	OneStop

1656316VT	Not determined	Not issued	OneStop
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B. Affiliated Agents

1. Forms and Filings

The examiners reviewed LTIC’s policy forms to determine compliance with filing, approval, and content requirements. This review helps to assure that the contract language is not ambiguous and is adequate to protect those insured.

The examiners found several violations of the form filing and use standards established by the statute and the related regulation. Each of these violations involved use by the agent of general exceptions that are not included in the forms filed by the Company with the Director. The language used by the Company in the general exception in its filed forms is quite specific. The examiners assume the Company has carefully chosen the language of the general exceptions filed in their commitment and policy forms and intends its agents to use only those forms and the language contained therein.

The examiners found that certain agents used general exceptions in the following owner’s policies that were not the same as the general exceptions used in the filed forms.

Reference: Section 381.211, RSMo, and 20 CSR 500-7.100(3)(A)

<u>File No.</u>	<u>Owner’s Policy</u>	<u>Agent</u>
CM0508013	A52-0353686	Covenant
CM0510051	A82-0353683	Covenant

The following construction loan policies include certain standard exceptions. Standard exceptions are not included in the loan policy forms filed with the DIFP Director.

Reference: Section 381.211, RSMo, and 20 CSR 500-7.100(3)(B)

<u>File No.</u>	<u>Policy No.</u>	<u>Agency</u>
CM0510056	H45-0002122	Covenant
CM0510057	H45-002123	Covenant

The examiners found that certain agents used general exceptions in the following commitments that were not the same as the general exceptions used in the filed forms.

Reference: Section 381.211, RSMo, and 20 CSR 500-7.100(3)(A)

<u>File No.</u>	<u>Policy No.</u>	<u>Agency</u>
CM051004	G52-0570504	Covenant
CM0510044A	G52-0570505	Covenant
CM510049	G52-0570720	Covenant
CM10049A	G52-0570521	Covenant
CM0511070	G52-0570532	Covenant
CM0510052	G52-0570507	Covenant
CM05100521	G52-0570508	Covenant
CM0510056	H45-0002122	Covenant
CM0510057	H45-0002123	Covenant
CM0512103	G52-0570530	Covenant
CM0511062	G52-0570512 &13	Covenant
	A52-0353686	
CM0508013	G52-0570518	Covenant
CM0510051	A82-0353683	Covenant
	G52-0570506	
CM0509030	G52-0570533	Covenant
CM0511092	G52-0570527	Covenant
CM0512102	G52-0570529	Covenant
CM0509021	H56-0049381	Covenant
CM0509011	G52-0570492	Covenant
CM0509003	G52-0570488	Covenant

2. Underwriting and Rating General Handling

Field Size: 39
Sample Size: 39
Type of Sample: census
Number of Errors: 35
Error Rate: 89.7%
Within Dept. Guidelines: No

NOTE: A star (*) after a policy number denotes the policy was cited earlier in the underwriting studies for a different error, but was only counted once in the number of errors.

a. Failure to Timely Record

The agency acted as settlement agent and failed to record the security instrument for the following transactions within three business days.

Reference: Section 381.412, RSMo.

<u>File No.</u>	<u>Date of Disbursement</u>	<u>Date Recorded</u>	<u>No. Business of Days</u>	<u>Agent</u>
CM0509015	10/17/05	Not provided		Covenant
CM0510036	11/10/05	11/16/05	4	Covenant
CM0509027	10/13/05	10/25/05	8	Covenant
CM0511074	Unable to determine	Unable to determine		Covenant
CM0511066	11/30/05	12/20/05	14	Covenant
CM0510049	11/18/05	11/30/05	6	Covenant
CM0510049A	11/18/05	11/30/05	6	Covenant
CM0509023	11/3/05	11/10/05	5	Covenant

b. Incorrect Risk Rate

The agent charged a risk rate other than the risk rate filed with the Director of DIFP. The agent is required to use risk rates filed with the DIFP.

Reference: Section 381.181, RSMo, and 20 CSR 500-7.100(3)(B)

<u>File No.</u>	<u>Policy</u>	<u>Amount Charged</u>	<u>Filed Risk Rate</u>	<u>Agent</u>
CM0510051	A82-0353683	\$96.00	\$137.50	Covenant
CM0508013	A52-0353686	\$62.07	\$52.80	Covenant
CM0509021	H56-0049381	\$48.00	\$80.00	Covenant
CM0512102	G52-0570528	\$36.76	\$61.20	Covenant
CM0512102*	G52-0570529	\$9.60	\$16.00	Covenant
CM0511092	G52-0570527	\$85.56	\$135.50	Covenant
CM0509011	G52-0570492	\$45.68	\$67.60	Covenant
CM0510043	G52-0570503	\$51.36	\$72.64	Covenant
CM0511062	G52-0570512	\$66.46	\$108.48	Covenant
CM0511062*	G52-0570513	\$18.96	\$31.60	Covenant

<u>File No.</u>	<u>Policy</u>	<u>Amount Charged</u>	<u>Filed Risk Rate</u>	<u>Agent</u>
CM0508014	G52-0570485	\$79.76	\$128.08	Covenant
CM0509004	G52-4509448	\$119.18	\$177.20	Covenant
CM0509015*	H56-0049376	\$104.26	\$149.50	Covenant
CM0509005	G52-0570490	\$44.11	\$57.14	Covenant
CM0510036*	A82-0353682	\$71.60	\$94.00	Covenant
CM0509024	G52-0570519	\$72.48	\$118.28	Covenant
CM0510055	G52-0570510	\$54.24	\$85.60	Covenant
CM0509023A	G52-0570540	\$13.29	\$22.00	Covenant
CM0509023	G52-0570539	\$48.24	\$80.40	Covenant
CM0511074*	G56-0049380	\$60.50	\$101.20	Covenant
CM0511077	G52-0570522	\$67.00	\$101.13	Covenant
CM0511066*	G52-0570537	\$76.32	\$104.42	Covenant
CM0512103	G52-0570530	\$106.16	\$162.80	Covenant
CM0511079	G52-0570523	\$151.04	\$213.20	Covenant
CM0511069	G52-0570531	\$51.67	\$85.60	Covenant
CM0510044	G52-0570504	\$100.70	\$167.84	Covenant
CM0510044A	G52-0570505	\$31.34	\$52.24	Covenant
CM0510049*	G52-0570520	\$59.38	\$89.60	Covenant
CM0510049A*	G52-0570521	\$16.92	\$28.20	Covenant
CM0510052	G52-0570507	\$67.80	\$107.08	Covenant
CM0510052A	G52-0570508	\$18.66	\$31.10	Covenant
CM0510056	H45-0002122	\$4.00	\$50.16	Covenant
CM0510057	H450002123	\$4.00	\$50.16	Covenant
CM0512103*	G52-0570530	\$106.16	\$162.80	Covenant
CM0511070	G52-0570532	\$54.88	\$74.08	Covenant

c. **Improper Fees**

In the following file, the agent charged recording fees to the buyer in excess of the actual fee. In several of these cases, the company refunded the overcharge during the examination of the company.

Reference: Real Estate Settlement Procedures Act of 1974, Sec 8(b), 12 USCA sec. 2607(a-b), and 24 CFR sec. 3500.14.

<u>File No</u>	<u>Policy No.</u>	<u>Overcharge</u>	<u>Agent</u>
CM0509030	G52-0570533	81.00	Covenant

d. Unsound Underwriting

The agent's commitment of 10/10/05 reflects title as held in the name of a "Charitable Trust." The prior owner of record had conveyed title to the "charitable trust" by quit claim deed dated 4/27/05 and recorded 5/12/05, approximately 6 months prior to the commitment. The agent had information indicating the prior owner had filed a petition for chapter 7 bankruptcy on 10/12/05. The agent's notes indicate the title examiner passed on the issue. There is no indication that the quit claim deed, recorded 5/12/05, was an arm's length transaction for consideration. In fact, there is some indication the previous owner may have retained an interest in the real estate. He was present at the office of the agent on the day of the closing. His identification was copied to the file. He executed an affidavit as to marital status. He granted a "durable power of attorney" to an individual associated with the charitable trust dated 5/6/05, more than a week after the date of his quit claim deed. He signed and instruction to the lender who was paid off in the closing.

It is not sound underwriting to fail to inquire as to the effects of a bankruptcy on a title to be insured. It is not a sound underwriting practice to fail to inquire whether a previous owner, who appears to be active in some aspects of the management of a property, retains any ownership interests.

In addition, the agent failed to examine any trust instrument establishing the power of any purported trustee to convey title. It is not sound underwriting to accept a deed executed by purported trustees without first reasonably establishing that the trustees have the required authority to convey.

Reference: Section 381.071.1.2, RSMo

<u>File No.</u>	<u>Agent</u>
CM0510051*	Covenant

The agent closed the transaction leading to this policy in escrow on 12/29/2005, and disbursed funds on 01/03/2006. The agent recorded the deeds from the transaction on 01/06/2006. The agent issued this lender's title insurance policy on 01/23/2006. A different title agency not writing policies for this insurer issued the owner's policy of title insurance.

The settlement statement calls for cash from the purchaser in the amount of \$11,742.00. The file contains a statement executed by both the buyer and the seller certifying to the agency that funds in the amount of \$11,742.00 were being delivered to the agent for the purchase, that the funds were the personal funds of the buyer, and that the funds did not represent a gift to the buyer.

Funds in the amount of \$11,742.00 were delivered to the agency in the form of a bank's Official

Check, dated 12/30/2005, one day after the signed statement described above. The bank Official Check, dated 12/30/2005 identifies the remitter as Missouri Public Benefit Corporation, incorporated 04/29/2004, for a purpose described in the corporation articles as “to help individual coming out of prisons and rehabilitation to reintegrate into society (sic).” The agent had no basis for any belief that the funds provided for this closing were the personal funds of the buyers.

Real estate brokerage commissions were paid on behalf of the seller in this transaction in amounts totaling \$3,750.00. The file also contains a document captioned “Gxxxx Txxxx Disbursement Form For Closing Agent/Escrow Officer Use Only” (redaction added) requesting that \$12,434.59 be wired from seller’s funds at closing to Gxxxxx Txxxx “for services rendered in assisting the sale of this property.” The form references an address in Oklahoma, and the agent wired the funds to an Oklahoma bank. There is no indication that Gxxxx Txxxx was a realty agent licensed in Missouri. There is no indication Gxxx Txxx was a party to this transaction. The agent prepared a settlement statement executed by both the buyer and the seller that describes the payment to Gxxx Txxx as “Payoff Gxxx Txxx.” Gxxx Txxx is or was executive director of an organization calling its self “Newsong Buyer’s Assistance” located at the address appearing on the “Disbursement Form” described above. The description of the payment was misleading.

It is not a sound underwriting practice to rely upon statements that are false on their face. It is not a sound underwriting practice to accept funds into escrow from any entity not a party to the transaction without a properly documented and reasonable explanation for use of the funds.

It is not a sound underwriting practice to disburse funds received into escrow for any purpose or in any manner other than as described on the settlement statement.

The agent and the Company must insure only in accordance with sound underwriting practices.

References: Section 381.071.1.2, RSMo.

<u>File No.</u>	<u>Agent</u>
CM0511070*	Covenant

C. Agents

1. Forms and Filings

The examiners reviewed LTIC’s policy forms to determine compliance with filing, approval, and content requirements. This helps to assure that the contract language is not ambiguous and is adequate to protect those insured.

The examiners found several violations of the form filing and use standards established by the statute and the related regulation. Each of these violations involved use by the agent of general exceptions that are not included in the forms filed by the Company with the Director. The language used by the Company in the general exception in its filed forms is quite specific. The examiners assume the Company has carefully chosen the language of the general exceptions filed in their commitment and policy forms.

The examiners found that certain agents used general exceptions in certain owner's policies that were not the same as the general exceptions used in the filed forms. Those violations are as follows:

Reference: Section 381.211, RSMo, and 20 CSR 500-7.100(3)(A)

<u>File No.</u>	<u>Owner's Policy</u>	<u>Agent</u>
9592	A82-0282017	Tri County
J05-0990	A82-34094	JCT
W0501078	A82-0356985	Guaranty Land Title
C0503284	A82-0334604	Guaranty Land Title
C0506170	Z82-0345615	Guaranty Land Title
L0508119	A82-0345685	Guaranty Land Title
L0405036	A82-0341852	Guaranty Land Title
HUD00159	A82-0341779	Guaranty Land Title
X0507042	A82-0350418	Guaranty Land Title
R0510032	A82-0341650	Guaranty Land Title
5052053L	G52-0492787	North Missouri
02030153	G52-0564044	Continental Title
05082142L	G52-0549097	North Missouri
0805-065	G52-0553088	Ste. Genevieve County Abstract
5-01914	A82-0350790	US Title
5-16002	A82-035077	US Title
04026559	A82-0338290	US Title
04024349	A82-0329008	US Title
04010162	A82-0329210	US Title
04022115	A82-0331889	US Title
526079	A82-0354032	US Title
524036	A82-0331984	US Title
517995	A82-0353878	US Title

The examiners found that certain agents used general exceptions in certain commitments that were not the same as the general exceptions used in the filed forms. Those violations are as follows:

Reference: Section 381.211, RSMo, and 20 CSR 500-7.100(3)(A)

<u>File No.</u>	<u>Policy No.</u>	<u>Agency</u>
78518	H56-Z001582	TS Connections
506731	G52-0525950 A82-0325737	US Title
510846	G52-0538192 A82-0332157	US Title
105976	H56-004-5-6	Investors
114507	H56-0036177	Investors
129707	G52-0337553	Investors
136691	H56-42161	Investors
<u>File No.</u>	<u>Policy No.</u>	<u>Agency</u>
139114	H56-0035479	Investors
142218	H56-0029549	Investors
142982	None	Investors
143877	H56-0037610	Investors
144502	None	Investors
144915	H56-0035679	Investors
145821	H56-0037724	Investors
146456	H56-0037762	Investors
148591	H56-0036003	Investors
149452	H56-0039524	Investors
151221	None	Investors
151482	H56-0040861	Investors
152707	H56-0034996	Investors
153211	H56-0036438	Investors
153393	H56-0039999	Investors
153853	H56-0039365	Investors
154002	H56-0035386	Investors
154538	None	Investors
158626	H56-0039370	Investors
160730	H56-0040802	Investors
162429	H56-42420	Investors
164101	H56-41188	Investors
165605	H56-42457	Investors
171049	H56-42501	Investors
174932	G52-0059448	Investors
89089	H56-0006189	Investors

In the following file, the company used forms that were not filed with the Director of the DIFP. The general exceptions in the commitment are not the same as the general exceptions in the filed form. The filed form proposes to include standard exceptions only in an owner's policy. However, the limiting language is omitted from the form used.

The jacket sent with the commitment varies significantly from the form filed with the Director of DIFP.

Reference: Section 381.211, RSMo, and 20 CSR 500-7.100(3)(A)

File No.	Policy No.	Form	Agency
78518*	H56-Z001582	Commitment	TS Connections

The following loan policy contains exceptions for matters otherwise excluded by the terms of the policy or dealt with as standard exceptions but intended by the company to be omitted as exceptions to a loan policy. Some of the exceptions are for matters discoverable on the record but not specifically excepted by the policy. The practice of inserting generic exceptions may mislead the consumer.

Reference: Section 375.1007(1), RSMo, and 20 CSR 100-1.120(1)

File No.	Policy No.	Exceptions	Agency
200908	G52-0508478	5,6,7,8,9 and 10	Burns Title

The following commitment forms contain the following language:

This commitment is not an abstract, examination, report, or representation of fact or title and does not create and shall not be the basis of any claim for negligence, negligent misrepresentation or other tort claim or action. The sole liability of company and its title insurance agent shall arise under and be governed by the conditions of the commitment and or policy subsequently issued.

This language is not contained in the form filed with the Director.

Reference: Sections 375.1007(1) and 381.211, RSMo, and 20 CSR 500-7.100(3)(B)

<u>File No.</u>	<u>Agent</u>
LOIT424705	Integrity
506731	US Title
510846	US Title

2. Underwriting and Rating General Handling

Field Size: 23,879
Sample Size: 100
Type of Sample: Random
Number of Errors: 68
Error Rate: 68%
Within Dept. Guidelines: No

NOTE: A star (*) after a policy number denotes the policy was cited earlier in the underwriting studies for a different error, but was only counted once in the number of errors.

a. Failure to Timely Record

The agency acted as settlement agent and failed to record the security instrument for the following transactions within three business days.

Reference: Section 381.412, RSMo.

<u>File No.</u>	<u>Date of Disbursement</u>	<u>Date Recorded</u>	<u>No. Business of Days</u>	<u>Agent</u>
104120011	1/10/05	1/14/05	4	Absolute
05ET0147	10/4/05	10/19/05	10	Equity
501270	9/19/05	9/23/05	4	Lake St. Louis
060201193	3/23/06	3/29/06	4	Bankers and Lenders
06020101120	2/6/06	2/10/06	4	Bankers and Lenders
78518	2/24/06	4/17/06	6	TS Connections
2030153	9/30/05	10/6/05	4	Continental

M260080	3/28/06	4/28/06	23	H & M Title
M250472B	12/6/05	3/6/06	52	H & M Title
2004120028	12/15/04	None		Archer
2005020462	2/28/05	3/7/05	5	Archer
2004080879	9/14/04	9/29/04	10	Archer
2005022032	3/23/05	None		Archer
2005080867	8/29/05	None		Archer
2005102034	1/4/06	None		Archer
M0507111	8/29/05	9/2/05	7	Guaranty Land Title
05-S00242	10/14/05	11/1/05	12	Lincoln Evans
C0503284	7/21/05	8/3/05	9	Guaranty Land Title
C0506170	7/25/05	8/3/06	5	Guaranty Land Title
L0508119	9/9/05	9/16/05	5	Guaranty Land Title
HUD00159	3/8/05	3/24/05	12	Guaranty Land Title
<u>File No.</u>	<u>Date of Disbursement</u>	<u>Date Recorded</u>	<u>No. Business of Days</u>	<u>Agent</u>
114507	8/29/03	9/18/03	13	Investors
129707	6/30/04	7/15/04	10	Investors
139114	4/08/04	4/20/04	8	Investors
142218	3/8/04	3/15/04	5	Investors
143877	3/29/04	4/28/04	22	Investors
144915	4/12/04	4/29/04	13	Investors
145821	4/9/04	4/26/04	11	Investors
146456	4/16/04	5/5/04	13	Investors
148591	5/7/04	5/17/04	5	Investors
149452	6/4/04	6/18/04	10	Investors
151221	5/28/04	6/16/04	12	Investors
151482	7/1/04	7/29/04	19	Investors
152707	6/28/04	7/09/04	8	Investors
153211	6/25/04	7/06/04	6	Investors
153393	6/22/04	6/30/04	6	Investors

153853	7/16/4	8/19/4	24	Investors
154002	7/9/04	7/20/04	7	Investors
154538	6/22/04	7/1/04	7	Investors
158626	8/18/04	8/26/04	6	Investors
160730	8/31/04	9/7/04	4	Investors
162429	10/14/04	10/29/04	11	Investors
164101	10/13/04	10/19/04	4	Investors
165605	11/24/04	12/01/04	4	Investors
171049	1/27/05	2/14/05	11	Investors
LOIT424705	9/23/05	10/25/05	21	Integrity
5-16002	7/22/205	10/22/05	74	US Title
04026559	1/27/05	2/4/05	5	US Title
04024349	12/17/04	12/27/04	5	US Title
04010162	6/17/04	6/17/04	4	US Title
517995	7/20/05	7/27/05	5	US Title
510846	6/16/05	6/30/05	10	US Title

b. Incorrect Risk Rate

The agent reported an incorrect risk rate on the following policies. The agent is required to use risk rates previously filed with the DIFP.

Reference: Section 381.181, RSMo, and 20 CSR 500-7.100(3)(B)

<u>File No.</u>	<u>Policy</u>	<u>Amount listed on Policy</u>	<u>Filed Risk Rate</u>	<u>Agent</u>
1012729	H99-0036813	None	\$350.00	North MO
0512154MJ	A82-0325432	None	\$62.98	All American
05ET0147*	G52-0560060	\$303.59	\$158.10	Equity Title
9800	G52-0550369	\$83.54	\$77.10	Tri County
29806	G52-0524056	\$57.36	\$95.60	Continental
20050176	G52-04997	\$79.60	\$111.70	Denman
PT-051534SL	061373932	\$49.20	\$82.00	Pulaski
L0508119*	G52-0558569 A82-0345685	\$145.00	\$242.00	Guaranty Land Title
C0210853	G52-0523192	\$96.00	\$160.00	Guaranty Land Title

X0504049	G52-0551551	\$42.00	\$29.40	Guaranty Land Title
M0507111*	G52-0577698	\$49.20	\$82.00	Guaranty Land Title
C0506170*	G52-0551407	\$159.12	\$265.92	Guaranty Land Title
A0508043	G52-0577630	\$45.84	\$76.40	LandChoice
X0507042	G52-0551657	\$87.60	\$146.00	LandChoice
C0503284*	G52-0542011 A82-0334604	\$154.80	\$258.00	Guaranty Land Title
M250472B*	H99-0040913	0	\$24.00	H & M
05082142L	G52-0549097	\$67.50	\$27.00	North MO
05052053L	G52-0492787	0	\$165.00	North MO
02030153*	G52-0564044	\$131.07	\$218.45	Continental
2004120028*	H99-0031704	\$620.00	\$99.12	Archer
2005020462*	G0520529842	\$517.00	\$83.00	Archer
2004080879*	H99-0031486	\$250.00	\$43.25	Archer
2005022032*	H99-0041789	\$487.50	\$122.88	Archer
M260080*	H99-0040962	0	\$239.45	H & M
05052053L*	G52-0492787	\$15.00	\$6.00	North Missouri
5-17995*	A820353878	\$155.10	\$204.40	US Title
510846*	A82-0332157	\$202.00	\$120.85	US Title
114507*	106729	\$786.00	\$471.60	Investors
139114*	T033000096	\$322.50	\$517.60	Investors
143877*	T99030093	\$119.00	\$192.40	Investors
144502	246221	\$218.00	\$130.75	Investors
145821*	L041000038	\$149.00	\$240.00	Investors
<u>File No.</u>	<u>Policy</u>	<u>Amount listed on Policy</u>	<u>Filed Risk Rate</u>	<u>Agent</u>
146456*	A883002742	\$120.00	\$194.00	Investors
149452*	17963000164	\$155.50	\$250.80	Investors
151482*	72439	\$404.00	\$296.40	Investors
153393*	245640	\$133.68	\$210.00	Investors
153853*	A982000468	\$126.00	\$203.20	Investors
158626*	T000100300	\$144.50	\$233.20	Investors
164101*	249480	\$96.60	\$110.00	Investors
89089	149829	\$245.00	\$272.00	Investors

The following agency agreements provide for calculation of agency commission and net premium payable to the Company based on a rate other than the rate filed by the Company with the director.

For example, in some cases the agency's retained commission of 70% and the Company's premium net of commission are calculated from base rates of \$3.50 for original owner or leasehold policies and \$2.50 for original mortgage policies. The company's relevant filed rates are \$1.40 for original issue owner policies and \$1.00 for original issue mortgage policies

No title insurer or title agent or agency may use or collect any premium except in accordance with the premium schedules file with the director. Risk rate includes the agent's commission.

Reference: Section 381.181.2, RSMo, and 20 CSR 500-7.100(1)(D)

<u>File/Agency No</u>	<u>Agency</u>
00029806*	Continental
20050176*	Denman Land Title Company
M250472B*	H & M Title Agency
A0508043*	LandChoice Company
A0508043*	LandChoice Company
C0506170*	LandChoice Company
C0503284*	Guaranty Land Title
M0507111*	Guaranty Land Title
L0508119*	Guaranty Land Title
X0504049*	Guaranty Land Title
C0210853*	Guaranty Land Title

c. Total Charges

No policy, standard form endorsement or simultaneous instrument which provides title insurance coverage shall be issued unless it contains the total amount paid for the issuance of the policy and the risk rate. Charges include but are not limited to fees for document preparation, fees for the handling of escrows, settlements or closing.

