

**REPORT ON EXAMINATION**

**O F**

**K.E.L. TITLE INSURANCE GROUP, INC.**

**ORLANDO, FLORIDA**

**AS OF**

**DECEMBER 31, 2009**

**BY THE**

**OFFICE OF INSURANCE REGULATION**

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Tallahassee, Florida

October 4, 2010

Kevin M. McCarty  
Commissioner  
Office of Insurance Regulation  
State of Florida  
Tallahassee, Florida 32399-0326

Dear Sir:

Pursuant to your instructions, in compliance with Section 624.316 and Chapter 627, Part XIII, Florida Statutes, and Rule 69O-138.005, Florida Administrative Code, and in accordance with the practices and procedures promulgated by the National Association of Insurance Commissioners (NAIC), we have conducted an examination as of December 31, 2009, of the financial condition and corporate affairs of:

**K.E.L. TITLE INSURANCE GROUP, INC.  
111 NORTH MAGNOLIA AVENUE, SUITE 1500  
ORLANDO, FLORIDA 32801**

Hereinafter referred to as, the "Company". Such report of examination is herewith respectfully submitted.

## SCOPE OF EXAMINATION

This examination covered the period of January 1, 2009, through December 31, 2009. The Company was last examined by representatives of the Florida Office of Insurance Regulation (Office) as of December 31, 2008. This examination commenced with planning at the Office from June 28, 2010 to July 1, 2010. The fieldwork commenced July 7, 2010, and was concluded on October 4, 2010.

This financial examination was a statutory financial examination conducted in accordance with the Financial Condition Examiners Handbook Risk-Focused Procedures, Accounting Practices and Procedures Manual and annual statement instructions promulgated by the NAIC as adopted by Rules 69O-137.001(4) and 69O-138.001, Florida Administrative Code, with due regard to the statutory requirements of the insurance laws and rules of the State of Florida.

The Financial Condition Examiners Handbook requires that the examination be planned and performed to evaluate the financial condition and identify prospective risks of the Company by obtaining information about the Company including corporate governance, identifying and assessing inherent risks within the Company, and evaluating system controls and procedures used to mitigate those risks. An examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation and management's compliance with Statutory Accounting Principles and annual statement instructions when applicable to domestic state regulations.

All accounts and activities of the Company were considered in accordance with the risk-focused examination process.

This report of examination was confined to significant adverse findings, a material change in the

financial statements or other information of regulatory significance or requiring regulatory action. The report comments on matters that involved departures from laws, regulations or rules, or which were deemed to require special explanation or description.

## **SUMMARY OF SIGNIFICANT FINDINGS**

### **Current Exam Findings**

The following is a summary of material adverse findings, significant non-compliance findings, or material changes in the financial statements noted during this examination.

### **Management**

#### **Consent Order**

The Company was party to Consent Order 89839-07 CO, filed April 20, 2007, regarding the application for the issuance of a Certificate of Authority. Under this Consent Order, the Company failed:

To file updates to its Holding Company Registration Statement as directed in this order and required by Section 628.801, Florida Statutes, and Rule 69O-143.046, Florida Administrative Code. Subsequent event: The Company filed the 2009 statement on June 1, 2010.

To submit the Issuing Agency Agreement with affiliate Titan Title and Escrow, LLC to the Office for review and approval prior to executing the agreement. Subsequent Event: The analyst requested an executed copy of the agreement after review of the 2009 annual statement and it was approved by the Office in June, 2010.

To submit the Cost Sharing Agreement with its affiliates for review and approval prior to executing the agreement. Subsequent Event: This agreement was submitted in August, 2010 and the Office approved it in September, 2010.

### **Capitalization**

At inception, the Company was capitalized via the issue of 300 shares for \$2.5 million. The original 300 shares were not reflected by a stock certificate. During 2008, the Company executed a stock split that increased the number of shares to 10,000, of which 9,507 were issued to the original owners. The remaining unissued shares (a 4.93% interest) were purchased by an individual in July, 2008 under a ten year stock purchase agreement.

The examiner was unable to reconcile the current capitalization of the capital and surplus account. The Unassigned Funds/Surplus reported in the 2008 Annual Statement did not agree with the amount reported in the 2009 Annual Statement prior year column. The discrepancy was \$493.

Subsequent event: The individual failed to meet the terms of the agreement and the transaction/agreement was cancelled in January, 2010. This was reported on the amended First Quarter 2010 Report, filed August 23, 2010.

### **Uncollected premiums and agents balances in the course of collection**

The Company reported premiums due and uncollected of \$52,835 at December 31, 2009. Our aging of the premiums due and uncollected indicated that premiums not remitted to the Company within 90 days totaled \$14,308 and were non-admitted pursuant to Rule 69O-138.024, Florida Administrative Code.

### **Prior Examination Findings**

The following is a summary of significant adverse findings contained in the Office's prior examination report as of December 31, 2008, along with resulting action taken by the Company.

