

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

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

JURISDICTION

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

If the director determines based upon substantial and competent evidence that a person has engaged, is engaging in or has taken a substantial step toward engaging in an act, practice, omission, or course of business constituting a violation of the laws of this state relating to insurance in this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo, or a rule adopted or order issued pursuant thereto or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of the laws of this state relating to insurance in this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo, or a rule adopted or order issued pursuant thereto, the director may order the following relief:

- (1) An order directing the person to cease and desist from engaging in the act, practice, omission, or course of business;
- (2) A curative order or order directing the person to take other action necessary or appropriate to comply with the insurance laws of this state;
- (3) Order a civil penalty or forfeiture as provided in section 374.049; and
- (4) Award reasonable costs of the investigation.

5. Section 374.049, RSMo (Cum. Supp. 2006) authorizes the Director to impose a monetary penalty or forfeiture of not more than one thousand dollars (\$1,000) for each

violation which was knowingly committed or which resulted in actual financial loss to consumers, but not to exceed an aggregate penalty of fifty thousand dollars (\$50,000) per annum, unless the violation was committed in conscious disregard of the law, in which case the monetary penalty or forfeiture may be up to five thousand dollars (\$5,000) per violation but not to exceed an aggregate penalty of one hundred thousand dollars (\$100,000) per annum.

6. The Director also has jurisdiction to administer this proceeding pursuant to the Unfair Trade Practices Act, found in § 375.940, RSMo (2000), which provides, in part:

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

7. In addition to the authority to issue a cease and desist order, § 375.942, RSMo, (2000) authorizes the imposition of a monetary penalty of not more than one thousand dollars (\$1,000) for each violation but not to exceed an aggregate penalty of one hundred thousand dollars (\$100,000), unless the violation was committed in conscious disregard of the law, in which case the penalty may be up to twenty-five thousand dollars (\$25,000) per violation but not to exceed an aggregate penalty of two hundred fifty thousand dollars (\$250,000) in a twelve month period.

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

ALLEGATIONS RELEVANT TO ALL COUNTS

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

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

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

COUNT I

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

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

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

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

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

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

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

“[r]isk rate shall include the title insurance agent’s commission but shall not include any charge as defined in subsection (1)(A).”

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

18. The facts are as follows:

- a. Commonwealth filed premium rates with the Director as required by § 381.181.1, RSMo (1994), which rates were deemed effective or otherwise approved for use by Commonwealth and any of its licensed agents at all times relevant hereto. A copy of Commonwealth’s premium rate filing is attached hereto as Exhibit A and incorporated herein by reference.
- b. Assured Title, as an agent for Commonwealth, charges a single amount for title insurance premium, in addition to charging other costs, fees and charges, including a settlement or closing fee.
- c. The single amount charged for title insurance is not based on the rates filed with the Director; instead, the rates are charged pursuant to a pricing sheet with separate rates for purchase and refinance transactions. A copy of that pricing sheet is attached hereto as exhibit B and is incorporated herein by reference.

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

COUNT II

20. Assured Title violated § 381.171, RSMo (1994) by charging title insurance premiums that are unfairly discriminatory.

21. Section 381.171, RSMo (1994) provides, in part:

1. Premiums shall not be inadequate, excessive or unfairly discriminatory. . . .

4. Premiums are unfairly discriminatory if the premium charged for a policy of any particular face amount of liability is higher than the premium for an identical policy within the same classification where such policy has a like face amount or a higher face amount of liability.

22. Assured Title charges a standard amount of premium for title insurance policies, as illustrated by the pricing sheet referred to above in paragraph 18(c). However, the premium rates charged are negotiable and have been offered to certain purchasers at discounts of up to 15 and 25 percent lower than those shown on the pricing sheet.

23. The foregoing billing practices result in higher premiums being charged for certain policies, when compared to other policies of equal or greater face amounts, and as such, are unfairly discriminatory, in violation of 381.171.1, RSMo (1994).