Reference: Sections 381.181, 381.031.4 and .14, RSMo, and 20 CSR 500-7.100(3)(B)

<u>File No.</u>	<u>Policy</u>	<u>Total Charges on Policy</u>	<u>Total Charges Actually Paid</u>	<u>Agent</u>

1012729*	H99-0036813	Not on policy	Not on policy	North Missouri
05ET0147*	G52-0560060	\$831.00	\$1231.00	Equity
78518*	H56-001582	Not Shown	\$319.80	TS Connections
2004120028*	H99-0031704	620.00	870.00	Archer
2005020462*	G052-529842	517.00	767.00	Archer
2004080879*	H99-0031486	250.00	800.00	Archer
2005022032*	H99-0041789	487.50	658.00	Archer
LOIT424705*	A82-Z006290	364.84	464.84	Integrity

The following file shows a combined risk rate greater than the total charges for both the owners' and the lenders' policies.

Reference: Sections 381.171 and 381.181, RSMo

<u>File No.</u>	<u>Policy</u>	<u>Risk Rate</u>	<u>Total Charges Actually Paid</u>	<u>Agent</u>
136691	A82-0287221 H56-042161	178.79	150.00	Investors

e. Improper Fees

In the following files, the agent charged recording fees or notary fees to the buyer in excess of the actual fee.

Reference: Real Estate Settlement Procedures Act of 1974 (RESPA), Sec 8(b), 12 USCA sec. 2607(a-b). 24 CFR sec. 3500.14.

<u>File No</u>	<u>Policy No.</u>	<u>Overcharge</u>	<u>Agent</u>
1027929*	H99-0036813	\$145.00	North Missouri
02030153*	G52-0564044	\$101.00	Continental
78518*	H56-Z001582	156.00	TS Connections

f. Unsound Underwriting

The company failed to report all known and recorded matters affecting title in the following files. Failure to do so is not sound underwriting practice.

Reference: Section 381.071, RSMo.

<u>File No.</u>	<u>Agent</u>
160730*	Investors
153393*	Investors
164101*	Investors

In the following files, the agent had information that no funds used to acquire the property were supplied by the named insured. The settlement statement showed a different buyer than the named buyer on the bank check. The title agent amended its commitment to match the named buyer on the settlement statement, not the party to whom the bank check indicated was buying the property. It is not a sound underwriting practice to insure title as free of the interests of those who have paid all of the costs of acquisition.

Reference: Section 381.071, RSMo

<u>File No.</u>	<u>Agent</u>
144502	Investors

In the following file, the company relied on an inaccurate affidavit. An employee of the agent prepared, executed, and recorded a "Scrivener's Error Affidavit." The agent's employee asserts that she was the supervisor of the individual who prepared or reviewed the warranty deed that was in error. The deed in question was prepared by a different title agency, not by anyone at Investors Title. There is no indication that any employee at Investors Title has been appointed attorney in fact for the grantor named in the deed. Investors Title has not obtained permission to effect any changes in any recorded instruments. Only proper grantors, their successors in interest, their duly appointed attorneys in fact, or a proper order of a court of competent jurisdiction can operate to convey land not already described in the recorded deed. The recorded affidavit appears to fail in this purpose.

It is not a sound underwriting practice to insure in reliance upon information and affidavits containing inaccurate information.

Reference: Section 381.071, RSMo

<u>File No.</u>	<u>Agent</u>
165605*	Investors

In the following file, the company charged a risk rate of \$149.00 and issued a \$42,000.00 policy. The purchaser borrowed \$237,500.00 to purchase a lot for \$42,000.00 with the remaining funds to be used as a construction project. The funds for the construction project were disbursed by the agent.

The value of coverage offered by the Company should be reasonably related to the dollar amount of the loss that could reasonably be anticipated by the insured. The risk rate for a \$237,500.00 policy is \$240.00. The company provided substantially less insurance coverage than the actual amount of a known risk. This is an unsound underwriting practice.

Reference: Section 381.071.1.2, RSMo

<u>File No.</u>	<u>Agent</u>
145821*	Investors

The parcel descriptions in the policy contain the following language: “Subject to easements, restrictions and reservations of record.” The added language is not a part of the description of land and has no meaning within the context of the policy.

Including “subject to” language within the land description may cause an insured to conclude that a matter otherwise within the coverage of the policy is excepted from coverage. Such a practice may be interpreted as attempting to conceal the benefits, coverages or other provisions of a policy.

Reference: Sections 375.1007(1) and 381.071.1.2, RSMo, and 20 CSR 100-1.020(1)

<u>File No.</u>	<u>Policy No.</u>	<u>Agency</u>
200908*	G52-0508478	Burns Title

Title in the following file was held in a living trust. The agent did not verify the existence of the trust, did not verify the identity of the trustees of the trust, and did not establish that the trustees have authority to mortgage the property. The deed of trust secured the note of an individual. The agent did not verify authority of the trustee to encumber the property as security for the loan of an individual. The deed of trust was not acknowledged by any person purporting to act in the capacity of trustee. The deed of trust was a reverse mortgage intended to secure a promissory note due in full upon the death of an individual. The deed of trust may fail to encumber the real estate.

It is an unsound underwriting practice to insure a deed of trust that may fail to secure the promissory note. It is an unsound underwriting practice to fail to verify the existence of a trust, the identity of the trustees, and the capacity of the trustees to act in the manner proposed.

Reference: Section 381.071.1.2, RSMo

<u>File No.</u>	<u>Policy No.</u>	<u>Agency</u>
78518*	H56-Z001582	TS Connections

The policy vests title to “Dorothy M. An*** by Deanna F***** her Attorney in fact” The attorney in fact has no interest in the real estate.

The policy makes exception for a recorded power of attorney. A power of attorney conveys no interest in real estate. It is not a sound underwriting practice to vest title naming parties who have no interest in the real estate, nor is it a sound underwriting practice to except for matters not affecting title.

Reference: Section 381.071.1.2, RSMo

<u>File No.</u>	<u>Policy No.</u>	<u>Agency</u>
05082142L*	G52-0549097	North Missouri

In the following files, the examination of title was not sufficient in extent or in detail to permit a reasonable conclusion that the owner’s policy of title insurance would show all known and recorded matters affecting title. The company and the agent are required to show all known and recorded matters affecting title when issuing or proposing to issue an owner’s policy of title insurance.

Reference: Section 381.071, RSMo.

<u>File No.</u>	<u>Agent</u>
143877*	Investors
136691*	Investors
158626*	Investors
114507*	Investors
153853*	Investors
139114*	Investors
154002*	Investors
164101*	Investors
129707*	Investors
148591*	Investors
153211*	Investors
149452*	Investors
165605*	Investors
510846*	US Title

In the following files, the examination of title was not sufficient in extent or in detail to demonstrate a right of access to the land. It is not a sound underwriting practice to fail to establish that necessary private easements for access to the land are established on the record and available for use.

Reference: Section 381.071, RSMo.

<u>File No.</u>	<u>Agent</u>
162429*	Investors
114507*	Investors

g. Failure to Maintain Files

The following files did not contain a copy of the title insurance policy, the examiners were unable to determine the date the policy was issued, the risk rate displayed on the policy or the total charges on the policy. The HUD-1 indicates the consumer paid for Title coverage. The insurer failed to maintain its records, documents and other business records in a manner so the practices of the insured could be readily determined during a market conduct examination.

Reference: 20 CSR 300-2.200(2) (as amended 20 CSR 100-8.040, eff. 7/30/08)

<u>File No</u>	<u>Agent</u>
2005080867*	Archer Title
2005102034*	Archer Title

The following file contains no evidence that any title examination was ever performed by the agent. The file does not contain a copy or an abstract of deed. The agent and the company are required to maintain evidence of the examination of title and determination of insurability for a period of not less than 15 years.

Reference: Section 381.071.3, RSMo.

<u>File No.</u>	<u>Agent</u>
151221*	Investors

h. Agent Acting as an Insurer

In issuing the commitment in this file, TS Connections, LLC acted as a title insurer. No person other than a domestic, foreign or alien title insurer organized on the stock plan and duly licensed by the director may transact the business of title insurance as an insurer in the State of Missouri.

The agent delivered a “commitment for title insurance” under cover dated 1/23/06. The first sentence of that “commitment for title insurance” reads as follows: “We, Title Stream, will issue our title insurance policy or policies (the Policy) to You (the proposed insured) upon payment of the premium and other charges due, and compliance with the requirements in Schedule B Part I and securing

adequate information to clear all information listed in Schedule B Part II.”

Title Stream is a registered fictitious name for TS Connections Agency, LLC, the legal name of which is TS Connections, LLC, a Delaware limited liability company. TS Connections is a licensed title insurance agency not an insurer in the State of Missouri

Reference: Sections 381.031.19 and 381.041, RSMo.

<u>File No</u>	<u>Agent</u>
78518*	TS Connection

3. Failure to Issue Policies in a Timely Manner

Failing to issue policies in a timely manner is not a violation of any statute or regulation. However, long delay in issuing the policy is not in the interest of the consumer. The underwriter is not aware of reportable premium until the policy is issued and may be unable to promptly pay premium taxes when due. The Company has not fully complied with record maintenance obligations until the policy has been issued. In addition the insured does not receive notice of how to file a claim or the address and phone number of the underwriter until the policy is issued. Furthermore, SB 66, Section 381.038.3, RSMo, eff. 8/28/07, will require insurers to issue their policy within 45 days after completion of all requirements of the commitment for insurance.

<u>File No.</u>	<u>Policy Number</u>	<u>Date Co had Enough Information to Issue</u>	<u>Date Issued</u>	<u>No. Days to Issue</u>	<u>Agency</u>
104120011	H99-0026238	1/10/05	4/25/07	473	Absolute
12154KJ	A82-0325431	9/1/05	11/10/05	70	All American
02030153	G52-0564044	10/6/05	3/11/06	156	Continental
M250472B	H99-0040913	12/6/05	3/13/06	96	H & M Title
CM0510051	A82-0353683 G52-0570506	11/29/05	6/7/06	190	Covenant
CM0509030	G52-0570533	11/10/05	1/23/06	74	Covenant
CM0509011	G52-0570492	10/5/05	12/7/05	63	Covenant

CM0508013	G52-0570518 A52-0353686	10/7/05	1/10/06	95	Covenant
114507	H56-0036177 A82-0285907	9/18/03	8/9/04	326	Investors
129707	G52-0337322 A82-0283496	7/15/04	12/1/04	139	Investors
136691	H56-42161 A82-287221	10/28/03	10/22/04	323	Investors
139114	H56-0035479 A82-0285268	4/20/04	8/16/04	118	Investors
142982	A82-0258683	3/23/04	7/26/04	125	Investors
143877	G52-0252598 H56-0037610	4/28/04	8/2/04	96	Investors
144502	A82-0285291	4/20/04	8/16/04	118	Investors
144915	H56-0035679	4/29/04	8/17/04	103	Investors
<u>File No.</u>	<u>Policy Number</u>	<u>Date Co had Enough Infor. to Issue</u>	<u>Date Issued</u>	<u>No. Days to Issue</u>	<u>Agency</u>
145821	H56-0037724 A82-0271983	4/26/04	8/5/04	101	Investors
146456	H56-0037762 A88-3002742	5/5/04	8/10/04	97	Investors
148591	H56-0036003 A82-0285692	5/17/04	8/25/04	100	Investors
149452	A96-3000164 G52-0252670	6/18/04	8/20/04	63	Investors
151221	A82-286064	6/16/04	8/24/04	69	Investors
151482	H56-0040862 A82-0081974	7/29/04	11/9/04	103	Investors
153393	H56-0040000 A82-0286878	6/30/04	10/6/04	98	Investors
154538	A82-028985	7/1/04	9/2/04	63	Investors
160730	H56-004803 A82-287796	9/7/04	12/8/04	92	Investors
162429	A82-288037 H56-0042420	10/29/04	2/28/05	122	Investors
164101	H56-0041188 A82-0287873	10/19/04	1/28/05	101	Investors
165605	H56-0042458 A82-0287466	12/01/04	2/11/05	72	Investors

89089	H56-0006189	5/12/03	7/1/05	781	Investors
5-16002	A820350777	7/22/205	1/19/06	203	US Title
04026559	G520546785 A820338290	1/27/05	8/26/05	211	US Title
04024349	A820329008 G520531406	12/17/04	6/28/05	193	US Title
04010162	G520531543 A820329210	6/17/04	7/11/05	389	US Title
526079	A820354032 G520594254	9/30/05	4/28/06	210	US Title
524036	G520553226 A820331984	11/15/05	3/8/06	113	US Title
517995	A820353878 G520575312	7/20/05	3/1/06	224	US Title
LOIT424705	A82-006290 G52-Z-17317	9/23/05	3/17/06	143	Integrity
506731	A82-0325737 G52-0525950	5/12/05	8/4/05	84	US Title

The company failed to issue policies in the following files.

<u>File No.</u>	<u>Policy Number</u>	<u>Date Co had Enough Information to Issue</u>	<u>Date Issued</u>	<u>No Days to Issue</u>	<u>Agency</u>
J05-0990	A82-34094	1/25/07	Not issued	849+	JCT Title
0501270	G52-0548491	9/19/05	Not issued	616+	Lake St. Louis
PT-051534-SL	0061373932	8/15/05	Not issued	654+	Pulaski
060201193	G52-0533439	3/23/06	Not issued	434+	Banker's and Lenders
PT-06-1018SL	H99-52346	4/5/06	Not issued	426+	Pulaski
0601011206	G52-0533434	2/6/06	Not issued	484+	Bankers & Lenders
PT-05-2893	H99-48595	12/14/05	Not Issued	533+	Pulaski Title
M0507111	G52-0577698	9/2/05	Not issued	657+	Guaranty Land Title

X0507042	G52-0551657	8/8/05	Not issued	676+	Guaranty Land Title
R0510032	G52-0542476	10/13/05	Not issued	610+	LandChoice
A0508043	G52-0577630	9/27/05	Not issued	626+	LandChoice
C0503284	A82-0334604	7/21/05	Not issued	694+	Guaranty Land Title
C0506170	A82-0345615 G52-0551407	7/25/05	Not issued	691+	Guaranty Land Title
M0507111	G52-0577698	12/29/05	Not issued	532+	Guaranty Land Title
L05081919	G52-0558569 A82-0345685	9/9/05	Not issued	654+	Guaranty Land Title
L0405036	A82-0341852	7/1/04	Not issued	1079+	Guaranty Land Title
HUD00159	A82-03417790	3/8/05	Not issued	829+	Guaranty Land Title

The following files did not contain sufficient documentation to determine when the policy was issued to the insured.

Reference: 20 CSR 300-200(2) (as amended 20 CSR 100-8.040, eff. 7/30/08)

<u>File No.</u>	<u>Policy Number</u>	<u>Date Co had Enough Information to Issue</u>	<u>Date Issued</u>	<u>Agency</u>
5-01914	A820350790	Undetermined	Undetermined	US Title
04022115	G520538444 A820331889	Undetermined	8/11/05	US Title

III. Claims Practices

A. Claim time studies

In determining efficiency, examiners look at the duration of time the Company used to acknowledge the receipt of the claim, the time for investigation of the claim, and the time to make payment or provide a written denial. DIFP regulations define the reasonable duration of time for claim handling

as follows: (1) payment or denial of claim within 15 working days after the Company completes investigation, (2) settlement of the claim within 30 days of the receipt of all necessary documentation to determine liability. When the Company fails to meet these standards, examiners Criticize files for noncompliance with Missouri laws or regulations.

Field Size: 224
Sample Size: 56
Type of Sample: Systematic

Following are the results of the time studies.

Acknowledgement Time

Number of Errors: 5
Error Rate: 8.9%

The examiners noted the following error in this review.

The Company failed to acknowledge the following claims within 10 working days of notification of the claim. The claim is received when the agent is notified.

Reference: 20 CSR 100-1.010(1)(G), and 20 CSR 100-1.030 (1)

<u>Claim No.</u>	<u>No. of Days to Acknowledge</u>
C103909	19
C121167	36
C034011	14
C029538	30

The following file did not contain enough documentation to determine if the company acknowledged the claim. The insurer must maintain its books, records documents and other business records in a manner so that practices of the insurer may be readily ascertained during a market conduct review.

Reference: Section 381.071(3), RSMo, and 20 CSR 300-2.200(2) (as amended 20 CSR 100-8.040, eff. 7/30/08)

<u>Claim No.</u>

C114817

Determination Time

Number of Errors: 0
Error Rate: 0

The examiners noted the no errors in this review following errors in this review.

Investigation Time

Number of Errors: 1
Error Rate: 2%

The examiners noted the following errors in this review.

The Company failed to complete the following investigation within 30 days of the initial notification of the claim. There is no indication that an investigation could not have been completed in 30 days. The agent involved in this claim did not fully cooperate with the company’s efforts to obtain an examination of title, which is necessary to investigate the claim. This claim has been open for more than nine months without an investigation.

Reference: Section 375.1007(3), RSMo, and 20 CSR 100-1.040

Claim No.
C122553

B. General Handling Practices

In addition to the Claims Time Studies, examiners reviewed the Company’s claims handling processes to determine adherence to unfair claims statutes and regulations and to contract provisions.

Field Size: 224
Sample Size: 56
Type of Sample: Systematic
Number of Errors: 3
Error Rate: 5%

The company failed to maintain a copy of the policy. The terms of the policy are relevant to

determine coverage in the event of a claim. The company failed to maintain documents and records so their practices could be readily ascertainable.

Reference: 20 CSR 300-2.200(3)(B) (as amended 20 CSR 100-8.040, eff. 7/30/08)

<u>Claim No.</u>
C110016

The policies covering the claim in this file were dated 1/18/2000. The company received notice of the claim on 3/27/2000, and issued the policy on 3/27/2000, but sent the originals to the Company. The originals of the policy are in the claim file. Failing to provide the consumer with a copy of their policy denies them the opportunity to be notified of specific policy provisions including how, when, and where to file a claim. The Company has not fully complied with record maintenance obligations until the policy has been issued. In addition, the insured does not receive notice of how to file a claim or the address and phone number of the underwriter until the policy is issued.

Reference: Sections 148.320, 148.340, and 381.221, RSMo, and 20 CSR 300–2.200(3)(A)(2) (as amended 20 CSR 100-8.040, eff. 7/30/08)

<u>Claim No.</u>
C005965

The company keeps small claims' records separate from the large claims that are sent to the Dallas claims office. LTIC had one small claim during the examination period. The company was unable to provide a file for this small claim. The company is required to maintain books, records, documents and other business records in a manner so the practices of the insurer may be readily ascertained. The examiners can not readily ascertain the claims practices of the insurer for this small claim.

Reference: 20 CSR 300-2.100 (as amended 20 CSR 100-8.040, eff. 7/30/08)

<u>Claim File</u>	<u>Journal Id</u>
M104348	CLD0401

The company insured Washington Mutual Bank as holder of a deed of trust dated 7/23/04. The deed of trust was never recorded. Record title appeared to be in Matthew J Fxxx and Jennifer L Fxxx, a divorced couple. The deed of trust of 7/23/04 was executed by Matthew J. Fxxxx only. The company successfully pursued and action to quiet title in Matthew J. Fxxxx only. The insured, Washington Mutual Bank, was the petitioner in the suit to quiet title. Its cause for action was based on an assertion that it was the holder in due course of a recorded deed of trust. There is no indication that Washington Mutual Bank was ever the holder of the deed of trust. It is not a sound underwriting

practice to insure title on the strength of a judicial decision sought and granted based on inaccurate assertions.

The insured became aware of the problem after commencing foreclosure proceedings in 2005. The deed of trust as drafted called for execution by Matthew J. Fxxx and Jennifer L. Fxxx. The Fxxx previously divorced. The company did not obtain execution of the deed of trust by Jennifer L Fxxx. An employee of the company wrote an email to claim staff dated 10/9/05 and reading in part; “The original DOT provided by the lender had both husband and wife name on it and we were able to white out the sections with the wife’s name and only show the husband’s name and He is the only signer on the document. The document is properly notarized and acknowledged.” It is not a sound underwriting practice to alter recordable documents without the authorization of the parties to the document.

Reference: Section 381.071.1.2, RSMo

<u>Claim File</u>	<u>File No</u>	<u>Agent</u>
C115207**	1290509VT	OneStop Direct

** Not counted in error ratio. Underwriting errors discovered in claim file.

C. Indemnity letters

The Company provided access to all requests for indemnity letters. The examiners reviewed a total of 70 Indemnity letter files for LandAmerica. Eighteen of those files were for LTIC. The company does not keep a log of the indemnity files. They file indemnity letters for all three underwriters (Commonwealth Land Title Insurance Company, Transnation Title Insurance Company and Lawyers Title Insurance Corporation) in the same folders organized by month. The examiners randomly chose files for several months for review.

The examiners found the following errors in this review.

Investors Title insured a 1999 mortgage and supplied a copy of a settlement statement showing payoff of an earlier 1996 mortgage. Investors did not supply a copy of a payoff check or a payoff transmittal, and the supplied settlement statement was not signed.

U.S. Title issued a 2006 commitment showing the 1996 mortgage as open but without showing the 1999 mortgage. The 1996 mortgage had a face amount of \$148,000.00, and the 1999 mortgage had a face amount of \$141,950.00. It appears that no inquiry was made as to the status of the 1999 mortgage to determine if it was satisfied by 2006. As such, the examination of title was not adequate for a proper determination of insurability.

Reference: Section 381.071.1.2, RSMo

File No.	Policy No.
Investors Title	135-03-293112

The owner of the property acquired title by a deed recorded in 2004. The company's agent later insured a deed of trust and recorded it on 1/10/05. A later examination of title revealed three judgment liens predating the mortgage which was recorded in 2005. The agent had closed the mortgage transaction in escrow. There was no indication that the January, 2005 transaction was a purchase money mortgage. The agent's settlement statement copied to the file does not evidence payment of the earlier judgment liens. The company became aware of the unsatisfied judgment liens by an e-mail dated 3/25/06, from counsel representing the assignee of the insured lender. This issue should have been treated as a claim. However, the company failed to acknowledge and investigate it as such. It is possible an investigation would have provided evidence that would have made this issue appropriate for a letter of indemnification. An investigation was not conducted, and no notice of acceptance or denial of the claim was ever given to the claimant.

Reference: 20 CSR 100-1.030(1) and (3), 20 CSR 100-1.040 and 20 CSR 100-1.050(1)(A)

File No	Policy No.
MJ65598	G52-0495148

IV. Consumer Complaints

There were no consumer complaints for the time frame of the examination.

V. Unclaimed Property

The examiners conducted a review of the LTIC procedures for recoding and reporting unclaimed property to determine compliance with Missouri's Uniform Disposition of Unclaimed Property Act, Section 447.500 et seq., RSMo.

The Company filed no reports during the review period.

VI. Formal Requests and Criticisms Time Study

A. Criticisms time study

<u>Calendar Days</u>	<u>Number of Criticisms</u>	<u>Percentage</u>
0 to 10	343	96%
10-100	4	1%
No response	<u>11</u>	<u>3%</u>
	358	100%

Reference: Section 374.205.2(2), RSMo, and 20 CSR 300-2.200(5) and (6) (as amended 20 CSR 100-8.040, eff. 7/30/08)

B. Formal request time study

<u>Calendar Days</u>	<u>Number of Requests</u>	<u>Percentage</u>
0 to 10	14	100%

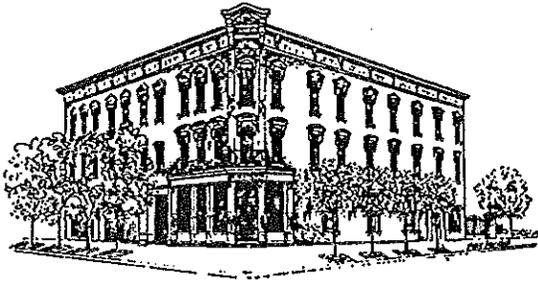
Reference: Section 374.205.2(2), RSMo, and 20 CSR 300-2.200(5) and (6) (as amended 20 CSR 100-8.040, eff. 7/30/08)

EXAMINATION REPORT SUBMISSION

Attached hereto is the Division of Insurance Market Regulation's Final Report of the examination of Lawyers Title Insurance Corporation, Examination Number (0612-67-PAC). This examination was conducted by Martha (Burton) Long, Joseph Ott, and Ted Greenhouse. The findings in the Final Report were extracted from the Market Conduct Examiner's Draft Report, dated April 10, 2008. Any changes from the text of the Market Conduct Examiner's Draft Report reflected in this Final Report were made by the Chief Market Conduct Examiner or with the Chief Market Conduct Examiner's approval. This Final Report has been reviewed and approved by the undersigned.

Jim Mealer	Date
Chief Market Conduct Examiner	

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DEPT OF INSURANCE,
FINANCIAL INSTITUTIONS &
PROFESSIONAL REGISTRATION

Law Offices

English & Monaco

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CONFIDENTIAL AND
FOR SETTLEMENT AND
DISCUSSION PURPOSES ONLY

Via Hand Delivery & E-mail
November 23, 2009

Carolyn H. Kerr, Senior Attorney, AIE, AIRC
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Missouri Department of Insurance, Financial
Institutions and Professional Registration
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(1921-2008) John W. English
(1929-1991) Charles P. Dribben
(1906-2004) William Barton

of Counsel:
Andrew Jackson Higgins
Retired
Former Judge:
Sixth Judicial Circuit (1960-1964)
Missouri Supreme Court (1979-1991)

Re: Lawyers Title Insurance Company - Market Conduct Examination

Dear Carolyn:

Attached please find for filing by and on behalf of Lawyers Title Insurance Company ("Lawyers Title") the company's formal Response dated November 23, 2009, to the Department's draft Report dated November 3, 2009.

The company's reply draft Stipulation will be filed under separate cover.

Should you have any questions or wish to discuss this matter, please feel free to contact Mark Warren or me at 634-2522, or at our e-mail addresses of mwarren@inglishmonaco.com and awarren@inglishmonaco.com.

Thank you for all your courtesies with regard to this matter.

Sincerely,

Ann Monaco Warren

AMW/mjw

Encl.

cc: Michael Rich (via E-mail w/encl)

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DEPT OF INSURANCE,
FINANCIAL INSTITUTIONS &
PROFESSIONAL REGISTRATION

Response of
Lawyers Title Insurance Corporation

To

Market Conduct Examination Report

By

State of Missouri
Department of Insurance

NAIC Number 50024

Home Office
601 Riverside Avenue
Jacksonville, Florida 32204

November 23, 2009

Examination Number: 06-12-67-PAC

Michael J. Rich
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GENERAL OBJECTIONS

The Market Conduct Examination Report (The Report) of the Missouri Department of Insurance (Department) raises many issues that have never been raised before by the Department in its examinations, notwithstanding that the practices in question have been constant for many years. Many of these criticisms are raised repetitively in the Report and would needlessly burden Fidelity National Title Insurance Company's (the Company) response to repeat its position at length each time it applies to an item in the Report.

In the interest of brevity and efficiency, the Company does not re-state the examiner's findings verbatim, but either cites the section of the Report, the applicable file or policy number, or, in the case of multiple criticisms of a particular transaction, the Company will paraphrase or briefly summarize the criticism. However, whether or not referred to specifically in any given response to any given criticism, the Company intends for these general objections to be applicable, as appropriate, to disputed criticisms in the report. Failure to include an objection in a response is not a waiver of the applicability of one or more applicable general objections to a criticism.

1. SOUND UNDERWRITING PRACTICES

The Company acknowledges its statutory obligation to employ sound underwriting practices and, in a few cases, the examiners have pointed out unsound underwriting practices.

However, the examiners have attempted to apply this term much more broadly than the meaning of the term permits. The General Assembly or the Director, by regulation, could define the term, but they have not done so. Therefore, the ordinary, everyday meaning ascribed to that phrase must be applied.

The generally accepted definition of the phrase "sound underwriting practice" is the acceptance of risk in a manner that will not unduly expose the Company to loss, with the potential of depleting its reserves to the detriment of other policyholders. The term has never been used to describe practices that push more of the risk onto the policyholder than might arguably be appropriate. Also, the term does not apply to practices that, while perhaps not technically perfect, do not expose the Company unduly to liability.

The fact that an examiner may reach a different conclusion from the agent or the insurer does not mean that a violation of 381.071 RSMo as occurred. Underwriters may themselves disagree as to the effect of a particular matter. Indeed, there may be some matters which an underwriter will agree to insure over. In some cases, an underwriter is guided by the legal opinion of the underwriter's counsel which may be at variance with the examiner. So long as the title search satisfies the statutory provisions and the exceptions are within the guidelines set forth by the insurer, an agent is not in violation of the statute even if the examiner disagrees with the agent.

The various transactions for which title insurance is provided are as unique as the individual tracts of land the policies insure. Underwriting is much more an art than a science.

Just as each transaction and each party is unique, so are the title insurance issues that arise. It follows that the responses to these challenges by the insurer and its title insurance agent will be similarly varied. The Company and its agents strive to provide title insurance products and close transactions to the satisfaction of all parties. Just as there are numerous ways to interpret any artwork, there are numerous ways of interpreting the responses of the insurer and the agents to these challenges.

2. ABSENCE OF PRINTED EXCEPTIONS IN LOAN POLICY SCHEDULE B

Although most loan policies are issued without the general (printed exceptions), the Company is entitled to raise them in the loan policy, because they are in the commitment. (Unless, of course, the insured has bargained for their omission and has tendered the proper proofs to the issuing agent).

The historical reason they are not printed in the loan policy Schedule B is because many years ago, lenders expressed the preference that they not show up in the policies at all. The alternative to not printing the exceptions is to use Schedule B with the printed exceptions and then delete them by note. This requires the lender's document examiner to look for two things: the exception and the note removing it. Lenders claims that this practice creates an unnecessary step, and so many years ago, the title insurance industry acquiesced in the lenders' preferences.

It should be mentioned that the practice cited by the examiners has been followed by every title insurer in every state, including Missouri, for at least 40 years.

3. UNLAWFUL DELEGATION OF LEGISLATIVE POWER

The General Assembly has delegated rule-making authority to the Director of the Department of Insurance, and the Company acknowledges that many of the issues raised by the examiners could properly be the subject of valid regulation, but the Director has not seen fit to address them. A case in point cited numerous times in the Report is the use of "hold open" commitments. The Company, as most others in the industry in the latter part of 2004, instructed its agents to cease this practice due to concerns raised by the Department at that time. However, the Department never issued a written regulation prohibiting the practice.

The Company further acknowledges that the examiners have authority under law to not only apply the statute and regulations in their work, but also to formulate reasonable and logical extensions thereof.

The examiners may not, however, regulate through their examination reports. To the extent that the Director has authorized them to do so, the Company believes it is an unlawful delegation of legislative power.

If the examiners encounter what they believe are violations of statute or regulation which have been known to the Department for many years, and never raised on Market Conduct Examination in the past, they should seek the issuance of a ruling or regulation on the subject,

with notice to regulated companies and an opportunity to conform. To do less is probably violative of both the United States and Missouri Constitutions.

4. **ISSUING AGENCY CONTRACT**

The Company is perplexed by the many references to its Issuing Agency Contracts and matters governed by them in its Report in the same contexts as if they were statutes or regulations to which the agency is subject. In a sense, they may be so, but these provisions are for the Company's benefit and their violation is not chargeable to the Company.

The Company objects to any assertion by the Department that the Company can be subject to sanction for breach of an agency or contractual provision that is *for the Company's benefit*.

5. **STATUS OF CERTAIN AGENTS**

The examination of Phoenix Title, Title Insurers Agency and America's Title Source reveal many alleged violations. The Company believes it is germane to point out to the Department that it has cancelled its Issuing Agency Contracts with those agencies, and, in fact, those agencies are no longer in business. Further, the Company has cancelled its Agency Contracts with Nations Title Agency, U.S. Title Guaranty and Investors Title. The Company is no longer represented by these agencies.

6. **DELAY OF POLICY ISSUANCE**

While not citing the Company or agent for a violation of law, the Company respectfully states that it is inappropriate to cite a law that became effective after the closing date of the examination to suggest disapproval of a practice that was lawful at the time of occurrence. The Company believes that any references to the issuance of a policy that would violate current §381.038.3 RSMo should be removed from the examination as being extraneous and unfair.

7. **FORFEITURE ASSERTED AGAINST UNDERWRITER FOR AGENCY VIOLATIONS**

Non-affiliated agencies are independent businesses, over which the Company has only a limited amount of control. The scope of the duties and authority granted to the agent or agency is expressly provided for in the agency agreement. In instances where the agent/agency has an independent obligation to comply with Missouri law, and where that duty is not one assumed by the insurer under the agency agreement, and where such act or omission is outside the scope of his or her agency agreement, the Company is not liable for that violation and is not in violation of its legal obligations under Missouri law.

In some cases, violations of insurance laws and regulations might be suggestive of inadequate supervision by the underwriter. In other cases, however, the underwriter is blameless for the acts or omissions of the agency, and should not be held accountable. An example of this

situation is the failure of agencies to furnish files or respond to examiners criticisms in a timely fashion. The Company has advised its agents of the importance of punctual compliance with the examiner's communications. It can do no more. In these cases, any penalty asserted should be against the agency and not the underwriter.

8. Timely Recording:

§381.412.1 RSMo reads:

A settlement agent who accepts funds of more than ten thousand dollars, but less than two million dollars, for closing a sale of an interest in real estate shall require a buyer, seller or lender who is not a financial institution to convey such funds to the settlement agent as certified funds. The settlement agent shall record all security instruments for such real estate closing within three business days of such closing after receipt of such certified funds. (emphasis added)

This statute was repealed and replaced by §381.026 RSMo on January 1, 2008. The law clearly recognizes that a settlement agent is responsible for timely recordation, not a title agent. A title agent has a limited agency authority from the Company and is an agent for purposes of title issuance, not settlement. The recordation of documents, while required for title issuance purposes, is not time dependent. Even though the State of Missouri may have required recordation within three business days prior to 2008, the failure of a settlement agent to comply did and still does not affect the insurability of the transaction or the legitimacy of the policy. The Company recognizes that under circumstances when its own employees may conduct settlement and arrange for the recordation of the document, a citation for a statutory violation for failure to record within three business days may be appropriate under the terms of the prior law. However, when the failure to record is the result of an act or omission of a person acting outside the scope of his or her agency agreement, the Company is not liable for that violation and is not in violation of its legal obligations under Missouri law.

9. Applicability of New Regulations

Numerous portions of the examiner's findings and reports and the stipulations seek to apply provisions of the title insurance act which became effective on January 1, 2008, retroactively for violations which occurred prior to the effective date of the new law. Also, there are numerous citations and use of regulations within 20 CSR 100-8.002 et. seq. which are applied in retroactive fashion. The Market Conduct Regulations effective 11-30-08, likewise are not subject to retroactive applications. The prospective application of a statute is "presumed unless the legislature demonstrates a clear intent to apply the amended statute retroactively, or if the statute is procedural or remedial in nature. *Tina Ball -Sawyers v Blue Springs School District* (2009 WL1181501 Mo App. WD). Substantive laws "fix and declare primary rights and remedies of individuals concerning their person or property, while remedial statutes affect only the remedy provided, including laws that substitute a new or more appropriate remedy for the enforcement of an existing right. *Id citing Files v. Wetteru, Inc.* 998 SW 2nd 95 at 97 (Mo App. 1999). Ergo, to the extent that changes to the title law affect the rights and duties of the

companies for which they are held responsible and are subject to penalty, they are Substantive and should not be applied retroactively.

Thus, we request that the Department modify its reports such that retroactive application of laws and regulations which affect substantive rights which result in a violation and forfeiture against the examined company be removed from the reports and the resulting draft stipulations be amended accordingly.

10. Scope of Agency & Statutory Separation of Duties Between Insurer and its Agent.

The Department also issued additional examination warrants to examine title agencies appointed to do business with Fidelity. Because of these examinations, the department examiners found alleged violations of various laws by agents doing business with the company. As a result of these examinations, the department is attempting to hold the company responsible as a principal for violations by its agent or an agent based on the conclusory statement that as the principal, Lawyer's is responsible for the acts of its agent and is bound by agency principals for the agents actions.

In taking this improper position, the department ignores that fact that the company has an agency agreement with the agent which the agent is bound to follow. An "insurance agent, acting within the scope of his authority, actual or apparent, may bind an insurance company...." *Parshall v Buetzer* 195 SW 3rd 515. (Mo. App. W.D. 2006) citing *Voss v American Mutual Liability Insurance Company*, 341 SW 2nd 270, at 275 (Mo App.1960). Actual authority is the "power of an agent to affect the legal relations of the principal by acts done in accordance with the principal's manifestation of consent to him". *Id.*

Because the company is not bound by or responsible for the acts of an agent or agency acting outside the scope of the companies' "manifestation of consent," it is improper for the Department of Insurance to cite and fine the company for alleged acts of its agents which are outside the scope of the authority granted to them in their agency agreement. The attempt by the Department within the scope of a market conduct examination to abrogate well settled case law with respect to the duties of principals and agents is also improper. Further, the position taken by the Department would have the effect of allowing agents to ignore their agency agreements with the principal and violate the law at will knowing they will not be held accountable for their actions. The position of the Department will also act to give agents or agencies apparent authority to commit actions, legal or illegal, with no accountability from the agent or agencies for their actions to the principal. Further, this represents an attempt by the Department to directly interfere with the contractual relationship of the principal and agent.

For example, Section 2 of a Nations Title Agency Agreement (used as an example here) states that the agent "itself and through its employees or officers approved by the company (authorized signatories) shall only have the authority on behalf of company to sign, counter-sign and issue commitments, binders, title insurance policies, and endorsements and under which company assumes liability for the condition of title to land (hereinafter sometimes referred to "title assurances"), and only on forms supplied and approved by company and only on real estate located in the territory and in such other territories as may be designated in writing by the

company.” Therefore, as can be seen from the above, the agent is required, for example, to only use forms supplied and approved by the company. Thus, and for example only, use of an improper form by an agent is in direct contravention of the agreement with the company. The company should not therefore be held responsible in a market conduct examination (or in any legal proceeding) for an act by an agent which obviously exceeds the scope of the agent or agencies authority.

It should also be noted that the title insurance law found in Chapter 381 nowhere states that a title insurance company is responsible for the acts of its agents outside the scope of their agency agreements. On the contrary, Chapter 381.011 (effective 1/1/08) states at 381.011.3 that “except as otherwise expressly provided in this Chapter and except where the contexts otherwise requires, all provisions of the laws of this state relating to insurance and insurance companies generally shall apply to title insurance, title insurers and title agents.” Chapter 381 does not, therefore, make title companies responsible for acts of their agents, especially when the acts occur outside the scope of the agent’s authority.

RESPONSE TO EXAMINATION FINDINGS¹

I. Sales and Marketing

A. Licensing of agents and agencies (page 6)

1. **RESPONSE to the One Stop violation:** Under Missouri law, an insurer may issue title insurance directly or through agents appointed by the company. LTIC's One Stop division ("One Stop") is located in Pennsylvania but is nevertheless a division of the company as opposed to a subsidiary. One Stop is a direct LTIC operation designed to address the title needs of national lenders with title orders throughout the country. As such, the One Stop division is not an agent for LTIC and, as a result, does not have an agency contract nor an agency license. All of the employees located in the Pennsylvania office are on the LTIC payroll and issue LTIC products. The title policies issued from the One Stop office primarily insure refinance transactions. The designated insured is the lender. One Stop does not issue owners policies to Missouri consumers. Generally national lenders seek overall consistency from title providers in terms of timely delivery, pricing, product look and process, but few national lenders want exactly the same thing or for their orders to be handled the same way as other lenders. National lenders are very sensitive about costs and the time needed to complete refinance transactions. Overall they intend to complete transactions as quickly and inexpensively as possible and seek providers who can fulfill those desires. As a result, national lenders request different services from OneStop. Some lenders prepare all of the refinance documents, including the HUD-1, close the transaction, fund, and record the documents. One Stop's only role is to issue the title commitment and later the title policy once it has received satisfactory evidence from the lender that all requirements have been satisfied. Generally these transactions are referred to as "Title Only," a significant distinction for issues concerning recording and HUD-1 documentation identified in the Report.

For other national lenders, One Stop's Pennsylvania office issues the title commitment, the title policy, prepares the settlement statement, disburses the proceeds and arranges for the documents to be recorded for convenience, such services will be referred to as "Full Escrow." In addition, lenders also customize their service preferences with OneStop selecting one or more services beyond "Title Only" but less than Full Escrow. In virtually all situations, lenders place their refinance title orders directly with OneStop. The Company respectfully disagrees with the DIFP "agency" characterization.

2. **RESPONSE to the "unlicensed agencies" violation.** See the prior response for the explanation regarding OneStop's relationship to the Company. Any title orders received from national lenders are placed with the Company's Pittsburgh production facility. The production facility calls upon title plants, data providers, abstractors and company employees throughout the country to process its orders (which include non-title insurance products). Based on that information, the production facility produces title insurance commitments and policies. Generally, the Company seeks the least expensive alternative possible.

¹ The Company will respond to each criticism in the order it appears in the Report without reproducing the text of the criticism.

The Company's providers of title information in Missouri include both abstractors and licensed title agencies. The Company prefers to use licensed title agencies whenever possible provided they can meet the time constraints and cost limitations imposed by its national lender customers. When licensed title agents are not available or are unable to meet the required parameters, the Company uses abstractors in accordance with Missouri law. Abstractors summarize title information for the Company. Many title agents do the same but also provide a host of additional services as identified in Section 381.009 (25), RSMo. The Company does not appoint abstractors as its title agents nor does it have agency contracts with abstractors because abstractors do not underwrite title insurance commitments and title insurance policies for the Company. Similarly, abstractors do not handle closings, settlements or closings, determine insurability, or solicit or negotiate title insurance. The Company does not read the Missouri Code as requiring title insurance licenses for abstractors.

3. **RESPONSE to the non-licensed specific employee:** The former LTIC employee in question, Ms. Parker, had regional sales responsibilities and did not place orders for title insurance, perform searches or handle closings on Missouri property. As noted above in the Company's responses, national lenders generally place all of their orders directly with the One Stop division. In the national lender marketplace, salespeople call on lenders seeking the lenders' business throughout the United States.

B. Marketing Practices

No response required.

II. Underwriting and Rating Practices

A. Direct Operation

1. Forms and Filing (page 7)

Response: The Company does not dispute the findings in this particular section.

2. Underwriting and Rating General Handling (page 9)

a. Failure to Timely Record (page 10)

RESPONSE: The Company does not dispute the findings but argues in mitigation that the 2008 changes to the recording statute recognized the inherent unfairness and unworkability of the existing statute, especially for refinance situations closed by a lender who then mailed recording documents to the agency rather than the recorder's office.

b. Incorrect Risk Rate (page 12)

RESPONSE: The Company reviewed the files in question and concluded 43 had correct premium/risk rate calculations based on the filed Reissue Rate. See Exhibit 1.

c. **Total Charges (page 13)**

RESPONSE: The Company does not dispute the findings of this particular section.

d. **Improper Fees (page 16)**

RESPONSE: Denied. Both the Company and its national lenders use mobile notaries to meet borrowers at their homes or work places to notarize and forward the closing documents to the appropriate parties. In such cases, the overall charges for notary related services would include the notarial process itself and the notaries' travel expenses, as well as any other services such as forwarding the documents via overnight delivery to the lender and the Company's Pennsylvania operation. In four of the five cases referenced on page 17, all Title Only orders, the Company did not prepare the settlement statement, conduct the closing or collect the notary fees. In the fifth case, the lender asked One Stop to schedule a notary to witness the execution of documents. The fee for this service was invoiced at the actual cost of \$120.00. This fee included the cost of travel time, notary copy fees, and the notarization of all documents requiring an acknowledgement. In addition, this fee covered the cost of overnight fees for delivery and return of loan documents.

RESPONSE to the issue of recording fees in excess of actual amount of recording or for documents not recorded: Denied. Each of the four samples cited are Title Only orders. In each case, the lender client prepared the settlement statement, facilitated the execution of the loan documents and disbursed the loan proceeds. In three of the four cases, One Stop was asked to provide recording services. Title Only orders are invoiced based on all of the actual fees charged for services rendered and not the estimated amounts reflected on the HUD-1 (which we generally understand are fees to be paid by the lender). Any excess fees charged on the HUD-1 for recording were not charged or received by One Stop. The recording fee for loan number 1760611 appears to be miscalculated resulting in an excess charge, which the Company refunded.

e. **Plant Law (page 17)**

The Company is required to obtain a search from a geographically indexed record encompassing all of the property where the land is located but obtained it from Armstrong, who is not licensed as an agent. See page 17.

RESPONSE: When no title plant is available or when the search cannot be obtained at a reasonable cost or in th time necessary, the company is permitted by Missouri law to obtain its search from other reliable sources. See the Company's answer to I.A.2.

f. **Title Search (page 19)**

Title search evidence deemed inadequate for failure to meet a "prudent man standard", failed to use a geographically indexed plant, relied upon property reports from unlicensed agents,

ignored known mortgages, relied on quitclaim deeds and failed to verify marital interests. See pages 19 and 20.

RESPONSE: When no title plant is available or when the search cannot be obtained at a reasonable cost or in the time necessary, the company is permitted by Missouri law to obtain its search from other reliable sources. See the Company's answer to I.A.2.

Failed to document the title search -see page 20 and 21.

RESPONSE: The Company located the documentation and noted its availability to the examiner. This violation should be removed from the report.

g. Unsound Underwriting (page 20)

File No. 10825623 page 21

RESPONSE: Denied. *See* General Objection 1.

File No. 1841653VT page 21.

RESPONSE: Denied. *See* General Objection 1. The file number cited in the Report appears to be an incorrect rendering the Company unable to fully respond. It is noted however that the commitment reflects two mortgages, one in favor of First Horizon Home loan Corp. (assigned to NovaStar Mortgage Inc.) and another for United Consumers Credit Union. Both of these mortgages provided payoff demands, were paid in full and satisfied on the settlement statement. *See* General Objection 1.

File No. 1857833VT page 21

RESPONSE: Denied. *See* General Objection 1. The initial title commitment reflects three mortgage liens. OneStop removed one mortgage using information received from the lender that verified the lien was paid in full. The other two, Bank of America and Irwin Home Equity, were both paid off and satisfied as indicated on the settlement statement which the Company can provide upon request by the Department.

File No. 10732204 page 21

RESPONSE: Denied. *See* General Objection 1. Although identified as a OneStop file in the DIFP Report, this order is not in OneStop's systems and OneStop could find no record that a policy has been issued

File No. 10683415 page 22.

RESPONSE: Denied. *See* General Objection 1. Although identified as a OneStop file in the DIFP Report, this order is not in OneStop's systems and OneStop could find no record that a policy has been issued.

No. 1546919VT page 22

RESPONSE: Denied. *See* General Objection 1. The deed of trust in question was recorded on August 15, 2005, and the proceeds paid off the earlier mortgage to MERS, Inc., acting solely as a nominee for Professional Lending Services, Inc. The release for this loan was recorded in Book 2787 Page 107. An earlier loan to Mid America Mortgage Services dated October 27, 1995 was not released. In this case, the national lender closed and disbursed this loan but did not provide proof of payoff or release. The final policy was issued in error without exception for the 1995 deed of trust.