COUNT III

24. The allegations set forth above in paragraphs 20-23 are realleged and incorporated herein by reference.

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

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

It is an unfair trade practice for any insurer to commit any practice defined in section 375.936 if:

(1) It is committed in conscious disregard of sections 375.930 to 375.948 or of any rules promulgated under sections 375.930 to 375.948; or

(2) It has been committed with such frequency to indicate a general business practice to engage in that type of conduct.

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

Any of the following practices, if committed in violation of section 375.934, are hereby defined as unfair trade practices in the business of insurance: . . .

(4) "False information and advertising generally", making . . . or causing, directly or indirectly, to be made, . . . in any other way, . . . [a] statement containing any assertion, representation or statement with respect to the business of insurance, . . . which is untrue, deceptive or misleading;

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

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

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

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

COUNT IV

32. The Director realleges the allegations set forth above in paragraphs 20-31 and incorporates them herein by reference.

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

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

It is an unfair trade practice for any insurer to commit any practice defined in section 375.936 if:

(1) It is committed in conscious disregard of sections 375.930 to 375.948 or of any rules promulgated under sections 375.930 to 375.948; or

(2) It has been committed with such frequency to indicate a general business practice to engage in that type of conduct

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

Any of the following practices, if committed in violation of section 375.934, are hereby defined as unfair trade practices in the business of insurance: . . .

(6) "Misrepresentations and false advertising of insurance policies", making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustrations, circular or statement, sales presentation, omission, or comparison which:

(a) Misrepresents the benefits, advantages, conditions, or terms of any policy;

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

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

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

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

40. Assured Title made such statements with such frequency to indicate a general business practice to engage in that type of conduct.

COUNT V

41. The Director realleges the allegations set forth above in paragraphs 20-40 and incorporates them herein by reference.

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

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

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

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

- a. Information regarding the actual premium rates of title insurance policies, which must be calculated in accordance with the premium rates filed and approved by the Director;
- b. Information regarding charges or fees for services related to the issuance of a title insurance policy, including search and examination expenses, clearing title defects, and other charges that are not included in the filed premium rate and which may be discounted or negotiated without limitation; and
- c. Information regarding the availability of a discount, or otherwise disclosing that the cost of title insurance was, at least in part, negotiable.

COUNT VI

46. The Director realleges the allegations set forth above in paragraphs 20-45 and incorporates them herein by reference.

47. Assured Title violated § 381.201, RSMo (1994) by failing to display premium schedules in a public place in each of its offices.

48. Section 381.201.3, RSMo (1994), provides, in part:

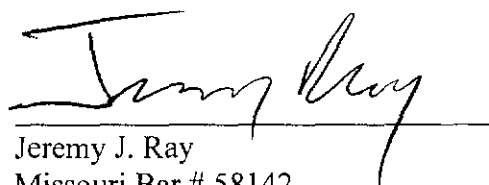
Copies of the schedules of premiums which are required to be filed with the director under the provisions of sections 381.011 to 381.241, showing their effective date or dates, shall be kept at all times available to the public prominently displayed in a public place in each office of a title insurer, title agent or agency in the county to which such rates apply while such rates are effective.

RELIEF

WHEREFORE, the Consumer Affairs Division requests the Director:

- A. Find that Assured Title engaged in the unlawful acts and unfair practices alleged herein;
- B. Issue an order prohibiting Assured Title and its agents and employees from:
 - a. Violating or materially aiding in any violation of § 381.181, RSMo (1994).
 - b. Violating or materially aiding in any violation of § 381.171, RSMo (1994).
 - c. Violating or materially aiding in the violation of § 375.144, RSMo (Cum. Supp. 2005).
 - d. Violating or materially aiding in the violation of § 375.934, RSMo (2000).
 - e. Violating or materially aiding in any violation of § 381.201, RSMo (1994).
- C. Order Assured Title to pay a civil penalty for each unlawful act or unfair practice;
- D. Order Assured Title to pay reasonable costs of investigation.
- E. Such other relief as the Director deems just in this proceeding.