FileNos.1521326VT & 1544899VT page 22

RESPONSE: Denied. *See* General Objection 1. File No. 1521326VT: The Department has a valid point. The lender facilitated the closing and disbursement of this loan prior to submitting documentation and a request for a final title policy. The second deed of trust was not paid as part of the new loan transaction and nothing in the file indicates that the second earlier mortgage was paid in full, satisfied or subordinated at the time of closing. Unfortunately the final policy was issued without obtaining proof that the earlier second mortgage was either subordinated or released and without showing mortgage as an exception to the policy.

FileNo.1544899VT: The second deed of trust was not paid as part of the new loan transaction. The subordination was recorded in the county records on December 12, 2005 which the Company can provide upon request by the Department.

File Nos. 1877907VT and 1891289VT page 22

RESPONSE: Denied. *See* General Objection 1. File No. 1877907VT: The lender placed an order for Full Escrow specifically for this refinance transaction. Upon receipt of the order, the Company produced the title search and delivered a title insurance commitment to the lender. One Stop prepared the HUD-1 based on the lender instructions, closed the transaction, disbursed funds, and delivered the security instrument to its vendor for final recordation. The county received the mortgage document on July 10, 2006, and recorded the mortgage on July 12, 2006. One Stop issued a disbursement check in the amount of \$44282.12 to payoff and satisfy the prior mortgage lien which the Company can provide upon request by the Department.

File No. 1891289VT: One Stop received a Title Only order from a national lender for this particular refinance transaction and delivered a title insurance commitment. The lender prepared all closing documentation, including the settlement statement, closed the loan, disbursed the funds and forwarded the mortgage to One Stop for recordation on July 6, 2006. We understand that recording took place on July 11, 2006.

File No. 1704724VT see page 23.

RESPONSE: Denied. *See* General Objection 1. As explained above in an earlier response, the OneStop division uses title information, including legal descriptions, provided by the production center in Pittsburgh and does not independently verify access. The production center has the discretion in underwriting refinance transactions to review prior records

concerning the property as well as surrounding properties to address access issues. Based on the case law of a particular jurisdiction, the production center is permitted to conclude the chain of title and other available information reflects sufficient information to allow the Company to insure access although the property may not abut a public or private right of way.

File Nos. 1840630VT, 1791884VT, 1701812'VT, 1739207VT

RESPONSE: Denied. *See* General Objection 1. One Stop generally maintains the examination of title and determination of insurability electronically. As part of the Company's response preparation after receiving the Report, the Company located the search information for the four files in archived files which the Company can provide upon request by the Department. Beginning in 2007, all search information is uploaded to the electronic file and housed with closing documents indefinitely, a solution that should alleviate this problem in the future. Previously search information was housed separately.

3. Failure to issue Policies in a Timely Manner

RESPONSE: Denied. *See* General Objection 6. Delay in issuing policies at the time of this examination was not a statutory violation. The Company believes that this section should be removed from the report.

B. Affiliated Agents

1. Forms and Filings

Files CM0508013 & CM 0510051 (page 25)

RESPONSE: *See* General Objections 7 and 9. These policies were issued with the same general exceptions shown in the commitment and filed with the Department. No documentation was furnished to eliminate these exceptions. The general exceptions are appropriate.

Files CM0510056 and CM0510057 (page 26)

RESPONSE: *See* General Objections 7 and 9.

Files shown on page 26 relating to commitments and final policy exceptions.

RESPONSE: *See* General Objections 7 and 9. The general exceptions shown in the commitment are on file with the Department and are appropriate.

2. Undenwriting and Rating General Handling

a. Failure to Timely Record page 27)

RESPONSE: *See* General Objections 7, 8 and 9.

b. Incorrect Risk Rate (page 27-28)

RESPONSE: *See* General Objections 7 and 9. The rates charged are correct when calculated with the corresponding reissue credit.

c. **Improper Fees (page 28)**

RESPONSE: *See* General Objections 7 and 9

d. **Unsound Underwriting (pages 29-30)**

File No. CM0510051*

RESPONSE: *See* General Objections 1, 7 and 9.

File No. CM0511070

RESPONSE: *See* General Objections 1, 7 and 9.

C. **Agents**

1. **Forms and Filings (pages 30-33)**

a. General exceptions used by agents in owners' policies were not the same as general exceptions used in filed forms (pages 30-31)

RESPONSE: *See* General Objections 7 and 9. The Company concedes the wording in question is not identical. The agents cited by the DIFP have more than one underwriter and use software programmed to be as compatible as possible with the underwriting demands of each underwriter. Although the general exception wording used differs slightly from the filed exceptions, the meaning is the same. The Company believes it would be confusing and costly for the agents to have their software programmed with different wording for exceptions that mean the same. In addition, such a programming effort, even if successful, would contribute to additional delays in issuing policies, a result the DIFP previously noted was not in the best interests of consumers. Therefore, the Company disagrees with this criticism.

b. General exceptions used by agents in commitments were not the same as general exceptions used in filed forms (31-32)

RESPONSE: *See* General Objections 7 and 9. The Company concedes the wording in question is not identical. The agents cited by the DIFP have more than one underwriter and use software programmed to be as compatible as possible with the underwriting demands of each underwriter. Although the general exception wording used differs slightly from the filed exceptions, the meaning is the same. The Company believes it would be confusing and costly for the agents to have their software programmed with different wording for exceptions that mean the same. In addition, such a programming effort, even if successful, would contribute to additional delays in issuing policies, a result the DIFP previously noted was not in the best interests of consumers. Therefore, the Company disagrees with this criticism.

c. **Generic exceptions (page 32-33)**

RESPONSE: *See* General Objections 7 and 9. The Company agrees with the D1FP's criticism regarding Burns Title File No 200908 concerning the use of generic exceptions. The Company previously issued a bulletin to all Missouri agents stating that generic exceptions are not adequate and that exceptions should be specific, reciting the book and page number of the recorded exception.

- d. Commitment form with certain language regarding liability for negligence (page 33)

RESPONSE: See General Objections 7 and 9. The Company disagrees with the Department's criticism for Integrity Title No. File No. LOT424705 and U.S. Title File Nos. 506731 and 5/0846. The language criticized is a note for informational purposes. It neither adds to nor limits the coverage provided by the commitment. As such, said language is not required to be filed with the DIFP.

2. Underwriting and Rating General Handling (pages 33-43)

- a. Failure to Timely Record (pages 34-35)

RESPONSE: See General Objections 7, 8 and 9.

- b. Incorrect Risk Rate (pages 35-37)

RESPONSE: See General Objections 7 and 9. With respect to Continental Title File No.02030153 and Guaranty Land Title File No. L0508119, the examiner confused the filed risk rate with the agency contract rate which is not required to be filed. Since the contract rate has nothing to do with the risk rate, the Company disagrees with those criticisms. The Company has been informed that the DIFP examiners appear to have their own definition of re-issue rate requiring a title policy of the same underwriter to be in the file before it is applicable. The Company definition requires only a title policy from any underwriter. Therefore the Company believes the examiners have not applied the reissue rate correctly when identifying errors. Regardless, the errors do not have any bearing on what the consumer was ultimately charged for the title policy. The DIFP and underwriters acknowledge that this area has been one of confusion. The new statutory provisions along with upcoming regulations to be promulgated by the DIFP should aid in clearing up the confusion in this area.

With respect to agency agreements allowed for calculation of agent's commission and net premium payable to LTIC on a basis other than risk rate on file with the Director, the Company is under the impression that Missouri law limits the manner in which the Company determines the fees and commissions paid to its agents and that agency contract rates are not required to be filed. The examiner states that the "risk rate includes the agents commission," a statement not supported by any statutory authority. The DIFP has previously agreed that the contract rate may be used and required the Company in 1995 to change agency agreements to state what was retained by agents was an "underwriting fee" and not "commission." Therefore the Company disagrees with the criticisms with regard to agents' commissions.

- c. Total Charges (pages 37-38)

RESPONSE: See General Objections 7 and 9. With respect to the combined risk rate greater than the total charges for both the owners' and lenders' policies, the agent in question was cancelled in 2005 and the Company does not have and was not able to locate sufficient information to ascertain the nature of the transaction or the reason for the charges.

- d. Improper fees (page 38)

RESPONSE: Denied. *See* General Objections 7 and 9. With respect to the Notary fee or recording fee charges in excess of actual fee, the Report notes that agents charged improper notary fees and recording fees and references the Real Estate Settlement Procedures Act of 1974. Title insurance agents are the Company's agents solely for title policy issuance. These entities are not agents of the Company for any other activity including real estate closings.

f. Unsound Underwriting

File Nos. 160730, 153393, 164101 (page 39)

RESPONSE: Denied. *See* General Objections 7 and 9. The Company cancelled Investors Title as an agent in August, 2005.

File No. 144502 (page 39)

RESPONSE: Denied. *See* General Objections 7 and 9. The Company cancelled Investors Title as an agent in August, 2005.

File No. 165605 (page 39)

RESPONSE: Denied. *See* General Objections 7 and 9.

File No. 145821 (page 39-40)

RESPONSE: Denied. *See* General Objections 7 and 9. The customer paid for an owner's policy in the amount of the acquisition price. The Company is not required to issue a policy increasing the owner's amount to include the amount of the improvements in the absence of a request by the owner and the Company is not in a position to require the owner to pay for such additional coverage even though the Company (and the DIFP) may prefer that underwriting practice. The Company disagrees that this represents an unsound underwriting practice; The Company cancelled Investors Title as an agent in August, 2005.

File No. 200908* (page 40)

RESPONSE: Denied. *See* General Objections 7 and 9. The "subject to" language cited is common language at the end of the legal description in a deed and is not meant to conceal the benefits, coverage, or other provisions of a policy. Frequently the Company and its agents are instructed by one or more parties to the transaction to use the deed's legal description in the title policy.

File No. 78518* (page 40)

RESPONSE: Denied. *See* General Objections 7 and 9.

File No. 05082142L* (pages 40-41)

RESPONSE: Denied. *See* General Objections 7 and 9.

13 files of Investors Title and 1 file of US Title (page 41)

RESPONSE: Denied. *See* General Objections 7 and 9. The Company cancelled Investors Title as an agent in August, 2005 and is unable to obtain any additional details to respond to this criticism.

File Nos. 162429* and 114507* (page 41)

RESPONSE: Denied. *See* General Objections 7 and 9. The Company cancelled Investors Title as an agent in August, 2005 and is unable to obtain any additional details to respond to this criticism.

g. Failure to Maintain Files

File Nos. 2005080867 and 2005102034* (page 42)

RESPONSE: Denied. *See* General Objections 7 and 9.

File No. 151221* (page 42)

RESPONSE: Denied. *See* General Objections 7 and 9.

h. Agent Acting as an Insurer

File 78518* (pages 42-43)

RESPONSE: Denied. *See* General Objections 7 and 9.

3. Failure to issue Policies in a timely manner (pages 43-44)

RESPONSE: Denied. *See* General Objection 6. The Company cancelled Investors Title as an agent in August, 2005 and is unable to obtain any additional details to respond to this criticism.

Failure to issue policies (pages 45-46)

RESPONSE: Denied. *See* General Objection 6.

III. Claims Practices

A. Claim time studies

Acknowledgement Time (page 46)

RESPONSE: Denied. In any event, the error rate is within the allowed margin of error. 20 CSR 100-1.030 (1), requires acknowledgement of claim from the insured within ten working days. This statute also provides that notification given to an agent of an insurer shall be notification to the insurer. Paragraph 20 CSR 100-1.010 (1) sets forth the definitions used in 20 CSR 100-1. CSR 100-1.010(1) (G), defines "notification of claim" as "...any notification, whether in writing or by other means acceptable under the terms of an insurance policy to an insurer or its insurance producer, by a claimant, which reasonably apprises the insurer of the facts pertinent to a claim;". 20 CSR 100-1.010 (1) (A) defines "insurance producer" as "... any individual, corporation, association, partnership or legal entity authorized to represent an insurer with respect to a claim;".

In four of the five claims reviewed by the Examiner, the insured contacted the Company's independent policy issuing agent, which forwarded the matter to the Company. The Company acknowledged the claim within ten working days of its receipt, which in some cases was more

than ten working days from when the insured first contacted the Company's policy issuing agent. The policy form the Company has filed in Missouri and elsewhere requires the insured to provide written notice of claim to the Company at its Consumer Affairs Department in Richmond, Virginia. This is the only means acceptable under the terms of the policy, to provide notification of claim to the Company. Notice of claim to a policy issuing agent is not an acceptable means of providing notice of claim under the policy as required by 20 CSR100-1.010 (J) (G) and as such, should not be construed as notification of claim to the Company. In addition, the policy issuing agent is not an "insurance producer" as defined in 20 CSR 100-1.010 (1) (A). The policy issuing agent is appointed as a title insurance policy issuing agent only and is not appointed to represent, and in fact, is expressly prohibited by the Agency Contract from representing the Company with respect to claims. As such, notice to the policy issuing agent should not be construed as notice of claim to the Company within the meaning of 20 CSR 100-1.030 (1). For the reasons set forth above, the Company must respectfully disagree with the Examiner's Comment.

In one of the five claims, C112709, reviewed by the Examiner, the insured lender wrote to the Company on June 7, 2005, requesting a defense of a mechanic's lien lawsuit. The letter was received on June 7, 2005. On June 15, 2005, the Company called the author of the letter, who was the President of the insured lender, to acknowledge receipt of his letter and to request copies of pages missing from the enclosures. On June 29, 2005, the Company sent a formal acknowledgement letter. Based on the facts set forth above, it appears that the Company timely acknowledged the claim within 8 working days of its receipt. 20 CSR 100-1.030 provides that the insurer shall acknowledge receipt of claim within 10 working days unless payment is made within that period of time. The statute also provides "if an acknowledgement is made by means other than writing, an appropriate notation of this acknowledgement shall be made in the claim file of the insurer and dated." In this particular case, the Company received notice of claim from the insured lender on June 7, 2005. On June 15, 2005, the Company called the lender, acknowledged receipt of its letter and requested copies of missing pages of the enclosures, which included the pleadings filed in the underlying mechanic's lien lawsuit. A notation of that call was made in the claim file. For these reasons, the Company must respectfully disagree with the Examiner's Comment.

With respect to file C114817, the Company received a letter from its policy issuing agent, advising that the insured owners had contacted the policy issuing agent concerning a dispute with an adjoining property owner regarding a vacated street. On September 8, 2005, the Company sent a letter to the insureds to let them know that the policy issuing agent had advised the Company of the matter and that the Company was establishing a file and commencing its claims investigation. On September 14, 2005, the Company sent a letter to the insureds accepting the claim. Thereafter, the Company undertook to establish title as insured.

20 CSR 300-2.200(2) requires the insurer to maintain its records in a manner so that its claims handling and payment practices can be readily ascertained during market conduct examinations. In this particular case, the Examiner's Comment indicates that the claim file did not contain documentation sufficient to determine the number of business days the Company used to acknowledge the insured's claim. As discussed above, the insured did not present a notice of claim to the Company. Instead, the insured contacted the Company's policy issuing agent, which in turn, forwarded the matter to the Company. The Company sent an acknowledgement letter to the insured within ten business days of its receipt (if the matter). The file contains documentation sufficient to make that determination. As such, the Company believes that it has

complied with the referenced statute. CSR 100-1.010(I)(G), defines "notification of claim" as . . . any notification, whether in writing or by other means acceptable under the terms of an insurance policy to an insurer or its insurance producer, by a claimant, which reasonable apprises the insurer (if the facts pertinent to a claim;". 20 CSR 100-1.010(I)(A) defines "insurance producer" as ". . . any individual, corporation, association, partnership or other legal entity authorized to represent an insurer with respect to a claim." In this particular situation, the insured contacted the policy issuing agent regarding the purported encumbrance on the title to the property. The policy form the Company has filed in Missouri and elsewhere requires the insured to provide written notice of claim to the Company at its Consumer Affairs Department in Richmond, Virginia. This is the only means acceptable under the terms of the policy, to provide notification of claim to the Company. In this case, no such notice was given to the Company. Notice of claim to a policy issuing agent is not an acceptable means of providing notice of claim under the policy as required by 20 CSR IOO-1.010(G) and as such, should not be construed as notification of claim to the Company. In addition, the policy issuing agent is not an "insurance producer" as defined in 20 CSR 1001.010(1)(A). The policy issuing agent is appointed as a title insurance issuing agent only and is not appointed to act, and in fact, is prohibited by the Agency Contract from representing the Company with respect to claims. As such, notice to the policy issuing agent should not be construed as notice of claim to the Company within the meaning of 20 CSR 100-1.030. Section 381.071.1(3), RSMo. requires a title insurer to preserve and retain evidence of the examination of title and determination of insurability in its files for a period of not less than fifteen (15) years after the policy has been issued This particular section does not appear to apply to the records required to be maintained in a claim file.

Determination time (page 47)

No response required.

Investigation time (page 47)

RESPONSE: Denied. In any event, the error rate is within the allowed margin of error. On May 2, 2006, the Company's policy issuing agent wrote to the Company regarding a driveway/road encroachment alleged to encumber the title to the property. This letter was received by the Company May 4, 2006.

On May 17, 2006, the Company sent an acknowledgement letter to the insured regarding the driveway/road encroachment. In response, the Company received a phone call from an attorney representing the insured. During this call the attorney for the insured mentioned that there was another issue regarding property labeled south of the insured land shown on a new survey and labeled as "area of unknown ownership".

On June 2, 2006, the Company contacted the policy issuing agent to obtain additional documents regarding the title to the property.

On June 15, 2006, the Company wrote to the insured regarding the status of its claims investigation, including the fact that the Company was seeking additional information concerning the insured's purchase of the property.

On July 7, 2006, the Company contacted the policy issuing agent for additional research regarding the title. Also, on July 7, 2006, the Company responded to a letter from the insured's attorney dated July 5, 2006, and requested copies of the sales contract, surveyor any other documents the attorney had that might identify the property the insured intended to purchase.

On July 14, 2006, the Company received, from the policy issuing agent, some of the documents and research it had requested regarding the "area of unknown ownership". The Company also discussed the matter with the surveyor. Based upon all of this information and research, the Company determined that the driveway/road encroachment was covered by the policy, but that the "area of unknown ownership" was not covered.

On July 18, 2006, the Company sent a letter explaining its coverage determination to the attorney for the insured.

The Examiner's Comment references Section 375.1007(3) RSMo, which provides that failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims is an improper claims practice and 20 CSR 100-1.040, which provides that the insurer shall complete an investigation of the claim within thirty days after notification, unless the investigation cannot reasonably be completed within this time. The Company has adopted standards for the prompt investigation and settlement of claims. The Company continually kept the insured advised of the status of its investigation. 20 CSR 100-1.040 provides that the investigation must be complete within thirty days of receiving notice of claim ". . . unless the investigation cannot reasonably be completed within this time." The Company submits that the events chronicled above, demonstrate that despite its prompt and diligent efforts, the investigation could not be reasonably completed within the initial thirty day period.

B. General Handling Practices

It is noted that the error rate is within the allowed margin of error.

File C110016 (page 48)

RESPONSE: Denied. On April 17, 2002, the Company's policy issuing agent issued a loan policy on behalf of the Company in connection with a construction loan. On March 24, 2003, the Company's policy issuing agent issued a commitment proposing to issue a loan policy in connection with a permanent loan. Thereafter, suit was filed to foreclose a mechanic's lien, which asserted priority over the insured deed of trust lien. On April 5, 2005, the insured lender requested that the Company provide a defense. On April 27, 2005, the Company sent the insured a letter agreeing to provide the requested defense with a reservation of rights. By mid June, 2005, the case had been settled and on July 12, 2005, the Court entered its order dismissing the mechanic's lien foreclosure suit with prejudice. Title was established as insured. 300 CSR-2.200(3)(B) requires that the ". . . contract, declaration pages, certificates evidencing coverage... " be included in the claim file.

The Lender presented the claim under a commitment for a loan policy of title insurance issued by the Company's policy issuing agent on behalf of the Company. The Company through documents obtained from the insured and the policy issuing agent confirmed that a Short Form Residential Loan Policy had been issued in connection with the loan for construction of the improvements on the property. Accordingly, the Company accepted the claim under the policy and protected the consumer. A copy of the policy is in the claim file. Based on these facts, the Company does not believe that it acted inconsistent with the referenced statute.

File No. C005965 (page 48)

RESPONSE: Denied. The Company's policy issuing agent had not issued the policy at the time the claim was presented. The policy was issued and sent to the Company while the claim was pending. The policies have been sent to the insured. The Examiner's Comment references sections 148.320, 148.340 and 381.221, RSMo. These statutes deal with premium taxes and do not appear to apply to this particular Examiner's Comment. The Company did maintain a copy in its records as required by the referenced 20 CSR 300-2.200(3)(A)(2). For this reason the Company must respectfully disagree with the Examiner's Comment.

File No. M104348 (page 48)

RESPONSE: Denied. As noted previously to the Department, the file in question was located and made available to the Examiner.

File No. C115207 (page 49)**

RESPONSE: Denied. See General Objection 1. The property was purchased by a husband and wife. They later divorced. In their Separation and Property Settlement Agreement the husband and wife agreed that the husband would own the property and based on their agreement the husband was awarded the property as his sole and exclusive property. In addition, the wife conveyed any interest she had in the property to her husband by Quit Claim Deed. Several years later, the ex-husband obtained a new loan from Washington Mutual Bank. The deed of trust was prepared for the ex-husband and ex-wife's signature. The ex-wife did not sign

the deed of trust. The lender later foreclosed and in the process discovered that the deed of trust was not recorded. The ex-wife's name was redacted and the deed of trust was recorded. The Company retained outside counsel to represent Washington Mutual and to quiet the title.

The pleading filed in the quiet title action recited a prior deed of trust granted to ABN Mortgage. The relief requested on behalf of Washington Mutual, which held a deed of trust interest in the property, was to confirm the Divorce Court's award and quiet the title to the property in the ex-husband, Washington Mutual's borrower. The ex-wife was named as a defendant. She appeared and agreed to an Order confirming that her ex-husband owned the property.

The Examiner indicates that there was no indication that Washington Mutual ever held a deed of trust and that it was not a sound underwriting practice to insure the title on the strength of a judicial decision sought and granted based on inaccurate assertions. In addition the Examiner indicates that redacting the ex-wife's name from the deed of trust prior to recording was not a sound underwriting practice. The husband and wife were divorced by an Order entered on July 31, 2002 (two years prior to the closing) by the Family Court of the County of St. Louis. The Court's Order was based on the husband and wife's Separation and Property Settlement Agreement, which the wife signed and provided to the Court. The Separation Agreement described the property and provided "the parties agree that the said real property shall be the sole and exclusive property of the husband". This language and a Quit Claim Deed signed by the ex-wife were relied upon in issuing the policy. The lender later foreclosed and in the process, discovered that the deed of trust had not been recorded. The original of the deed of trust was located and recorded after redacting the ex-wife's name, as the ex-wife had previously agreed that the husband be awarded the property and had signed a quit claim deed. Also, in order to resolve any possible question regarding the title, the Company agreed to quiet the title. As expected, the ex-wife did not contest the matter and actually agreed to the Quiet Title Order.

C. Indemnity Letters

Policy No. 135-03-293112 (page 50)

RESPONSE: Denied. See General Objections 1, 7 and 9.

File No. MJ65598 (page 50)

The Company does not contest this violation.

Respectfully submitted,

Lawyers Title Insurance Corporation



Michael J. Rich
Vice President and Regulatory Counsel

Exhibit 1

Files provided by Lender three days or more after disbursement by Lender

File No.	Date of Disbursement	Date recorded
1565151	07/26/05	09/08/05
1572289	07/26/05	09/08/05
1575470	07/26/05	09/13/05
1577073	07/26/05	09/21/05
1717659	11/29/05	12/29/05
1656316	11/01/05	12/12/05
1667962	10/01/05	11/30/05
1648341	10/01/05	10/28/05
1642963	10/01/05	11/08/05
1640998	10/01/05	11/02/05
1637939	10/01/05	11/29/05
1635639	10/01/05	11/18/05
1626039	10/01/05	12/02/05
1616525	09/01/05	10/26/05
1589439	09/01/05	09/29/05
1539478	07/01/05	08/29/05
1521326	07/01/05	08/15/05

File No.	Date of Disbursement	Date recorded
1677876	10/15/05	11/01/07
1772160	01/25/06	02/14/06
1731686	12/12/05	12/22/05
1864422	05/22/06	06/26/06
1894500	06/29/06	07/10/06
1882688	06/22/06	06/30/06
1552146	06/25/05	07/19/05
1556062	07/18/05	07/27/05
1580133	08/04/05	08/17/05
1736341	12/12/05	02/08/06
1758343	01/23/06	02/14/06
1703619	11/28/05	12/14/05
1631250	09/26/05	11/08/05
1831048	04/05/06	04/21/06
1857833	05/17/06	06/02/06
1760611	01/24/06	03/01/06

Title Only Products

The following loans are Title Only orders where the national lender facilitated the entire transaction including the recordation of the security instrument.

File No.	Date of Disbursement	Date recorded	No bus. Of days
1621495	07/01/05	09/27/05	63
1581771	08/15/05	08/31/05	13
1754528	02/06/06	unknown	unknown
1527250	08/02/05	08/09/05	6
1660384	09/30/05	11/28/05	42
1362060	11/15/04	11/29/04	11
1547161	10/26/05	11/04/05	8

Note: Order 1677876VT was rejected by the county, requiring correction.

Exhibit 2

The policies listed below were issued for refinance transactions. A discounted rate called the "Reissue Title Insurance Rate for Loan Policies" was applied to the premium calculation.

The following premiums were calculated correctly according to the filed Reissue Title Insurance risk rate.

File No.	Amount listed on Policy	Filed Reissue Rate
1521326	\$46.32	\$46.32
1526160	\$40.08	\$40.08
1539478	\$90.96	\$90.96
1546919	\$89.28	\$89.28
1546897	\$32.40	\$32.40
1555704	\$69.12	\$69.12
1561468	\$40.56	\$40.56
1565151	\$44.88	\$44.88
1572289	\$41.04	\$41.04
1575470	\$47.76	\$47.76
1577073	\$68.28	\$68.28
1527250	\$61.56	\$61.56
1534635	\$32.88	\$32.88
1691621	\$54.42	\$54.42
1718659	\$138.00	\$138.00
1713941	\$39.12	\$39.12
1736341	\$96.00	\$96.00
1731686	\$74.16	\$74.16
1739207	\$26.40	\$26.40
1632557	\$40.08	\$40.08
1743231	\$45.84	\$45.84
1758343	\$79.20	\$79.20
1760611	\$44.88	\$44.88
1772160	\$72.48	\$72.48
1748878	\$46.32	\$46.32
1762308	\$28.80	\$28.80
1830148	\$98.10	\$98.10
1820438	\$59.88	\$59.88
1815561	\$43.44	\$43.44
1877907	\$38.64	\$38.64
1703619	\$71.22	\$71.22
1705387	\$32.40	\$32.40
1647161	\$20.40	\$20.40
1677876	\$61.98	\$61.98
1610051	\$35.76	\$35.76
1631250	\$98.52	\$98.52
1589243	\$52.56	\$52.56
1594800	\$64.92	\$64.92
1589439	\$52.56	\$52.56
1581771	\$69.12	\$69.12
1581161	\$54.00	\$54.00
1621495	\$33.84	\$33.84
1526160	\$40.08	\$40.08

Note: there is a typo on the audit report for the Amount Listed on Policy.

STATE OF MISSOURI

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Final Market Conduct Examination Report ADDENDUM Lawyers Title Insurance Corporation



NAIC # 50024

January 11, 2010

Home Office
5600 Cox Road
Glen Allen, VA, 23060

Examination Number 0612-67-PAC

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FOREWORD

This market conduct examination report of the Lawyers Title Insurance Corporation is, overall, a report by exception. Examiners cite errors the Company made; however, failure to comment on specific files, products, or procedures does not constitute approval by the Missouri Department of Insurance, Financial Institutions and Professional Registration (DIFP).

Examiners use the following in this report:

“Company” or “LTIC” or “Lawyers” to refer to Lawyers Title Insurance Corporation;

“DIFP” or “Department” to refer to the Missouri Department of Insurance, Financial Institutions and Professional Registration;

“NAIC” to refer to the National Association of Insurance Commissioners;

“RSMo,” to refer to the Revised Statutes of Missouri;

“CSR” to refer to the Code of State Regulations;

“DBA” to refer to an agent “doing business as” a fictitious name filed with the Missouri Secretary of State.

SCOPE OF EXAMINATION

The DIFP has authority to conduct this examination pursuant to, but not limited to, §§374.110, 374.190, 374.205, 375.445, 375.938, 375.1009 RSMo, and Chapter 381, RSMo.

This portion of the examination is a result of a warrant issued by the Director reopening examination 0612-67-PAC. The purpose of this examination is to determine if LTIC complied with Missouri statutes and DIFP regulations.

The examination of LTIC, NAIC #50024, was expanded by an examination warrant issued on March 10, 2008. It included the following LTIC agents to be examined for the time frame of January 1, 2006, to February 29, 2008.

- American Land Title, LLC
 - Accurate Title Company, LLC
 - Davis Title and Abstract Company
 - NRT Settlement Services of Missouri, LLC (US Title)
 - Residential Title Services, Inc.
 - Tri-Lakes
 - Freedom Title
 - LandChoice Company, LLC
 - American Heritage Abstract Company
 - Bankers and Lenders Title, LLC
 - Investors
 - Jasper County Title Company
 - St. Joseph Title and Abstract Company
 - TRI Lakes Metro
-
- An additional warrant issued on April 14, 2008, added Great American Title-Group. The warrant was issued for the examination of Commonwealth Land Title Insurance Company. However, the agent indicated they had stopped using Commonwealth as an underwriter and were instead issuing policies on LTIC paper. Commonwealth and LTIC are both members of the LandAmerica underwriting group. Therefore, LTIC title files were reviewed in order to gain a more accurate picture of recent practices.

EXECUTIVE SUMMARY

The examination found the following areas of concern:

- The Company used several unfiled forms.
- In one instance, the Company reported an incorrect risk rate on a policy that was not the one previously filed with the DIFP.
- Three files contained unsound underwriting practices.
- In four of the files reviewed, the agent failed to disclose an affiliated business arrangement or verify that disclosure had been made to interested parties.
- The examiners found one file where the title agent acted as an escrow agent without issuing closing protection letters, while accepting funds for deposit to an escrow.
- The examiners found one file where the agent collected fees for release recording charges when no or nominal services were performed.
- The examiners found one file where the agent collected “Legal Services Charges” from the seller, constituting the unauthorized practice of law for document preparation.

EXAMINATION FINDINGS

American Land Title LLC

American Land Title, LLC was included in the warrant, however, based on information provided by the company they have never been an agent for LandAmerica. The examiners have no evidence that American Land Title, LLC has ever used LandAmerica paper; therefore they were not reviewed in the course of this examination.

Accurate Title Company, LLC

The examiner sampled six files. Four of these files were underwritten by Commonwealth Land Title Insurance Company. Two files were underwritten by LTIC. The examiner noted no errors in this review.

Davis Title

Davis Title was not an agent for the underwriter during the time frame covered in this warrant and was not reviewed as a part of this examination.

NRT Settlement Services of Missouri, LLC (US Title)

NRT Settlement Services of Missouri, LLC is a Delaware limited liability company and was registered as such with the Missouri Secretary of State on 11/26/2007.

NRT Settlement Services of Missouri, LLC conducts business in Missouri using two fictitious names, U. S. Title Guaranty Company and U. S. Title Guaranty Company of St. Charles. Both fictitious names were registered with the Missouri Secretary of State on 1/9/2008. The DIFP issued agency licenses to each of the registered fictitious names. This report does not distinguish among the fictitious names used by the agency.

File 8-08344

Owners Policy: C34-0075944

The examiners found four errors in this file.

1. The purchase price in this transaction was \$25,100.00. The contract named a single individual as purchaser, the same person named in the deed as grantee. The transaction was closed in escrow by the agent on 5/30/2008. The purchase price and related expenses were paid in part by a cashier's check dated 5/7/2008 in the amount of \$8,055.00 showing a remitter who was not the named purchaser. In addition, a cashier's check dated 5/5/2008 in the amount of \$8,500.00 showing the remitter as the named purchaser was submitted for payment. A third cashier's check dated 5/7/2008 in the amount of \$8,000.00 showing the remitter as still another person who was not the named purchaser were provided for payment. The file examined revealed that approximately two thirds of the interests in the property were acquired by

individuals other than the insured owner. The examiner finds no indication in this file of any inquiry by the agent as to the purpose of funds supplied by parties other than the insured.

The agent failed to make a determination of insurability in accordance with sound underwriting practices. Sound underwriting practices include basing insuring decisions on a reasonable analysis of any available indications of interests being acquired in the property.

Reference: §381.071.1 (2), RSMo (1994)

2. The buyer's settlement statement and the owner's policy for this purchase show title insurance premium of \$35.14. The contract purchase price was \$25,100.00. The owner policy premium of \$35.14 was correct at an original issue rate. The agent's file contains a copy of a LTIC policy insuring the seller as owner. This new LTIC policy qualified for the reissue rate as filed by the company with the director. The correct owner policy premium for this policy was \$21.08.

Premium schedules must be filed with the director, and no title insurer or agent may use or collect any premium except in accordance with the premium schedules filed with the director.

Reference: §381.181, RSMo (1994)

3. Schedule B-I of the commitment as issued contains the following disclaimer:

This commitment is not an abstract, examination, report, or representation of fact or title and does not create and shall not be the basis of any claim for negligence, negligent misrepresentation or other tort claim or action. The sole liability of company and its title insurance agent shall arise under and be governed by the conditions of the commitment and/ or policy subsequently issued.

This language is not a part of the form of commitment filed by the insurer with the director of the DIFP. The Company and the agent may not use forms not filed with the director.

Reference: §381.085, RSMo (Supp. 2007)

4. The agent accepted funds for purchase of the property into escrow on 5/5/2008. The agent accepted additional funds to be held in escrow for purchase of the property and issued receipts for such funds on 5/8/2008. The agent obtained a closing protection letter for the named purchaser dated 5/30/2008, the date of the closing. The agent held funds provided by the named purchaser in escrow for 25 calendar days before providing the closing protection letter. Certain funds for purchase of the property were provided on 5/8/2008 by two individuals who were not the named purchaser. The agent did not obtain written instructions for disposition of the funds provided by these additional two persons on 5/8/2008. The agent did not provide closing

protection letters to these two additional persons. There is no documentation in the file that the agent provided any notice to these two additional persons that no title insurer was providing any protection for their closing or settlement funds received by the title agent. The title agent provided a closing protection letter issued by Stewart Title Guaranty to the seller under date of 5/29/2008. The underwriter for the transaction was changed from Stewart Title Guaranty to LTIC on 5/29/2008. No closing protection letter was issued to the seller by LTIC. The agent did not provide notice to the seller that no title insurer was providing protection for their closing or settlement funds received by the title agent.

The title agent is permitted to distribute funds only in accordance with written escrow instructions. The title agent is not ordinarily permitted to act as an escrow agent unless closing protection letters have been issued. Accepting funds for deposit to escrow constitutes acting as an escrow agent.

References: §381.022, RSMo (Supp. 2007), and 20 CSR 500 – 7.060

File 8-09328

Loan Policy: not yet issued

The examiners found one error in this file.

The agent satisfied one mortgage from escrow. The lender in the referenced mortgage charged and collected a release recording fee. The agent separately collected a fee of \$60.00 for recording the release. The agent accepted a fee for recording the release requiring the lender to release its interest upon acceptance of fees. The title agent had no basis for any belief that release would be sent to the agent for recording, and the agent had no basis for collecting the release recording charges.

The agent may not charge a fee for which no or nominal services are performed.

References: §443.130, RSMo, and RESPA, 24 CFR 3500.14(c).

Residential Title Services, Inc.

Residential Title Services, Inc. is a national agent. The agency processed its last Missouri order on 5/2/2007. It officially ceased business in the State of Missouri on 5/31/2007. Residential Title Services, Inc. entered into a consent order with the Department of Insurance on 7/17/2007. As such, no files were reviewed for purposes of this examination.

Tri-Lakes

This agency is a part of the LandChoice group of companies. An insignificant percentage of Tri-Lakes policies are written on LTIC. The examiner reviewed their use of marketing tools “e-properties” and forwarded the information to Consumer Investigations for further review. The agent indicated they use LTIC paper only when requested and instead place business routinely with Commonwealth Land Title Insurance Company, a LandAmerica company.

Freedom Title

LTIC is not an underwriter for Freedom Title, and was not an underwriter for Freedom Title during the time frame of the examination.

LandChoice Company, LLC

According to information provided on 6/29/2008, by Michael Holden, Member Management Board-LandChoice Company, LLC, LandChoice is made up of several independent companies. LandChoice was formed on 1/02/2006. The member agents are:

- Guaranty Land Title Insurance, Inc.
- Preferred Land Title Agency, LLC
- Preferred Land Title Company
- Metro Title, Inc.
- Stone County Abstract and Title Co., Inc.
- Tri-Lakes Metro Title Company, Inc.
- Tri-Lakes Title Company, Inc.

Each member retains its separate existence as a corporation and leases their tangible assets “(title plants, desks, computers, software, equipment, automobiles, etc)” to LandChoice so LandChoice can operate as a contiguous business. LandChoice has the right to truncate the name of the member company DBA’s. The examiners reviewed files from Tri-Lakes Title Company for the purposes of this examination. Those files are reported in the Tri-Lakes Title section of this report.

American Heritage Abstract Company

American Heritage Abstract Company had one open complaint at the time of the examination. Consumer Investigations resolved this complaint. A review of the agents’ practices are not included as a part of this examination.

Bankers and Lenders Title, LLC.

The examiners reviewed six files. The examiners found errors in three of the files reviewed.

In the following three files, the business to be written constitutes an affiliated business. Prior to commencing the transaction, the title insurer, title agency, or title agent was obligated to ensure that its customer has been provided with disclosure of the existence of the affiliated business arrangement and a written estimate of the charge or range of charges generally made for the title services provided by the title insurer, title agency, or agent. There is no evidence in the file to indicate that this disclosure was made or verified. (See §381.029.2, RSMo)

Bankers and Lenders Title, LLC, is licensed as a title agency by the DIFP. Kozeny and McCubbin, L.C., is a law firm. Wesley T. Kozeny is an owner/manager of both Bankers and Lenders Title, LLC. and Kozeny and McCubbin. The Kozeny and McCubbin, L.C. website,

www.km-law.com/affiliations.html describes Bankers and Lenders Title, LLC. as affiliated organizations.

File: 27356-07-2

Loan Policy: C34-0078004

The examiners found one error in this file.

Kozeny & McCubbin, L.C. acted in its capacity as trustee to foreclose on a deed of trust. The lender purchased the property at the foreclosure, sold the property, and referred the title transaction to Bankers and Lenders Title. The principals of Kozeny & McCubbin, L.C. are also the principals of Bankers and Lenders Title. The foreclosing lender had a contractual relationship with Kozeny & McCubbin, L. C.

The examiner found no confirmation in the file that the insured buyer was made aware of the affiliated business arrangement existing between Kozeny & McCubbin.L.C. and Bankers and Lenders Title.

Reference: §381.029.2, RSMo (Supp. 2007)

File: 2937-08-2

Loan Policy: C34-0078101

The examiners found one violation in this file.

Kozeny & McCubbin, L.C. acted in its capacity as trustee to foreclose on a deed of trust. The lender purchased the property at the foreclosure, sold the property, and referred the title transaction to Bankers and Lenders Title. The principals of Kozeny & McCubbin, L.C. are also the principals of Bankers and Lenders Title. The foreclosing lender had a contractual relationship with Kozeny & McCubbin, L.C.

The examiner found no confirmation in the file that the insured buyer was made aware of the affiliated business arrangement existing between Kozeny & McCubbin, L.C. and Bankers and Lenders Title.

Reference: §381.029.2, RSMo (Supp. 2007)

File: 26820-07-2

Loan Policy: C34-0078100

The examiners found one violation in this file.

Kozeny & McCubbin, L.C. acted in its capacity as trustee to foreclose on a deed of trust. The lender purchased the property at the foreclosure, sold the property, and referred the title transaction to Bankers and Lenders Title. The principals of Kozeny & McCubbin, L.C. are also the principals of Bankers and Lenders Title. The foreclosing lender had a contractual relationship with Kozeny & McCubbin, L.C.

The examiner found no confirmation in the file that the insured buyer was made aware of the affiliated business arrangement existing between Kozeny & McCubbin, L.C. and Bankers and Lenders Title.

Reference: §381.029.2, RSMo (Supp. 2007)

Investors Title

Investors Title was not an agent for the underwriter during the time frame covered in this warrant and was not reviewed as a part of this examination.

Jasper County Title Company, Inc.

Jasper County Title Company, Inc. is an agent for LTIC. It had one open complaint at the time of the examination. This complaint has been referred to DIFP Legal Section by the Investigations Section and does not indicate that additional review of the agents practices are needed as a result of this complaint.

St. Joseph Title and Abstract Company

St. Joseph Title and Abstract Company was not an agent for the underwriter during the time frame covered in this warrant and was not reviewed as a part of this examination.

Tri-Lakes Metro (LandChoice)

Tri-Lakes Metro is a member of the LandChoice group of agents. Tri-Lakes Metro is located in Springfield, Missouri. They use LTIC as an underwriter only when it is requested. No LTIC files were reviewed for this agent.

Great American Title Group

A warrant issued on April 14, 2008. The warrant was issued for Commonwealth Land Title Insurance Company and included:

- Great American Title Of Greene County,
- Great American Title Of Taney County,
- Great American Title-Charles Burt Closing,
- Great American Title Company,
- Great American Closing Company, and
- Great American Title Co. of Branson.

These agencies are all under common ownership and management. Great American has stopped writing policies for Commonwealth. They are instead issuing policies on LTIC paper. Commonwealth and LTIC are both members of the LandAmerica underwriting group. Therefore,

LTIC title files were reviewed in order to gain a more accurate picture of recent practices. The results of that review are reported here.

Four LTIC files were reviewed. Errors were found in two files.

File 81179

Loan policy: Not yet issued.

The examiner found one error in this file.

In issuing the commitment to insure, the agent added language to the description excepting out “any part taken or used for roads.” The agent’s file contains no information providing a basis for appending the language to the land description. By description, the insured parcel includes within its boundaries part of a public right of way. The agent made no exception for this significant known matter.

Omission of a known exception to title is an unsound underwriting practice.

The agent included exceptions for changes in the property boundary by reason of references in the land description to the center of a public road and an existing fence. Monuments do not cause shifts in boundaries. The commitment proposes the issuance of a 2006 ALTA loan policy. The agent wrote an exception indicating that a standard exception would be deleted when the policy was issued. The referenced standard exception is not a part of the insurer’s commitment for a loan policy. The 2006 ALTA loan policy provides that numerous title defects discoverable by survey are covered matters under the policy.

Sound underwriting practices rarely include making changes to legal descriptions, as well as including exceptions for known matters affecting the insured title. Drafting title exceptions that clearly describe the matter not insured is not a sound underwriting practice.

Reference: §381.071.1, RSMo

File 800079

Owner policy: Not yet issued.

The examiners found four errors in this file.

1. In issuing the commitment to insure, the agent added language to the description excepting out “any part taken or used for roads.” The agent’s file contains no information providing a basis for appending the language to the land description.

Sound underwriting practices rarely include making changes to legal descriptions.

Reference: §381.071.1, RSMo

2. The commitment issued by the agent includes the following exception.

Claims or Consequences, if any, due to Patents from the United States not of record in the Recorder's Office, Vernon County, Missouri for the NORTH ONE-HALF (N 1/2) OF SECTION THIRTY-TWO (32), TOWNSHIP THIRTY-FIVE (35), RANGE THIRTY-THREE (33) AND THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION THIRTY-ONE (31), TOWNSHIP THIRTY-FIVE (35), RANGE THIRTY-THREE (33), ALL IN VERNON COUNTY, MISSOURI. (sic).

This type of exception is not appropriate. The exception implies that original title has never emanated from the government.

Original title never conveyed by the government is not marketable and not insurable. Where title is conveyed from the government, recording evidence of the same is readily done and the agent would properly condition issuance of the policy on the recording. Where original title has not been conveyed, it is an unsound underwriting practice to insure any interest without consultation with the underwriter.

The U. S. Bureau of Land Management, <http://www.glorerecords.blm.gov/>, indicates that a patent for the West 1/2 of the Northwest 1/4 of S32, T35, R33, a tract of 80 acres, was issued in 1856 to James M. Brown. The same source indicates that a patent for the East 1/2 of the Northwest 1/4 of S32, T35, R33, a tract of 80 acres, was issued in 1848 to Samuel Reed. None of the land described in the commitment to insure is located in the Northeast 1/4 of S32, T35, R33. The U. S. Bureau of Land Management indicates that a patent for the Northeast 1/4 of the Northeast 1/4 of S31, T35, R33 was issued to James M. Brown in 1856. (See exhibit to agent file 8000079.)

Issuing a policy of title insurance containing overbroad exceptions, or exceptions that effectively invalidate the coverage offered by the policy is not sound underwriting. It is not a sound underwriting practice to include an exception for which there is no rational basis.

Reference: §381.071.1, RSMo

3. The agent collected a fee of \$100.00 for "Legal Services Charges" from the seller. A law firm had billed the agency a fee of \$75.00 for preparation of a deed agent file. The agent is not permitted to charge any fee for deed preparation.

Reference: §§484.010 and 484.020, RSMo, and *Eisel v Midwest BankCentre*, 230 SW3d 335 (Mo. 2008).

4. Charles Burt Realtors represented the sellers in this transaction. An order for examination of title and for closing of escrow was placed with the title agent by 3/21/2008, as indicated by receipt for earnest money of that date. The contract for sale of the real estate was

dated 3/21/2008. The principals of Charles Burt Realtors own a majority interest in Great American Title – Charles Burt Closing Company, the title agent in this transaction. The described affiliated business arrangement was disclosed to the buyer and the seller in writing on 4/14/2008. The disclosure of the affiliated business arrangement does not include a written estimate of the charge or range of charges generally made for the title services provided by the title agency. The transaction was closed on 4/14/2008. The agency failed to ensure prior to the transaction, that its customer was provided with disclosure of the existence of the affiliated business arrangement and a written estimate of the charge or range of charges generally made for the title services provided by the title agency. The affiliated business arrangement disclosure statement used in this transaction specifies that “agents of Charles Burt Realtors may receive a referral fee of up to \$100.00” if the parties use the services offered by the title agency.

An affiliated business arrangement permitting such a payment is prohibited.

Reference: §381.029.2, & .5, RSMo (Supp. 2007)

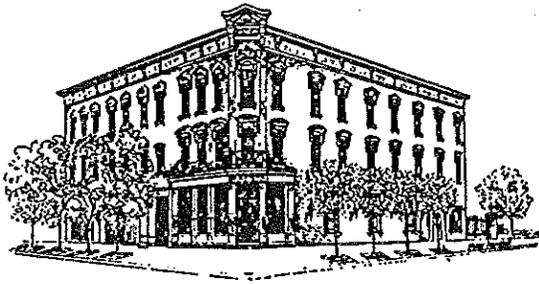
EXAMINATION REPORT SUBMISSION

Attached hereto is the Division of Insurance Market Regulation's Final Addendum Report of the examination of Lawyers Title Insurance Corporation (NAIC #20024), Examination Number 0612-67-PAC. This examination was conducted by Martha B. Long, Joseph Ott, and Ted Greenhouse. The findings in the Final Addendum Report were extracted from the Market Conduct Examiner's Draft Addendum Report, dated February 4, 2009. Any changes from the text of the Market Conduct Examiner's Draft Addendum Report reflected in this Final Addendum Report were made by the Chief Market Conduct Examiner or with the Chief Market Conduct Examiner's approval. This Final Addendum Report has been reviewed and approved by the undersigned.