Respectfully submitted,


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ATTORNEY FOR DIVISION OF
CONSUMER AFFAIRS

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

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

Effective Date: July 1, 2002

COMMONWEALTH LAND TITLE INSURANCE COMPANY

Risk Classifications

Description of Risk Amount	Original Title Insurance for Owner's and Leasehold Owner's Policies	Reissue Title Insurance for Owner's & Leasehold Owner's Policies	Original Title Insurance for Loan Policies	Reissue Title Insurance for Loan Policies	Simultaneous Issue Policies (Actual Amount not per \$1000)	Title Insurance for Substitution	Title Insurance for Builder and Developers (Subdivision Rate)
Up to \$50,000 of Liability Written	\$1.40 per thousand 70	\$0.84 per thousand 42	\$1.00 per thousand 50	\$0.60 per thousand 30.	\$4.00	\$0.60 per thousand	See Below (*)
Over \$50,000 and up to \$100,000, Add	\$1.20 per thousand 60	\$0.72 per thousand 36	\$0.80 per thousand 40	\$0.48 per thousand + 24.80	\$4.00	\$0.48 per thousand	See Below (*)
Over \$100,000 and up to \$5,000,000, Add	\$0.80 per thousand 3920.	\$0.48 per thousand	\$0.70 per thousand 3,430.	\$0.42 per thousand 12058	\$4.00	\$0.42 per thousand	See Below (*)
Over \$5,000,000 and up to \$10,000,000, Add	\$0.70 per thousand 3500.00	\$0.42 per thousand	\$0.60 per thousand 3,000.00	\$0.36 per thousand	\$4.00	\$0.36 per thousand	See Below (*)
Over \$10,000,000 and up to \$15,000,000, Add	\$0.60 per thousand 3000.00	\$0.36 per thousand	\$0.50 per thousand	\$0.30 per thousand	\$4.00	\$0.30 per thousand	See Below (*)
Over \$15,000,000, Add	\$0.50 per thousand	\$0.30 per thousand	\$0.40 per thousand	\$0.24 per thousand	\$4.00	\$0.24 per thousand	See Below (*)
Minimum Premium	\$4.00	\$4.00	\$4.00	\$4.00	\$4.00	\$4.00	See Below (*)

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

(*) Builder's/Developer's Rate: This rate only applies to land located in St. Louis, Jefferson, St. Charles, Warren and Lincoln Counties and the City of St. Louis which is to be developed into 3 or more parcels for development and resale by an approved builder/developer will be eligible for this rate. The herein-stated filed rate for original title insurance or for re-issue title insurance, whichever is applicable will be charged at the rates shown above to the builder/developer at the time title insurance policies for acquisition, construction financing or other title insurance policies are required. Credit will be applied to these charges up to the full amount charged for all income derived from policies issued to purchasers of parcels within the development.