Jim Mealer
Chief Market Conduct Examiner

Date

MONROE HOUSE LAW CENTER



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PROFESSIONAL REGISTRATION

**CONFIDENTIAL AND
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DISCUSSION PURPOSES ONLY**

Via Hand Delivery & E-mail
November 23, 2009

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Institutions and Professional Registration
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(1921-2008) John W. English
(1929-1991) Charles P. Dribben
(1906-2004) William Barton

of Counsel:
Andrew Jackson Higgins
Retired
Former Judge:
Sixth Judicial Circuit (1960-1964)
Missouri Supreme Court (1979-1991)

Re: Lawyers Title Insurance Company - Market Conduct Examination

Dear Carolyn:

Attached please find for filing by and on behalf of Lawyers Title Insurance Company ("Lawyers Title") the company's formal Response dated November 23, 2009, to the Department's draft Addendum Report dated November 3, 2009.

The company's reply draft Stipulation will be filed under separate cover.

Should you have any questions or wish to discuss this matter, please feel free to contact Mark Warren or me at 634-2522, or at our e-mail addresses of mwarren@englishmonaco.com and awarren@englishmonaco.com.

Thank you for all your courtesies with regard to this matter.

Sincerely,

Ann Monaco Warren
AMW/njw
Encl.

cc: Michael Rich (via E-mail w/encl)

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DEPT OF INSURANCE,
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PROFESSIONAL REGISTRATION

Response of
Lawyers Title Insurance Corporation
To
Market Conduct Examination Addendum Report

By
State of Missouri
Department of Insurance

NAIC Number 50024

Home Office
601 Riverside Avenue
Jacksonville, Florida 32204

November 23, 2009

Examination Number: 06-12-67-PAC

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GENERAL OBJECTIONS

The Market Conduct Examination Report (The Report) of the Missouri Department of Insurance (Department) raises many issues that have never been raised before by the Department in its examinations, notwithstanding that the practices in question have been constant for many years. Many of these criticisms are raised repetitively in the Report and would needlessly burden Fidelity National Title Insurance Company's (the Company) response to repeat its position at length each time it applies to an item in the Report.

In the interest of brevity and efficiency, the Company does not re-state the examiner's findings verbatim, but either cites the section of the Report, the applicable file or policy number, or, in the case of multiple criticisms of a particular transaction, the Company will paraphrase or briefly summarize the criticism. However, whether or not referred to specifically in any given response to any given criticism, the Company intends for these general objections to be applicable, as appropriate, to disputed criticisms in the report. Failure to include an objection in a response is not a waiver of the applicability of one or more applicable general objections to a criticism.

1. SOUND UNDERWRITING PRACTICES

The Company acknowledges its statutory obligation to employ sound underwriting practices and, in a few cases, the examiners have pointed out unsound underwriting practices.

However, the examiners have attempted to apply this term much more broadly than the meaning of the term permits. The General Assembly or the Director, by regulation, could define the term, but they have not done so. Therefore, the ordinary, everyday meaning ascribed to that phrase must be applied.

The generally accepted definition of the phrase "sound underwriting practice" is the acceptance of risk in a manner that will not unduly expose the Company to loss, with the potential of depleting its reserves to the detriment of other policyholders. The term has never been used to describe practices that push more of the risk onto the policyholder than might arguably be appropriate. Also, the term does not apply to practices that, while perhaps not technically perfect, do not expose the Company unduly to liability.

The fact that an examiner may reach a different conclusion from the agent or the insurer does not mean that a violation of 381.071 RSMo as occurred. Underwriters may themselves disagree as to the effect of a particular matter. Indeed, there may be some matters which an underwriter will agree to insure over. In some cases, an underwriter is guided by the legal opinion of the underwriter's counsel which may be at variance with the examiner. So long as the title search satisfies the statutory provisions and the exceptions are within the guidelines set forth by the insurer, an agent is not in violation of the statute even if the examiner disagrees with the agent.

The various transactions for which title insurance is provided are as unique as the individual tracts of land the policies insure. Underwriting is much more an art than a science. Just as each transaction and each party is unique, so are the title insurance issues that arise. It follows that the responses to these challenges by the insurer and its title insurance agent will be similarly varied. The Company and its agents strive to provide title insurance products and close transactions to the satisfaction of all parties. Just as there are numerous ways to interpret any artwork, there are numerous ways of interpreting the responses of the insurer and the agents to these challenges.

2. **ABSENCE OF PRINTED EXCEPTIONS IN LOAN POLICY SCHEDULE B**

Although most loan policies are issued without the general (printed exceptions), the Company is entitled to raise them in the loan policy, because they are in the commitment. (Unless, of course, the insured has bargained for their omission and has tendered the proper proofs to the issuing agent).

The historical reason they are not printed in the loan policy Schedule B is because many years ago, lenders expressed the preference that they not show up in the policies at all. The alternative to not printing the exceptions is to use Schedule B with the printed exceptions and then delete them by note. This requires the lender's document examiner to look for two things: the exception and the note removing it. Lenders claims that this practice creates an unnecessary step, and so many years ago, the title insurance industry acquiesced in the lenders' preferences.

It should be mentioned that the practice cited by the examiners has been followed by every title insurer in every state, including Missouri, for at least 40 years.

3. **UNLAWFUL DELEGATION OF LEGISLATIVE POWER**

The General Assembly has delegated rule-making authority to the Director of the Department of Insurance, and the Company acknowledges that many of the issues raised by the examiners could properly be the subject of valid regulation, but the Director has not seen fit to address them. A case in point cited numerous times in the Report is the use of "hold open" commitments. The Company, as most others in the industry in the latter part of 2004, instructed its agents to cease this practice due to concerns raised by the Department at that time. However, the Department never issued a written regulation prohibiting the practice.

The Company further acknowledges that the examiners have authority under law to not only apply the statute and regulations in their work, but also to formulate reasonable and logical extensions thereof.

The examiners may not, however, regulate through their examination reports. To the extent that the Director has authorized them to do so, the Company believes it is an unlawful delegation of legislative power.

If the examiners encounter what they believe are violations of statute or regulation which have been known to the Department for many years, and never raised on Market Conduct Examination in the past, they should seek the issuance of a ruling or regulation on the subject, with notice to regulated companies and an opportunity to conform. To do less is probably violative of both the United States and Missouri Constitutions.

4. **ISSUING AGENCY CONTRACT**

The Company is perplexed by the many references to its Issuing Agency Contracts and matters governed by them in its Report in the same contexts as if they were statutes or regulations to which the agency is subject. In a sense, they may be so, but these provisions are for the Company's benefit and their violation is not chargeable to the Company.

The Company objects to any assertion by the Department that the Company can be subject to sanction for breach of an agency or contractual provision that is *for the Company's benefit*.

5. **STATUS OF CERTAIN AGENTS**

The examination of Phoenix Title, Title Insurers Agency and America's Title Source reveal many alleged violations. The Company believes it is germane to point out to the Department that it has cancelled its Issuing Agency Contracts with those agencies, and, in fact, those agencies are no longer in business. Further, the Company has cancelled its Agency Contracts with Nations Title Agency, U.S. Title Guaranty and Investors Title. The Company is no longer represented by these agencies.

6. **DELAY OF POLICY ISSUANCE**

While not citing the Company or agent for a violation of law, the Company respectfully states that it is inappropriate to cite a law that became effective after the closing date of the examination to suggest disapproval of a practice that was lawful at the time of occurrence. The Company believes that any references to the issuance of a policy that would violate current §381.038.3 RSMo should be removed from the examination as being extraneous and unfair.

7. **FORFEITURE ASSERTED AGAINST UNDERWRITER FOR AGENCY VIOLATIONS**

Non-affiliated agencies are independent businesses, over which the Company has only a limited amount of control. The scope of the duties and authority granted to the agent or agency is expressly provided for in the agency agreement. In instances where the agent/agency has an independent obligation to comply with Missouri law, and where that duty is not one assumed by the insurer under the agency agreement, and where such

act or omission is outside the scope of his or her agency agreement, the Company is not liable for that violation and is not in violation of its legal obligations under Missouri law.

In some cases, violations of insurance laws and regulations might be suggestive of inadequate supervision by the underwriter. In other cases, however, the underwriter is blameless for the acts or omissions of the agency, and should not be held accountable. An example of this situation is the failure of agencies to furnish files or respond to examiners criticisms in a timely fashion. The Company has advised its agents of the importance of punctual compliance with the examiner's communications. It can do no more. In these cases, any penalty asserted should be against the agency and not the underwriter.

8. Timely Recording:

§381.412.1 RSMo reads:

A settlement agent who accepts funds of more than ten thousand dollars, but less than two million dollars, for closing a sale of an interest in real estate shall require a buyer, seller or lender who is not a financial institution to convey such funds to the settlement agent as certified funds. The settlement agent shall record all security instruments for such real estate closing within three business days of such closing after receipt of such certified funds. (emphasis added)

This statute was repealed and replaced by §381.026 RSMo on January 1, 2008. The law clearly recognizes that a settlement agent is responsible for timely recordation, not a title agent. A title agent has a limited agency authority from the Company and is an agent for purposes of title issuance, not settlement. The recordation of documents, while required for title issuance purposes, is not time dependent. Even though the State of Missouri may have required recordation within three business days prior to 2008, the failure of a settlement agent to comply did and still does not affect the insurability of the transaction or the legitimacy of the policy. The Company recognizes that under circumstances when its own employees may conduct settlement and arrange for the recordation of the document, a citation for a statutory violation for failure to record within three business days may be appropriate under the terms of the prior law. However, when the failure to record is the result of an act or omission of a person acting outside the scope of his or her agency agreement, the Company is not liable for that violation and is not in violation of its legal obligations under Missouri law.

9. Applicability of New Regulations

Numerous portions of the examiner's findings and reports and the stipulations seek to apply provisions of the title insurance act which became effective on January 1, 2008, retroactively for violations which occurred prior to the effective date of the new law. Also, there are numerous citations and use of regulations within 20 CSR 100-8.002 et. seq. which are applied in retroactive fashion. The Market Conduct Regulations

effective 11-30-08, likewise are not subject to retroactive applications. The prospective application of a statute is “presumed unless the legislature demonstrates a clear intent to apply the amended statute retroactively, or if the statute is procedural or remedial in nature. *Tina Ball -Sawyers v Blue Springs School District* (2009 WL1181501 Mo App. WD). Substantive laws “fix and declare primary rights and remedies of individuals concerning their person or property, while remedial statutes affect only the remedy provided, including laws that substitute a new or more appropriate remedy for the enforcement of an existing right. *Id citing Files v. Wetteru, Inc.* 998 SW 2nd 95 at 97 (Mo App. 1999). Ergo, to the extent that changes to the title law affect the rights and duties of the companies for which they are held responsible and are subject to penalty, they are Substantive and should not be applied retroactively.

Thus, we request that the Department modify its reports such that retroactive application of laws and regulations which affect substantive rights which result in a violation and forfeiture against the examined company be removed from the reports and the resulting draft stipulations be amended accordingly.

10. Scope of Agency & Statutory Separation of Duties Between Insurer and its Agent.

The Department also issued additional examination warrants to examine title agencies appointed to do business with Fidelity. Because of these examinations, the department examiners found alleged violations of various laws by agents doing business with the company. As a result of these examinations, the department is attempting to hold the company responsible as a principal for violations by its agent or an agent based on the conclusory statement that as the principal, Lawyer’s is responsible for the acts of its agent and is bound by agency principals for the agents actions.

In taking this improper position, the department ignores that fact that the company has an agency agreement with the agent which the agent is bound to follow. An “insurance agent, acting within the scope of his authority, actual or apparent, may bind an insurance company...” *Parshall v Buetzer* 195 SW 3rd 515. (Mo. App. W.D. 2006) citing *Voss v American Mutual Liability Insurance Company*, 341 SW 2nd 270, at 275 (Mo App.1960). Actual authority is the “power of an agent to affect the legal relations of the principal by acts done in accordance with the principal’s manifestation of consent to him”. *Id.*

Because the company is not bound by or responsible for the acts of an agent or agency acting outside the scope of the companies’ “manifestation of consent,” it is improper for the Department of Insurance to cite and fine the company for alleged acts of its agents which are outside the scope of the authority granted to them in their agency agreement. The attempt by the Department within the scope of a market conduct examination to abrogate well settled case law with respect to the duties of principals and agents is also improper. Further, the position taken by the Department would have the effect of allowing agents to ignore their agency agreements with the principal and violate the law at will knowing they will not be held accountable for their actions. The position

of the Department will also act to give agents or agencies apparent authority to commit actions, legal or illegal, with no accountability from the agent or agencies for their actions to the principal. Further, this represents an attempt by the Department to directly interfere with the contractual relationship of the principal and agent.

For example, Section 2 of a Nations Title Agency Agreement (used as an example here) states that the agent "itself and through its employees or officers approved by the company (authorized signatories) shall only have the authority on behalf of company to sign, counter-sign and issue commitments, binders, title insurance policies, and endorsements and under which company assumes liability for the condition of title to land (hereinafter sometimes referred to "title assurances"), and only on forms supplied and approved by company and only on real estate located in the territory and in such other territories as may be designated in writing by the company." Therefore, as can be seen from the above, the agent is required, for example, to only use forms supplied and approved by the company. Thus, and for example only, use of an improper form by an agent is in direct contravention of the agreement with the company. The company should not therefore be held responsible in a market conduct examination (or in any legal proceeding) for an act by an agent which obviously exceeds the scope of the agent or agencies authority.

It should also be noted that the title insurance law found in Chapter 381 nowhere states that a title insurance company is responsible for the acts of its agents outside the scope of their agency agreements. On the contrary, Chapter 381.011 (effective 1/1/08) states at 381.011.3 that "except as otherwise expressly provided in this Chapter and except where the contexts otherwise requires, all provisions of the laws of this state relating to insurance and insurance companies generally shall apply to title insurance, title insurers and title agents." Chapter 381 does not, therefore, make title companies responsible for acts of their agents, especially when the acts occur outside the scope of the agent's authority.

RESPONSE TO EXAMINATION FINDINGS¹

American Land Title LLC

No response required.

Accurate Title Company, LLC

No response required.

Davis Title

No response required.

NRT Settlement Services of Missouri, LLC (US Title)

File 8-08344

Owners Policy: C34-0075944

1. **RESPONSE:** The agent disputes this violation, responding in Crit J82, attached at Exhibit 1, by saying that there was nothing in the file to indicate that those remitting funds were to receive an interest or secure a lien in this cash transaction. The agent's file reflects that the sales contract was executed only by Charles Trettor, and the agent reasonably presumed the funds to be gift funds. The Company supports the agent. *See* General Objections 1, 3 and 10.
2. **RESPONSE:** The agent does not dispute this violation. *See* General Objections 1, 3 and 10.
3. **RESPONSE:** The agent does not dispute, stating that the agent added the language to be consistent with its other underwriters. *See* Exhibit 2. The Company disputes the alleged violation can be charged to the Company, contending that an agent choice to use a form other than the one provided by the Company is not chargeable to the Company as a violation. *See* General Objections 1, 3 and 10.
4. **RESPONSE:** The agent agrees with the examiner's comments set forth in Crit J85, attached as Exhibit 3; however, the agent contends there were extenuating circumstances, and that there was no indication that the two additional persons providing funds were intended to be buyer or seller; hence, there was no obligation to issue a closing protection letter. The Company disputes that the alleged violation can be charged to the Company since the references relate to settlement practices of the agent that are outside the scope of the agency agreement. *See* General Objections 1, 3 and 10.

¹ The Company will respond to each criticism in the order it appears in the Report without reproducing the text of the criticism.

File 8-09328

Loan Policy: not yet issued

RESPONSE: The agent does not dispute. *See* Crit J97, attached as Exhibit 4. The fee has been refunded to the customer. *See* Exhibit 5. The Company disputes that the alleged violation can be charged to the Company since the references relate to settlement practices of the agent that are outside the scope of the agency agreement. *See* General Objections 1, 3 and 10.

Residential Title Services, Inc.

No response required.

Tri-Lakes

No response required.

Freedom Title

No response required.

LandChoice Company, LLC

No response required.

American Heritage Abstract Company

No response required.

Bankers and Lenders Title, LLC.

File: 27356-07-2

Loan Policy: C34-0078004

RESPONSE: The agent disputes the alleged violation. Agent's response to Crit LT1, attached as Exhibit 6, states that the issue is whether Kozeny & McCubbin, L.C. or its owners are "producers" of business, and based upon the way business comes to Bankers & Lenders Title, L.C., that is not the case. The agent represents that Kozeny & McCubbin, L.C. is not a trustee for the seller, and that the "seller" is not the seller until Kozeny & McCubbin's role as trustee is complete. Seller may be directing the transaction to Bankers & Lenders, Title, L.C. because Kozeny & McCubbin, L.C. and Bankers and Lenders, L.C. are related entities, but Kozeny & McCubbin is not referring this business. The Company disputes that the alleged violation can be charged to the Company since the references relate to settlement practices of the agent that are outside the scope of the agency agreement. *See* General Objections 1, 3 and 10.

File: 2937-08-2

Loan Policy: C34-0078101

RESPONSE: The agent disputes the alleged violation. Agent's response to Crit LT2, attached as Exhibit 7, states that the issue is whether Kozeny & McCubbin, L.C. or its owners are "producers" of business, and based upon the way business comes to Bankers & Lenders Title, L.C., that is not the case. The agent represents that Kozeny & McCubbin, L.C. is not a trustee for the seller, and that the "seller" is not the seller until Kozeny & McCubbin's role as trustee is complete. Seller may be directing the transaction to Bankers & Lenders, Title, L.C. because Kozeny & McCubbin, L.C. and Bankers and Lenders, L.C. are related entities, but Kozeny & McCubbin is not referring this business. The Company disputes that the alleged violation can be charged to the Company since the references relate to settlement practices of the agent that are outside the scope of the agency agreement. *See* General Objections 1, 3 and 10.

File: 26820-07-2

Loan Policy: C34-0078100

RESPONSE: The agent disputes the alleged violation. Agent's response to Crit LT3, attached as Exhibit 8, states that the issue is whether Kozeny & McCubbin, L.C. or its owners are "producers" of business, and based upon the way business comes to Bankers & Lenders Title, L.C., that is not the case. The agent represents that Kozeny & McCubbin, L.C. is not a trustee for the seller, and that the "seller" is not the seller until Kozeny & McCubbin's role as trustee is complete. Seller may be directing the transaction to Bankers & Lenders, Title, L.C. because Kozeny & McCubbin, L.C. and Bankers and Lenders, L.C. are related entities, but Kozeny & McCubbin is not referring this business. The Company disputes that the alleged violation can be charged to the Company since the references relate to settlement practices of the agent that are outside the scope of the agency agreement. *See* General Objections 1, 3 and 10.

Investors Title

No response required.

Jasper County Title Company, Inc.

No response required.

St. Joseph Title and Abstract Company

No response required.

Tri-Lakes Metro (LandChoice)

No response required.

Great American Title Group

File 81179

Loan policy: Not yet issued.

RESPONSE: The agent disputes this violation and the Company supports the agent. The agent notes that the assessor map shows the existence of a public road, and given that the legal description includes that public road, the agent believed it to be a sound underwriting practice, as it is the given and customary practice to except any part of the legal description that lies within a public right of way. In such an instance, the agent can rely on custom and practice as it exists in its locale. The agent also noted that it has reminded its examiners to be cautious when making exceptions in title commitments that may be seen as unwarranted or unnecessary. The Company disputes that the alleged violation can be charged to the Company. *See* Exhibit 9. *See* General Objections 1, 3 and 10.

File 8000079

Owner policy: Not yet issued.

1. **RESPONSE:** The agent disagrees and states in its response to Crit J75, attached as Exhibit 10, that it has instructed its agents not to modify or create legal descriptions, but instead to use either the historic legal description or that provided by a licensed surveyor. The legal description provided did contain the following language: "Subject to road right of ways and easements, public and private, as may now be located." The Company disputes that the alleged violation can be charged to the Company. *See* General Objections 1, 3 and 10.

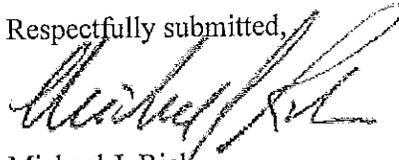
2. **RESPONSE:** The agent does not dispute. *See* Exhibit 11. The Company disputes that the alleged violation can be charged to the Company. *See* General Objections 1, 3 and 10.

3. **RESPONSE:** The agent disputes, noting that it did not charge a fee for deed preparation, but did charge a \$25.00 fee to defray costs it incurred in connection with having to get a local law firm to prepare the deed. *See* Exhibit 12. The Company disputes that the alleged violation can be charged to the Company since the references relate to settlement practices of the agent that are outside the scope of the agency agreement. *See* General Objections 1, 3 and 10.

4.² **RESPONSE:** The agent disagrees, responding that it was the practice of Great American Title – Charles Burt Closing Company to provide disclosure of the affiliate business arrangement at the time the listing was secured. The agent cites confusion with the statute itself, representing that at no time was it contemplated that this was a fee to be paid by the title agency to the referring real estate agent. *See* Exhibit 13. The Company disputes that the alleged violation can be charged to the Company since the references relate to settlement practices of the agent that are outside the scope of the agency agreement. *See* General Objections 1, 3 and 10.

² Note that the report states that there were four errors but the fourth error was preceded by the numeral 5.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael J. Rich". The signature is written in a cursive style with a large, stylized initial "M".

Michael J. Rich
Vice President and Regulatory Counsel

Exhibit 1

Matt Blunt
Governor
State of Missouri



Department of Insurance
Financial Institutions
and Professional Registration
Linda Bohrer, Acting Director

INSURANCE MARKET REGULATION DIVISION

Lawyers Title Insurance Corporation

NAIC # 50024

Exam # 06-09-40-TGT

Formal Criticism

Criticism No: J82

Subject: Interests acquired not identified.
Date Submitted: July 10, 2008
(Electronic copy of file in folder labeled U S Title Files)
Owner: Tretter
Expected Date of Return: July 20, 2008

Examiner: Joseph K. Ott
Reference: Agent File 8-08344
Policy number: C34-0075944
Date Returned: ___/___/___
(For Examiner Use Only)

Examiner Comment:

The purchase price in this transaction was \$25,100.00 (page 70 of agent's file). The contract named the purchaser as Charles Tretter and the deed names the contract purchaser as the grantee (page 62). The transaction was closed in escrow by the agent on 5/30/2008 (page 65).

The purchase price and related expenses were paid in part by a cashier's check dated 5/7/2008 in the amount of \$8,055.00 showing the remitter as Cynthia G. Ellegood (page 54), in part by a cashier's check dated 5/5/2008 in the amount of \$8,500.00 showing the remitter as Charles G. Tretter (page 55), and in part by a cashier's check dated 5/7/2008 in the amount of \$8,000.00 showing the remitter as Patricia Ann Speed (page 49). It appears that approximately two thirds of the interests in the property were acquired by individuals other than the insured owner. The examiner finds no indication in this file of any inquiry by the agent as to the purpose of funds supplied by parties other than the insured.

The agent failed to make a determination of insurability in accordance with sound underwriting practices. Sound underwriting practices include basing insuring decisions on a reasonable analysis of any available indications of interests being acquired in the property.

Reference: Section 381.071.1 (2), RSMo. (2008).

Company Response: While source of funds may be a concern, there was nothing in our file to indicate they were to receive an interest or secure a lien in this cash transaction. Sales contract was executed by Charles Tretter only. These funds were presumed as gift funds.

Agrees: ___ Disagrees: X Authorized Respondent: _____

The examiner comments reflect the opinion of the Market Conduct Examiner. These comments do not reflect the opinion of the Department of Insurance, Financial Institutions and Professional Registration. If you do not agree with the examiner comments, attach all relevant documentation that you believe substantiate your response. Section 374.205.2(2), RSMo allows a 10 calendar day response time. If you are unable to fully respond within this time frame, please let the examiner know before the tenth calendar day.

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Exhibit 2

Matt Blunt
Governor
State of Missouri



Department of Insurance
Financial Institutions
and Professional Registration
Linda Bohrer, Acting Director

INSURANCE MARKET REGULATION DIVISION

Lawyers Title Insurance Corporation

NAIC # 50024

Exam # 06-09-40-TGT

Formal Criticism

Criticism No: J84

Subject: Commitment language not in form.
Date Submitted: July 10, 2008
(Electronic copy of file in folder labeled U S Title Files)
Owner: Tretter
Expected Date of Return: July 20, 2008

Examiner: Joseph K. Ott
Reference: Agent File 8-08344
Policy number: C34-0075944

Date Returned: ___/___/___
(For Examiner Use Only)

Examiner Comment:

Schedule B-I of the commitment (page 56 of agent file) as issued contains the following disclaimer:

This commitment is not an abstract, examination, report, or representation of fact or title and does not create and shall not be the basis of any claim for negligence, negligent misrepresentation or other tort claim or action. The sole liability of company and its title insurance agent shall arise under and be governed by the conditions of the commitment and/ or policy subsequently issued.

The quoted language is not a part of the form of commitment filed by the insurer with the director of the Missouri Department of Insurance Financial Institutions and Professional Regulation. (See Adobe Acrobat document labeled LTIC commitment forms.) The company and the agent may not use forms not filed with the director.

Reference: Section 381.085, RSMo. (2008).

Company Response: We agree that this language is not part of the filed forms by Lawyers. As we have a number of underwriters, we added the language as a specific code to be consistent with one of our underwriters, Stewart Title (see Bulletin attached from J79). Since this audit review it has come to our attention that similar language is contained in the ALTA 2006 Commitment form and no longer required to list separately.

Agrees: Disagrees: Authorized Respondent: _____

The examiner comments reflect the opinion of the Market Conduct Examiner. These comments do not reflect the opinion of the Department of Insurance, Financial Institutions and Professional Registration. If you do not agree with the examiner comments, attach all relevant documentation that you believe substantiate your response. Section 374.205.2(2), RSMo allows a 10 calendar day response time. If you are unable to fully respond within this time frame, please let the examiner know before the tenth calendar day.

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Exhibit 3

Matt Blunt
Governor
State of Missouri



Department of Insurance
Financial Institutions
and Professional Registration
Linda Bohrer, Acting Director

INSURANCE MARKET REGULATION DIVISION

Lawyers Title Insurance Corporation

NAIC # 50024

Exam # 06-09-40-TGT

Formal Criticism

Criticism No: J85

Subject: Closing protection letter.

Date Submitted: July 10, 2008

(Electronic copy of file in folder labeled U S Title Files)

Examiner: Joseph K. Ott

Reference: Agent File 8-08344

Policy number: C34-0075944

Owner: Tretter

Expected Date of Return: July 20, 2008

Date Returned: ___/___/___

(For Examiner Use Only)

Examiner Comment:

The agent accepted funds for purchase of the property into escrow on 5/5/2008 (page 52 of agent file). The agent accepted additional funds to be held in escrow for purchase of the property and issued receipts for such funds on 5/8/2008 (pages 49, 54, and 55).

The agent obtained a closing protection letter for Charles Tretter, the contract buyer, dated 5/30/2008, the date of the closing (page 81). The agent held funds provided by Tretter in escrow for 25 calendar days before providing the closing protection letter.

Certain funds for purchase of the property were provided by a person named Cynthia G. Ellegood on 5/8/2008 and by a person named Patricia Ann Speed on 5/8/2008. The agent did not obtain any written instructions for disposition of the funds provided by Cynthia G. Ellegood and Patricia Ann Speed. The agent did not provide closing protection letters to Cynthia G. Ellegood and Patricia Ann Speed. There is no indication that the agent provided any notice to Cynthia G. Ellegood and Patricia Ann Speed that no title insurer was providing any protection for their closing or settlement funds received by the title agent.

The title agent provided a closing protection letter issued by Stewart Title Guaranty to the seller under date of 5/29/2008 (page 115). The underwriter for the transaction was changed from Stewart Title Guaranty to Lawyers Title Insurance Corporation on 5/29/2008 (page 48). No closing protection letter was issued to the seller by Lawyers Title Insurance Corporation. The agent did not provide any notice to the seller that no title insurer was providing any protection for their closing or settlement funds received by the title agent.

The title agent is permitted to distribute funds only in accordance with written escrow instructions.

The title agent is not ordinarily permitted to act as an escrow agent unless closing protection letters have been issued. Accepting funds for deposit to escrow constitutes acting as an escrow agent.

References: 381.022, RSMo. (2008) and 20 CSR 500 - 7.060 (Emergency Rule effective 1/28/2008)

Company Response: We agree, however, there were extenuating circumstances due to multiple primary contracts. U.S. Title's position required termination of one of the contracts before proceeding with closing and issuance of CPL and title insurance. There was no indication that Cynthia and Patricia were intended to be buyer or seller and therefore not obligated to issue CPL. While source of funds may be a concern, there was nothing in our file to indicate they were to receive an interest or secure a lien in this cash transaction. Sales contract was executed by Charles Tretter only. These funds were presumed as gift funds.

Agrees: Disagrees: Authorized Respondent: _____

The examiner comments reflect the opinion of the Market Conduct Examiner. These comments do not reflect the opinion of the Department of Insurance, Financial Institutions and Professional Registration. If you do not agree with the examiner comments, attach all relevant documentation that you believe substantiate your response. Section 374.205.2(2), RSMo allows a 10 calendar day response time. If you are unable to fully respond within this time frame, please let the examiner know before the tenth calendar day.

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First American Title Insurance Company

Thursday, May 29, 2008 4:23:24 PM

SELLER'S CLOSING PROTECTION LETTER

Cartus Financial Corporation
40 Apple Ridge
Danbury, CT 06810

AgentID: 0-09303E/1642405

Issuing Agent:

U.S. Title Guaranty Company
3779 Haw Town Blvd.
St. Charles, MO - 63301
Phone: (636) 946-6660

Transaction (hereafter, "the Real Estate Transaction"): David and Kelly Ilardi to Tamirat Shebu and
Ayalmash Maile, 2948 Galaxy Place, Maryland Heights, MO 63043

Re: Closing Protection Letter

Dear Madam or Sir:

First American Title Insurance Company (the "Company") agrees, subject to the Conditions and Exclusions set forth below, to reimburse you for actual loss incurred by you, in connection with the closing of the Real Estate Transaction conducted by the Issuing Agent, provided:

(A) A Commitment or Policy of the Company is issued in connection with the closing of the Real Estate Transaction;

(B) You are to be the seller or lessor of an interest in land; and,

(C) The protection offered herein shall not exceed the lesser of five million dollars \$5,000,000.00 or the amount of settlement funds due you in the Real Estate Transaction held by the Issuing Agent;

and provided the loss arises out of:

Acts of theft of settlement funds or fraud with regard to settlement funds by the Issuing Agent in connection with such closing.

Conditions and Exclusions

1. The Company will not be liable to you for loss arising out of:

A. Loss or impairment of settlement funds in the course of collection or while on deposit with a bank due to bank failure, insolvency or suspension, except as shall result from failure of the Issuing Agent to comply with your written closing instructions to deposit the funds in a bank which you designated by name.

B. Fraud, dishonesty or negligence of your employee, agent, attorney or broker.

C. Your settlement or release of any claim without the written consent of the Company.

D. Any matters created, suffered, assumed or agreed to by you or known to you.

E. Loss or impairment of your funds if held by or disbursed to the Issuing Agent, subsequent to the closing of the Real Estate Transaction, if the Issuing Agent acts in the capacity of an IRC Section 1031 qualified intermediary or facilitator.

2. The protection offered herein shall not exceed the lesser of five million dollars \$5,000,000.00 or the amount of settlement funds due you in the Real Estate Transaction held by the Issuing Agent.

3. When the Company shall have reimbursed you pursuant to this letter, it shall be subrogated to all rights and remedies which you would have had against any person or property had you not been so reimbursed. Liability of the Company for such reimbursement shall be reduced to the extent that you have knowingly and voluntarily impaired the value of this right of subrogation.

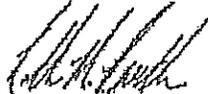
4. The Issuing Agent in the Company's agent only for the limited purpose of issuing title insurance policies, and is not the Company's agent for the purpose of providing other closing or settlement services. The Company's liability for your losses arising from those other closing or settlement services is strictly limited to the protection expressly provided in this letter. Any liability of the Company for loss does not include liability for loss resulting from the negligence, fraud or bad faith of any party to the Real Estate Transaction other than an Issuing Agent, the lack of creditworthiness of any borrower connected with the Real Estate Transaction, or the failure of any collateral to adequately secure a loan connected with the Real Estate Transaction. However, this letter does not affect the Company's liability with respect to its title insurance binders, commitments or policies.

5. You must promptly send written notice of a claim under this letter to the Company at its principal office at 1 First American Way, Santa Ana, CA 92707, ATTN: Claims Department. The Company is not liable for a loss if the written notice is not received within one year from the date of the closing.

6. The protection herein offered extends only to real property transactions in Missouri.

Any previous closing protection letter or similar agreement provided to you is hereby cancelled only with respect to the Real Estate Transaction.

FIRST AMERICAN TITLE INSURANCE COMPANY



Nate Reissetter
Regional Agency Manager

Digital Signature: HASH8995157BPS12314B2RC31ACDF84C6994

You Can View This CPL At:

<http://letters.closingprotection.com/First American-KWH/ClosingLetters/2008/05/29/20080529162324375.pdf>

Exhibit 4

US Title

Matt Blunt
Governor
State of Missouri



Department of Insurance
Financial Institutions
and Professional Registration
Linda Bohrer, Acting Director

INSURANCE MARKET REGULATION DIVISION

Lawyers Title Insurance Corporation

NAIC # 50024

Exam # 06-09-40-TGT

Formal Criticism

Criticism No: J97

Subject: Fee without service.

Date Submitted: August 18, 2008

(Electronic copy of file in folder labeled U S Title Files)

Policy number: MP: Not yet issued, pending

Owner: Cole

Expected Date of Return: August 28, 2008

____/____/____

Examiner: Joseph K. Ott

Reference: Agent File 8-09328

Date Returned:

(For Examiner Use Only)

Examiner Comment:

The agent closed this sale transaction in escrow on 6/4/2008. The agent disbursed funds from escrow on 6/4/2008 and recorded the deeds on 6/6/2008.

The policy had not been issued by 7/17/2008, the date the agency supplied the file for review by the examiner.

The agent satisfied one mortgage from escrow. The lender in that mortgage charged and collected a release recording fee (page 88 of agent file). The agent separately collected a fee of \$60.00 for recording the release. Having been paid a fee for recording the release, the lender is required to do so. The title agent had no basis for any belief that release would be sent to the agent for recording, and the agent had no basis for collecting the release recording charges. The agent may not charge a fee for which no or nominal services are performed.

References: Section 443.130, RSMo. (2004) and RESPA 24 CFR 3500.14(c).

Company Response: After review of file, it has been determined an error was made regarding this charge. Customer will be refunded \$60.

Agrees: Disagrees: Authorized Respondent: _____

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Exhibit 5

U.S. TITLE

*** www.us-title.com ***

USbank

367460

Escrow Account
7930 Clayton Rd, Ste 200, St. Louis, MO 63117
(314)727-2900

FILE #
8-09328

DATE
8/27/2008

4-21/810

PAY Sixty and 0/100 Dollars
TO THE Robert Cole IV and Ernestine Cole
ORDER OF
27 Orchard Trace Lane
Wildwood MO 63040

\$60.00
Void after 90 days
Amanda Dool

MEMO

⑈ 367460 ⑈ ⑆ 08 1000 210 ⑆ 152304517963 ⑈

File #: 8-09328 8/27/2008
Buyer: Robert Cole IV and Ernestine Cole
Seller:
Prop Addr: 27 Orchard Trace Lane, Wildwood, MO 63040

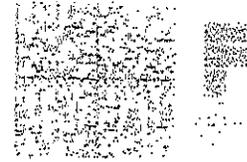
367460

60.00

Robert Cole IV and Ernestine Cole
27 Orchard Trace Lane
Wildwood MO 63040

U.S. TITLE
*** www.us-title.com ***

7930 Clayton Road, Suite 200
Saint Louis, MO 63117



Robert Cole IV and Ernestine Cole
27 Orchard Trace Lane
Wildwood MO 63040



U.S. TITLE
☆☆☆ www.us-title.com ☆☆☆

August 28, 2008

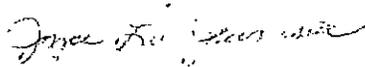
Robert Cole IV and Ernestine Cole
27 Orchard Trace Lane
Wildwood MO 63040

Re: 8-09328

Dear Mr. & Mrs. Cole,

Regarding your recent closing on May 30, 2008 with U.S. Title, enclosed please find check #367460 in the amount of \$60. Said check represents refund of payment for the release of prior mortgage. After the closing it was determined these fees were included in your payoff and paid for by your prior lender. Should you have any questions regarding this payment, please do not hesitate to contact me at 314-727-2900.

Sincerely,



Joyce Lajeunesse

enc.

7930 Clayton Road, Suite 200
St. Louis, MO 63117
(314) 727-2900
Fax (314) 727-8249

Exhibit 6

Matt Blunt
Governor
State of Missouri



Department of Insurance
Financial Institutions
and Professional Registration
Linda Bohrer, Acting Director

Lawyers Title Insurance Corporation

NAIC # 50024

Criticism No: LTI

Subject: Affiliated Business Disclosures

Date Submitted: 09-04-2008

Policy Number: C34-0078004

Expected Date of Return: 09-14-2008

Agent Order/File No.: UPTDAASC

Examiner: Greenhouse

File No.: 27356-07-2

No Scanned DVD File Copy Available

Agent: Bankers & Lenders Title, L.C.

12101 Woodcrest Executive Dr., St. L, MO

Date Returned: ___/___/___

Examiner Comment: Kozeny & McCubbin, L.C. is the sole owner of Bankers & Lenders, L.C. Kozeny & McCubbin L.C. is the duly appointed successor trustee by Deutsche Bank National Trust Company, as trustee for Morgan Stanley Loan Trust, (hereinafter, seller).

This transaction closed at Bankers and Lenders, L.C. Kozeny & McCubbin, L.C. was in a position to refer business to Bankers and Lenders, L.C. However, there is no indication in file that Bankers & Lenders Title, L.C. informed parties to the transaction in writing of the relationship between the title insurance agency and the law firm.

Kozeny & McCubbin, L.C. owned by Wesley T. Kozeny and Gary McCubbin benefits financially from business closed at Bankers and Lenders, L.C. This business relationship should be disclosed to the insured parties, especially in light of the fact that Kozeny & McCubbin, L.C. as trustees for the sellers, is in a position to direct the business. Subject relationship is evidenced in the sales contract to a title agency that is owned by Kozeny & McCubbin, L.C. thereby benefitting financially.

When the business to be written constitutes an affiliated business, prior to commencing the transaction, the title insurer, title agent or title agent, shall ensure that its customer has been provided with disclosure of the existence of the affiliated business arrangement and a written estimate of the charge or range of charges generally make for the title services provided by the title insurer, title agency, or title agency, or title agent. § 381.029.2, RSMo see also 12 USC 2607 and 24 CFR 3500.15 and 3500.14.

The agent failed to ensure that its customer, the buyer, has been provided with disclosure of the existence of the affiliated business arrangement.

Reference: § 381.029.2, RSMo

Company Response:

The issue is whether Kozeny & McCubbin, L.C. ("KM") or the owners (Wes Kozeny and Gary McCubbin) are "producers" of business. Based upon the way the business comes to Bankers and Lenders Title ("BLT") that is not the case.

KM is not a trustee for the Seller. First, the "Seller" is not the Seller until KM's role as trustee is complete; until then they are just a lender. Second, the REO referral is generally from a separate entity, or at least from a separate

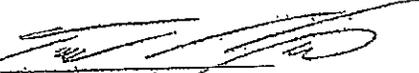
department if within the same entity. Seller may be directing the REO transaction to BLT because KM and BLT are related entities, but KM is not referring that business.

KM's trustee role is not general, it is limited to the powers given them in the deed of trust securing the Note. Therefore, KM does not have the power to direct the referral of title business.

RSMo 381.029, Section 1(5) defines referral; specifically with respect to the direction of title insurance business. First, KM doesn't have any power or influence over their client. The clients are not directing the buyers to KM even under circumstances where the seller pays the policy cost. The fact that the seller may contract with the buyer to close a certain place has absolutely nothing to do with KM nor is it within KM's control or influence.

The party paying for the policy, whether under a contract provision or otherwise, is, "producer" of the business.

Agrees _____ Disagrees: X Authorized Respondent: _____


Ted D. Disabato

The examiner comments reflect the opinion of the Market Conduct Examiner. **These comments do not reflect the opinion of the Department of Insurance, Financial Institutions and Professional Registration.** If you do not agree with the examiner comments, attach all relevant documentation that you believe substantiate your response. Section 374.205.2(2), RSMo allows a 10 calendar day response time. If you are unable to fully respond within this time frame, please let the examiner know before the tenth calendar day.

Exhibit 7

Matt Blunt
Governor
State of Missouri



Department of Insurance
Financial Institutions
and Professional Registration
Linda Bohrer, Acting Director

Lawyers Title Insurance Corporation
NAIC # 50024
Criticism No: LT2

Subject: Affiliated Business Disclosures
Date Submitted: 09-04-2008
Policy Number: C34-0078101
Expected Date of Return: 09-14-2008
Agent Order/File No.: HICKAASC

Examiner: Greenhouse
File No.: 29327-08-2
No Scanned DVD File Copy Available
Agent: Bankers & Lenders Title, L.C.
12101 Woodcrest Executive Dr., St.L, MO
Date Returned: 12/16/08

Examiner Comment: Kozeny & McCubbin, L.C. is the sole owner of Bankers & Lenders, L.C. Kozeny & McCubbin L.C. is the duly appointed successor trustee by U.S. Bank National Association, as trustee for Credit Suisse Trust, (hereinafter, seller).

This transaction closed at Bankers and Lenders, L.C. Kozeny & McCubbin, L.C. was in a position to refer business to Bankers and Lenders, L.C. However, there is no indication in file that Bankers & Lenders Title, L.C. informed parties to the transaction in writing of the relationship between the title insurance agency and the law firm.

Kozeny & McCubbin, L.C. owned by Wesley T. Kozeny and Gary McCubbin benefits financially from business closed at Bankers and Lenders, L.C. This business relationship should be disclosed to the insured parties, especially in light of the fact that Kozeny & McCubbin, L.C. as trustees for the sellers, is in a position to direct the business. Subject relationship is evidenced in the sales contract to a title agency that is owned by Kozeny & McCubbin, L.C. thereby benefitting financially.

When the business to be written constitutes an affiliated business, prior to commencing the transaction, the title insurer, title agent or title agent, shall ensure that its customer has been provided with disclosure of the existence of the affiliated business arrangement and a written estimate of the charge or range of charges generally make for the title services provided by the title insurer, title agency, or title agency, or title agent. § 381.029.2, RSMo see also 12 USC 2607 and 24 CFR 3500.15 and 3500.14.

The agent failed to ensure that its customer, the buyer, has been provided with disclosure of the existence of the affiliated business arrangement.

Reference: § 381.029.2, RSMo
Company Response:

The issue is whether Kozeny & McCubbin, L.C. ("KM") or the owners (Wes Kozeny & Garry McCubbin) are "producers" of business. Based upon the way the business comes to Bankers & Lenders Title ("BLT"), that is not the case.

KM is not a trustee for the Seller. First the "Seller" is not the Seller until KM's role as trustee is complete; until then they are just a lender. Second, the REO referral is generally from a separate entity, or at least from a separate department if within the same entity. Seller may be directing the REO transaction to BLT because KM and BLT are related entities, but KM is not referring the business.

KM's trustee role is not general; it is limited to the powers given them in the deed of trust securing the Note. Therefore, KM does not have the power to direct the referral of title business.

RSMo 381.029, Section 1(5) defines referral: specifically with respect to the direction of title insurance business. First, KM doesn't have any power or influence over the client. The clients are not directing the buyers to KM even under the circumstances where the seller pays the policy cost. The fact that the seller may contract with the buyer to close a certain place has absolutely nothing to do with KM nor is it within KM's control or influence.

The party paying for the policy, whether under a contract provision or otherwise, is "producer" of the business.

Agrees _____ Disagrees: Authorized Respondent: John Drickwood
The examiner comments reflect the opinion of the Market Conduct Examiner. **These comments do not reflect the opinion of the Department of Insurance, Financial Institutions and Professional Registration.** If you do not agree with the examiner comments, attach all relevant documentation that you believe substantiate your response. Section 374.205.2(2), RSMo allows a 10 calendar day response time. If you are unable to fully respond within this time frame, please let the examiner know before the tenth calendar day.

Exhibit 8

Matt Blunt
Governor
State of Missouri



Department of Insurance
Financial Institutions
and Professional Registration
Linda Bohrer, Acting Director

Lawyers Title Insurance Corporation

NAIC # 50024

Criticism No: LT3

Subject: Affiliated Business Disclosures
Date Submitted: 12-16-2008
Policy Number: C34-0078100
Expected Date of Return: 12-26-2008

Examiner: Greenhouse
File No.: 26820-07-2
No Scanned DVD File Copy Available
Agent: Bankers & Lenders Title, L.C.
12101 Woodcrest Executive Dr., St.L, MO
Date Returned: 12/16/08

Examiner Comment: Kozeny & McCubbin, L.C. is the sole owner of Bankers & Lenders, L.C. Kozeny & McCubbin L.C. is the duly appointed successor trustee by Deutsche Bank National Trust Company, as trustee for Morgan Stanley Loan Trust, (hereinafter, seller).

This transaction closed at Bankers and Lenders, L.C. Kozeny & McCubbin, L.C. was in a position to refer business to Bankers and Lenders, L.C. However, there is no indication in file that Bankers & Lenders Title, L.C. informed parties to the transaction in writing of the relationship between the title insurance agency and the law firm.

Kozeny & McCubbin, L.C. owned by Wesley T. Kozeny and Gary McCubbin benefits financially from business closed at Bankers and Lenders, L.C. This business relationship should be disclosed to the insured parties, especially in light of the fact that Kozeny & McCubbin, L.C. as trustees for the sellers, is in a position to direct the business. Subject relationship is evidenced in the sales contract to a title agency that is owned by Kozeny & McCubbin, L.C. thereby benefitting financially.

When the business to be written constitutes an affiliated business, prior to commencing the transaction, the title insurer, title agent or title agent, shall ensure that its customer has been provided with disclosure of the existence of the affiliated business arrangement and a written estimate of the charge or range of charges generally make for the title services provided by the title insurer, title agency, or title agency, or title agent. § 381.029.2, RSMo see also 12 USC 2607 and 24 CFR 3500.15 and 3500.14.

The agent failed to ensure that its customer, the buyer, has been provided with disclosure of the existence of the affiliated business arrangement.

Reference: § 381.029.2, RSMo
Company Response:

The issue is whether Kozeny & McCubbin, L.C. ("KM") or the owners (Wes Kozeny & Garry McCubbin) are "producers" of business. Based upon the way the business comes to Bankers and Lenders Title ("BLT") that is not the case.