EXHIBIT

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PURCHASES

15,000 or less	\$150.00	140,001 - 145,000	\$700.00	270,001 - 275,000	\$960.00	400,001 - 405,000	\$1,220.00
15,001 - 20,000	\$200.00	145,001 - 150,000	\$710.00	275,001 - 280,000	\$970.00	405,001 - 410,000	\$1,230.00
20,001 - 25,000	\$235.00	150,001 - 155,000	\$720.00	280,001 - 285,000	\$980.00	410,001 - 415,000	\$1,240.00
25,001 - 30,000	\$265.00	155,001 - 160,000	\$730.00	285,001 - 290,000	\$990.00	415,001 - 420,000	\$1,250.00
30,001 - 35,000	\$295.00	160,001 - 165,000	\$740.00	290,001 - 295,000	\$1,000.00	420,001 - 425,000	\$1,260.00
35,001 - 40,000	\$325.00	165,001 - 170,000	\$750.00	295,001 - 300,000	\$1,010.00	425,001 - 430,000	\$1,270.00
40,001 - 45,000	\$350.00	170,001 - 175,000	\$760.00	300,001 - 305,000	\$1,020.00	430,001 - 435,000	\$1,280.00
45,001 - 50,000	\$375.00	175,001 - 180,000	\$770.00	305,001 - 310,000	\$1,030.00	435,001 - 440,000	\$1,290.00
50,001 - 55,000	\$400.00	180,001 - 185,000	\$780.00	310,001 - 315,000	\$1,040.00	440,001 - 445,000	\$1,300.00
55,001 - 60,000	\$425.00	185,001 - 190,000	\$790.00	315,001 - 320,000	\$1,050.00	445,001 - 450,000	\$1,310.00
60,001 - 65,000	\$450.00	190,001 - 195,000	\$800.00	320,001 - 325,000	\$1,060.00	450,001 - 455,000	\$1,320.00
65,001 - 70,000	\$475.00	195,001 - 200,000	\$810.00	325,001 - 330,000	\$1,070.00	455,001 - 460,000	\$1,330.00
70,001 - 75,000	\$500.00	200,001 - 205,000	\$820.00	330,001 - 335,000	\$1,080.00	460,001 - 465,000	\$1,340.00
75,001 - 80,000	\$525.00	205,001 - 210,000	\$830.00	335,001 - 340,000	\$1,090.00	465,001 - 470,000	\$1,350.00
80,001 - 85,000	\$540.00	210,001 - 215,000	\$840.00	340,001 - 345,000	\$1,100.00	470,001 - 475,000	\$1,360.00
85,001 - 90,000	\$560.00	215,001 - 220,000	\$850.00	345,001 - 350,000	\$1,110.00	475,001 - 480,000	\$1,370.00
90,001 - 95,000	\$575.00	220,001 - 225,000	\$860.00	350,001 - 355,000	\$1,120.00	480,001 - 485,000	\$1,380.00
95,001 - 100,000	\$590.00	225,001 - 230,000	\$870.00	355,001 - 360,000	\$1,130.00	485,001 - 490,000	\$1,390.00
100,001 - 105,000	\$605.00	230,001 - 235,000	\$880.00	360,001 - 365,000	\$1,140.00	490,001 - 495,000	\$1,400.00
105,001 - 110,000	\$615.00	235,001 - 240,000	\$890.00	365,001 - 370,000	\$1,150.00	495,001 - 500,000	\$1,410.00
110,001 - 115,000	\$625.00	240,001 - 245,000	\$900.00	370,001 - 375,000	\$1,160.00	500,001 and over	
115,001 - 120,000	\$645.00	245,001 - 250,000	\$910.00	375,001 - 380,000	\$1,170.00	please add \$2.00 per \$1,000	
120,001 - 125,000	\$655.00	250,001 - 255,000	\$920.00	380,001 - 385,000	\$1,180.00		
125,001 - 130,000	\$665.00	255,001 - 260,000	\$930.00	385,001 - 390,000	\$1,190.00	Add \$125.00 for simultaneous	
130,001 - 135,000	\$675.00	260,001 - 265,000	\$940.00	390,001 - 395,000	\$1,200.00	issue/mortgage policy	
135,001 - 140,000	\$685.00	265,001 - 270,000	\$950.00	395,001 - 400,000	\$1,210.00		

REFINANCES

25,000 or less	\$125.00	150,001 - 175,000	\$275.00	301,000 - 325,000	\$425.00	450,001 - 475,000	\$575.00
25,001 - 50,000	\$150.00	175,001 - 200,000	\$300.00	325,001 - 350,000	\$450.00	475,001 - 500,000	\$600.00
50,001 - 75,000	\$175.00	200,001 - 225,000	\$325.00	350,001 - 375,000	\$475.00	500,001 and over	
75,001 - 100,000	\$200.00	225,001 - 250,000	\$350.00	375,001 - 400,000	\$500.00	please add \$1.00 per \$1,000	
100,001 - 125,000	\$225.00	250,001 - 275,000	\$375.00	400,001 - 425,000	\$525.00		
125,001 - 150,000	\$250.00	275,001 - 300,000	\$400.00	425,001 - 450,000	\$550.00		

Closing Fee \$125.00
 Loan Package \$50.00
 Email Doc Fee \$50.00

Notary Fee \$12.00
 Delivery Fee \$25.00 each
 Construction Commitments \$100.00

Recording Fees \$27.00 1st pg
 \$3 each additional page

EXHIBIT

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