KM is not a trustee for the Seller. First the "Seller" is not the Seller until KM's role as trustee is complete; until then they are just a lender. Second, the REO referral is generally from a separate entity, or at least from a separate department if within the same entity. Seller may be directing the REO transaction to BLT because KM and BLT are related entities, but KM is not referring the business.

KM's trustee role is not general, it is limited to the powers given them in the deed of trust securing the Note. Therefore, KM does not have the power to direct the referral of title business.

RSMo 381.029, Section 1(5) defines referral: specifically with respect to the direction of title insurance business. First, KM doesn't have any power or influence over their client. The clients are not directing the buyers to KM even under circumstances where the seller pays the policy cost. The fact that the seller may contract with the buyer to close a certain place has absolutely nothing to do with KM nor is it within KM's control or influence.

The party paying for the policy, whether under a contract provision or otherwise, is, "producer" of the the business.

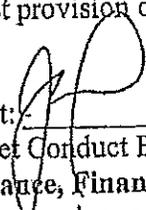
Agrees _____ Disagrees: Authorized Respondent:  John Duckworth
The examiner comments reflect the opinion of the Market Conduct Examiner. These comments do not reflect the opinion of the Department of Insurance, Financial Institutions and Professional Registration. If you do not agree with the examiner comments, attach all relevant documentation that you believe substantiate your response. Section 374.205.2(2), RSMo allows a 10 calendar day response time. If you are unable to fully respond within this time frame, please let the examiner know before the tenth calendar day.

Exhibit 9

Matt Blunt
Governor
State of Missouri



Department of Insurance
Financial Institutions
and Professional Registration
Linda Bohrer, Acting Director

INSURANCE MARKET REGULATION DIVISION

Lawyers Title Insurance Corporation

NAIC # 50024

Exam # 06-09-40-TGT

Formal Criticism

Criticism No: J73

Subject: Recitals not clear/ Great American Title **Examiner:** Joseph K. Ott
Date Submitted: June 11, 2008 **Reference:** Agent File 81179
(Maintained as paper file.)
Policy number: Loan policy, not yet issued **Owner:** Batson
Expected Date of Return: June 21, 2008 **Date Returned:** ___/___/___
(For Examiner Use Only)

Examiner Comment:

In issuing the commitment to insure, the agent added language to the description excepting out "any part taken or used for roads." The agent's file contains no information providing a basis for appending the language to the land description.

By description, the insured parcel includes within its boundaries part of a public right of way. The agent made no exception for this significant known matter. Omission of a known exception to title is an unsound underwriting practice.

The agent included exceptions for changes in the property boundary by reason of references in the land description to the center of a public road and an existing fence. Such monuments can ordinarily be located by survey and do not cause shifts in boundaries. (Difficulty in locating the fence or the public road may cause controversy but such difficulty is different in character from an exception for changing boundaries.)

The commitment proposes the issuance of a 2006 ALTA loan policy. The agent wrote an exception indicating that a standard exception would be deleted when the policy was issued. The referenced standard exception is not a part of the insurer's commitment for a loan policy. The 2006 ALTA loan policy provides that many title defects discoverable by survey are covered matters under the policy.

Sound underwriting practices rarely include making changes to legal descriptions, and do include excepting for known matters affecting the insured title and drafting title exceptions that clearly describe the matter not insured.

Reference: Sections 381.071.1, RSMo.

Company Response:

1. As a part of the examination process, we secured a copy of an assessor map which shows the existence of a public road. Given our legal description includes that public road, we believed it to be a sound underwriting practice, as is the given and customary practice to except any part of the legal description that lies within a public right of way. This is where notice is customarily provided to the insured. Were we to be provided a survey that is monumented to the boundary adjacent to the insured property, we would amend our insured legal description. The borrower did not take title to that part in the road. Thus the borrower

could not affirmatively represent and warrant to the lender that they were possessed of good title. Given that, we took the position that were we to include that portion in the road as a part of the insured legal, the lender would have potentially assumed there was more collateral than they were entitled to in the event of foreclosure.

All lenders require survey coverage as a part of their transactions. The title examiner was merely attempting to convey to the lender in an affirmative manner that survey coverage would be provided as a part of the proposed transaction.

We have reminded our examiners to be cautious when making exceptions in title commitments that are unwarranted or unnecessary.

Agrees: Disagrees: Authorized Respondent: 

The examiner comments reflect the opinion of the Market Conduct Examiner. These comments do not reflect the opinion of the Department of Insurance, Financial Institutions and Professional Registration. If you do not agree with the examiner comments, attach all relevant documentation that you believe substantiate your response. Section 374.205.2(2), RSMo allows a 10 calendar day response time. If you are unable to fully respond within this time frame, please let the examiner know before the tenth calendar day.

Confidentiality Notice: The information contained in this transmission is confidential, proprietary or privileged and may be subject to protection under the law, including attorney-client privilege and/or the Health Insurance Portability and Accountability Act (HIPAA). The message is intended for the sole use of the individual or entity to whom it is addressed. If you are not the intended recipient, you are notified that any use, distribution or copying of the message is strictly prohibited.

Apr. 10. 2008 11:46AM

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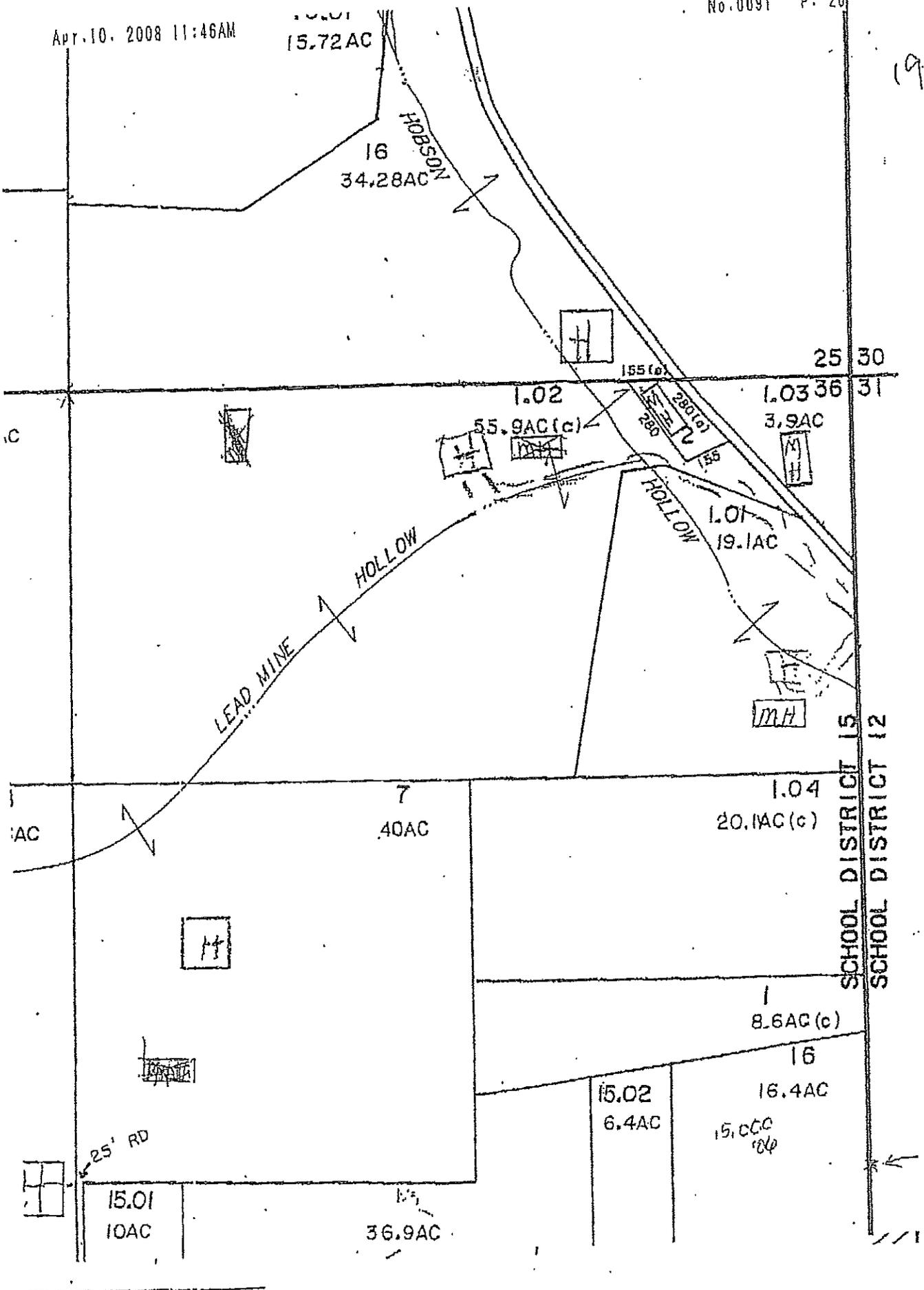


Exhibit 10

Matt Blunt
Governor
State of Missouri



Department of Insurance
Financial Institutions
and Professional Registration
Linda Bohrer, Acting Director

INSURANCE MARKET REGULATION DIVISION

Lawyers Title Insurance Corporation

NAIC # 50024

Exam # 06-09-40-TGT

Formal Criticism

Criticism No: J75

Subject: Recitals not clear / Great American Title
Date Submitted: June 11, 2008
(Maintained as paper file.)
Policy number: Owner policy, not yet issued
Expected Date of Return: June 21, 2008

Examiner: Joseph K. Ott
Reference: Agent File 8000079

Owner: Schmidt, et al
Date Returned: ___/___/___
(For Examiner Use Only)

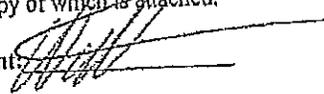
Examiner Comment:

In issuing the commitment to insure, the agent added language to the description excepting out "any part taken or used for roads." The agent's file contains no information providing a basis for appending the language to the land description.

Sound underwriting practices rarely include making changes to legal descriptions.

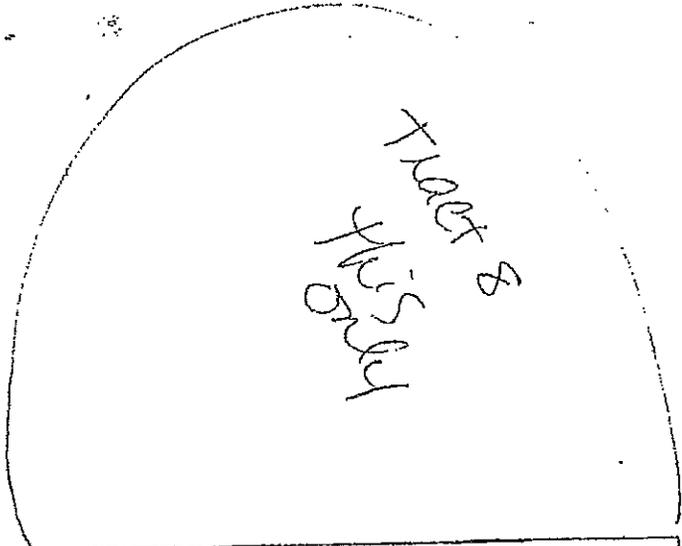
Reference: Sections 381.071.1, RSMo.

Company Response: Our examiners have been instructed they are not to either modify or create legal descriptions, but instead use either the historic legal description or that provided by a licensed surveyor. To that extent, the legal description provided did contain the following verbage, to wit: Subject to road right of ways and easements, public and private, as may now be located a copy of which is attached.

Agrees: ___ Disagrees: Authorized Respondent 

The examiner comments reflect the opinion of the Market Conduct Examiner. These comments do not reflect the opinion of the Department of Insurance, Financial Institutions and Professional Registration. If you do not agree with the examiner comments, attach all relevant documentation that you believe substantiate your response. Section 374.205.2(2), RSMo allows a 10 calendar day response time. If you are unable to fully respond within this time frame, please let the examiner know before the tenth calendar day.

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PART REPRESENTS AN ORIGINAL SURVEY OF THE PARCEL SHOWN
 IT IS PART OF A PARCEL DESCRIBED IN VERNON COUNTY DEED RECORDS
 AT BOOK 486, PAGE 286.

DESCRIPTION Tract 8

A tract of land located in the south part of the
 Northwest Quarter of the Northwest Quarter of
 Section 32, Township 35 North, Range 33 West of
 the 5th P.M., and in the North Half of the
 Northwest Quarter of Section 31, Township 35
 North, Range 33 West of the 5th P.M., Vernon
 County, Missouri, containing 67.66 acres and
 further described as follows:

Beginning at the northeast corner of said
 Section 32, thence S00°11'57"W along the West
 line of said Section 32 a distance of 1054.29
 feet, thence S89°46'58"W a distance of 1318.29
 feet, thence S01°07'42"W a distance of 281.75
 feet to the southeast corner of said Northwest
 Quarter, Northwest Quarter of Section 32, thence
 S89°47'13"W along the South line of said
 Northwest Quarter, Northwest Quarter a distance
 of 1374.39 feet to the southeast corner of said
 North Half, Northwest Quarter of Section 31,
 thence S89°59'13"W along the South line of said
 North Half, Northwest Quarter a distance of
 1577.57 feet to the Southwest corner of the East
 Half of the Northwest Quarter of said Northwest
 Quarter, thence N00°20'18"E along the West line
 of said East Half a distance of 1308.31 feet to
 the Northwest corner of said East Half, thence
 N89°39'10"W along the North line of said North
 Half, Northwest Quarter a distance of 1374.25
 feet returning to the point of beginning. Subject
 to road right of way and easements, public and
 private, as may now be located.

DESCRIPTION Tract 9

A tract of land located in the North Half of
 Section 32, Township 35 North, Range 33 West of
 the 5th P.M., Vernon County, Missouri, containing
 152.69 acres and further described as follows:
 Beginning at the Northwest corner of said
 Section 32, thence N89°58'03"W along the East
 line of said North Half a distance of 1334.03
 feet, thence S00°09'33"W a distance of 2638.29
 feet to a point on the South line of said North
 Half, thence S89°46'14"W along said South line a
 distance of 1377.57 feet to the Southwest corner
 of the Southwest Quarter of the Northwest Quarter
 of said Section 32, thence N00°11'22"E along the
 West line of said Southwest Quarter, Northwest
 Quarter a distance of 1313.58 feet to the
 Northwest corner of said Southwest Quarter,
 Northwest Quarter thence N01°07'42"W a distance
 of 255.75 feet, thence S89°46'58"W a distance of
 1318.29 feet to a point on the West line of
 Section 32, thence N00°11'57"W along said West
 line a distance of 1054.29 feet returning to the
 point of beginning. Subject to road right of way
 and easements, public and private, as may now be
 located.

PRELIMINARY
 April 8, 2008

Exhibit 11

Matt Blunt
Governor
State of Missouri



Department of Insurance
Financial Institutions
and Professional Registration
Linda Bohrer, Acting Director

INSURANCE MARKET REGULATION DIVISION

Lawyers Title Insurance Corporation

NAIC # 50024

Exam # 06-09-40-TGT

Formal Criticism

Criticism No: J76

Subject: Improper Exception / Great American Title

Date Submitted: June 11, 2008

(Maintained as paper file.)

Policy number: Owner policy, not yet issued

Expected Date of Return: June 21, 2008

Examiner: Joseph K. Ott

Reference: Agent File 8000079

Owner: Schmidt, et al

Date Returned: ___/___/___

(For Examiner Use Only)

Examiner Comment:

The commitment issued by the agent includes the following exception:

Claims or Consequences, if any, due to Patents from the United States not of record in the Recorder's Office, Vernon County, Missouri for the NORTH ONE-HALF (N 1/2) OF SECTION THIRTY-TWO (32), TOWNSHIP THIRTY-FIVE (35), RANGE THIRTY-THREE (33) AND THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION THIRTY-ONE (31), TOWNSHIP THIRTY-FIVE (35), RANGE THIRTY-THREE (33), ALL IN VERNON COUNTY, MISSOURI. (sic).

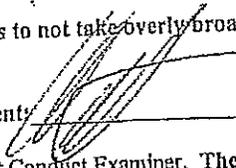
Such an exception is not appropriate. The exception implies that original title has never emanated from the government. Original title never conveyed by the government is not marketable and not insurable. Where title has emanated from the government, recording evidence of the same is readily done and the agent would properly condition issuance of the policy on the recording. Where original title has not been conveyed, it is an unsound underwriting practice to insure any interest without consultation with the underwriter.

The U. S. Bureau of Land Management, <http://www.glorerecords.blm.gov/>, indicates that a patent for the West 1/2 of the Northwest 1/4 of S32, T35, R33, a tract of 80 acres, was issued in 1856 to James M. Brown. The same source indicates that a patent for the East 1/2 of the Northwest 1/4 of S32, T35, R33, a tract of 80 acres, was issued in 1848 to Samuel Reed. None of the land described in the commitment to insure is located in the Northeast 1/4 of S32, T35, R33. The U. S. Bureau of Land Management indicates that a patent for the Northeast 1/4 of the Northeast 1/4 of S31, T35, R33 was issued to James M. Brown in 1856. (See exhibits 1, 2, and 3 to this criticism 76, all appended.)

It is not a sound underwriting practice to issue a policy of title insurance containing overbroad exceptions, or exceptions that effectively invalidate the coverage offered by the policy. It is not a sound underwriting practice to include an exception for which there is no rational basis.

Reference: Sections 381.071.1, RSMo.

Company Response: We have reminded our examiners to not take overly broad exceptions or make unnecessary requirements.

Agrees: Disagrees: Authorized Respondent: 

The examiner comments reflect the opinion of the Market Conduct Examiner. These comments do not reflect the opinion of the Department of Insurance, Financial Institutions and Professional Registration. If you do not agree with the examiner comments, attach all relevant documentation that you believe substantiate your response. Section 374.205.2(2), RSMo allows a 10 calendar day response time. If you are unable to fully respond within this time frame, please let the examiner know before the tenth calendar day.

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Exhibit 12

Matt Blunt
Governor
State of Missouri



Department of Insurance
Financial Institutions
and Professional Registration
Linda Bohrer, Acting Director

INSURANCE MARKET REGULATION DIVISION

Lawyers Title Insurance Corporation

NAIC # 50024

Exam # 06-09-40-TGT

Formal Criticism

Criticism No: J77

Subject: Legal Service Fees / Great American Title
Date Submitted: June 11, 2008
(Maintained as paper file.)

Examiner: Joseph K. Ott
Reference: Agent File 8000079

Policy number: Owner policy, not yet issued
Expected Date of Return: June 21, 2008

Owner: Schmidt, et al
Date Returned: ___/___/___
(For Examiner Use Only)

Examiner Comment:

The agent collected a fee of \$100.00 for "Legal Services Charges" from the seller. A law firm had billed the agency a fee of \$75.00 for preparation of a deed. The agent is not permitted to charge any fee for deed preparation.

Reference: Cf. *Eisel v Midwest BankCentre*, 230 SW3d 335 (Missouri Supreme Court, 2008).

Company Response: When we are requested to prepare a deed that is outside our normal course of business such as a Trustee's Deed, we coordinate the preparation of the deed with a local law firm, Lowther, Johnson. They charge us \$75.00 for the preparation of the deed and we charge an additional \$25.00 to defray the costs that we incur in the coordination and securing the deed to meet the customers requirement. In this instance, the purchasers involved multiple individuals as well as a trust. Enclosed please find a copy of Lowther Johnson's bill for the preparation of the deed in question.

Agrees: ___ Disagrees: Authorized Respondent:

The examiner comments reflect the opinion of the Market Conduct Examiner. These comments do not reflect the opinion of the Department of Insurance, Financial Institutions and Professional Registration. If you do not agree with the examiner comments, attach all relevant documentation that you believe substantiate your response. Section 374.205.2(2), RSMo allows a 10 calendar day response time. If you are unable to fully respond within this time frame, please let the examiner know before the tenth calendar day.

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901 St. Louis Street, 20th Floor
 Springfield, MO 65806
 (417) 866-7777
 Federal ID # 43-1681067

Great American Title Co. - Joplin
 1020 E. 20th
 Joplin, MO 64804

For Services Rendered Through: April 14, 2008

Matter ID# 19284-3167: Southern Cross Ranch, LLC to Herbert Schmidt Trust, et al.
 Dedra/Joplin/#8000079

Professional Fees		Amount
4/14/2008	CFL Flat Fee re preparation of corrective deed.	
Sub-total Fees:		75.00
Total Current Billing:		75.00
Total Now Due:		<u>75.00</u>

Current	Over 30	Over 60	Over 90
0.00	0.00	0.00	0.00

Exhibit 13

Matt Blunt
Governor
State of Missouri



Department of Insurance
Financial Institutions
and Professional Registration
Linda Bohrer, Acting Director

INSURANCE MARKET REGULATION DIVISION

Lawyers Title Insurance Corporation

NAIC # 50024

Exam # 06-09-40-TGT

Formal Criticism

Criticism No: J78

Subject: Inadequate, late disclosure/ Great American Title **Examiner:** Joseph K. Ott
Date Submitted: June 11, 2008 **Reference:** Agent File 8000079
(Maintained as paper file.)

Policy number: Owner policy, not yet issued **Owner:** Schmidt, et al
Expected Date of Return: June 21, 2008 **Date Returned:** ___/___/___
(For Examiner Use Only)

Examiner Comment:

Charles Burt Realtors represented the sellers in this transaction. An order for examination of title and for closing of escrow was placed with the title agent by 3/21/2008, as indicated by receipt for earnest money of that date. The contract for sale of the real estate was dated 3/21/2008. The principals of Charles Burt Realtors own a majority interest in Great American Title – Charles Burt Closing Company, the title agent in this transaction.

The described affiliated business arrangement was disclosed to the buyer and the seller in writing on 4/14/2008. The disclosure of the affiliated business arrangement does not include a written estimate of the charge or range of charges generally made for the title services provided by the title agency. The transaction was closed on 4/14/2008 and disbursed from escrow on 4/16/2008.

The agency failed to ensure, prior to commencing the transaction, that its customer was provided with disclosure of the existence of the affiliated business arrangement and a written estimate of the charge or range of charges generally made for the title services provided by the title agency.

The affiliated business arrangement disclosure statement used in this transaction specifies that "agents of Charles Burt Realtors may receive a referral fee of up to \$100.00" if the parties use the services offered by the title agency. An affiliated business arrangement permitting such a payment is prohibited.

Reference: 381.029.2, and 381.029.5, RSMo. (2008).

Company Response: It is my understanding that as a part of Charles Burts listing processes, it is their practice to provide disclosure of the affiliated business arrangement at the time the listing is secured. It appears that this practice was not always followed. Further there was a misunderstanding as to the statute itself as well as its meaning. This lead to confusion as to when the pricing disclosure needed to be made as well incorrect legal advice being given to Charles Burt Realty regarding any possible payment of a referral fee. This misunderstanding was further compounded by language being used which fails to clarify who would pay the referral fee, if any were to be paid. At no time was it contemplated that this was a fee that could/would be paid by the title agency to the referring real estate agent. At no time has a fee been paid by

this title agency for any such referral. The practice was stopped in November of 2007 after further consultation with other counsel. It was believed that all inaccurate disclosure forms had been retrieved and destroyed. It appears our belief was incorrect. We have since confirmed that Charles Burt Realtor agents are using the proper disclosure form in the manner in which it is intended as well as reminding our personnel of the requirements of Section 381.029, paying close attention to the specific requirements of 381.029.2 and 381.029.5 to include not accepting an order for title and settlement services unless a completed disclosure is included.

Agrees: Disagrees: Authorized Respondent: 

The examiner comments reflect the opinion of the Market Conduct Examiner. These comments do not reflect the opinion of the Department of Insurance, Financial Institutions and Professional Registration. If you do not agree with the examiner comments, attach all relevant documentation that you believe substantiate your response. Section 374.205.2(2), RSMo allows a 10 calendar day response time. If you are unable to fully respond within this time frame, please let the examiner know before the tenth calendar day.

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