### **Policy Limits**

Section 627.778, Florida Statutes (Policy Limits), states that title insurers must cede the portion of net liability that exceeds 50% of surplus based on the prior annual statement. There were two policies with net liabilities exceeding 50% of the policyholders surplus that had not been ceded under the arrangement. **Resolution: The Company took action to ensure that no policies issued during 2009 exceeded 50% of policyholders surplus.**

## **HISTORY**

### **General**

The Company was incorporated in Florida, on April 24, 2007, and commenced business on July 6, 2007, as the K.E.L. Title Insurance Group, Inc.

The Company was party to Consent Order Number 89839-07-CO, filed April 20, 2007, regarding the application for and issuance of a Certificate of Authority. The Company failed to comply with the following provisions of this Consent Order:

- Agreement entered into with any affiliated person or entity shall be in writing and approved by the Office prior to its effective date. The Company stated in its Plan of Operation to the Office its intent to enter into affiliated agency, management and cost sharing agreements and made the disclosures regarding the Agreements in its Holding Company Registration Statement filing dated June 9, 2009, but it failed to provide any proof of the Office's approval of the Agreements prior to implementation.
- Paragraph 16 (m) of the Conditional Licensing Consent Order also required that

any arrangement or agreement with an affiliated party be in writing and be submitted to the Office for review and prior written approval.

The Company failed to submit the following agreements for review and approval prior to executing:

The Issuing Agency Agreement with Titan Title and Escrow, LLC, an affiliate. The analyst requested an executed copy of the agreement after review of the 2009 annual statement and it was approved by the Office in June, 2010.

The Cost Sharing Agreement with affiliates the law firm of Kaufman, Englett & Lynd, PA; K.E.L. Title Insurance Agency Inc.; K.E.L. Constructors, KEL Homes; K.E.L. Real Estate; and Uptown Scanning. This agreement was submitted in August, 2010 and the Office approved it in September, 2010.

The Company was authorized to transact the business of Title insurance only in Florida as of December 31, 2009.

The Articles of Incorporation and the Bylaws were not amended during the period covered by this examination.

### **Dividends to Stockholders**

There were no dividends declared or paid by the Company during the period under examination.

### **Capital Stock and Capital Contributions**

As of December 31, 2009, the Company's capitalization was as follows:

Number of authorized common capital shares	10,000
Number of shares issued and outstanding	10,000
Total common capital stock	\$10,000
Par value per share	\$1.00

Control of the Company was maintained by its majority shareholders: Matthew S. and Stephanie Englett, (co-owners), Craig R. and Christina Lynd (co-owners), and Jeffrey S. Kaufman. Each had an ownership interest of 31.69% of the Company's issued and outstanding stock. The balance of 4.93% was owned by shareholder Larry Joseph; however, this interest was not reflected in the capitalization reported on the 2008 Annual Report. This ownership interest was included 2009 in the Annual Report for both current and prior years, which produced a discrepancy of \$493. In January 2010, this interest in the Company was cancelled due Mr. Joseph's failure to comply with the terms of the 2008 stock purchase agreement. This cancelation was reported on the Amended First Quarter 2010 report, filed August 23, 2010.

#### **Surplus Debentures**

The Company had no surplus debentures.

#### **Acquisitions, Mergers, Disposals, Dissolutions, and Purchase or Sales Through Reinsurance**

There were no Acquisitions, Mergers, Disposals, Dissolutions, and Purchases or Sales Through Reinsurance.

### **CORPORATE RECORDS**

The Company did not have any records of the meetings of its shareholders. Directors must be elected by the members or stockholders of a domestic insurer at the annual meeting of stockholders or members, as required by Section 628.1601, Florida Statutes.

The recorded minutes of the Board of Directors (Board) adequately documented its meetings and approval of Company transactions and events in accordance with Section 607.1601, Florida Statutes.

## **Conflict of Interest**

The Company adopted a policy statement requiring annual disclosure of conflicts of interest in accordance with the NAIC Financial Condition Examiners Handbook adopted by Rule 69O-138.001, Florida Administrative Code.

## **MANAGEMENT AND CONTROL**

### **Management**

Members of the Board were elected by the then existing Board. The members serving as of December 31, 2009, were:

### **Directors**

<b>Name and Location</b>	<b>Principal Occupation</b>
Matthew Shane Englett Windermere, Florida	Managing Partner, Kaufman, Englett & Lynd, PA
Craig Ronald Lynd Sanford, Florida	Partner, Kaufman, Englett & Lynd, PA
Jeffrey Sanford Kaufman Orlando, Florida	Partner, Kaufman, Englett & Lynd, PA
Paul M. Pantozzi, II Orlando, Florida	50% Vice President, K.E.L. Title Insurance Group, Inc.
Gordon McKenzie Parkland, Florida	Owner, RealEstateShowcase.com

In July 2010, the Company notified the Office that Christopher Hunt had been added as a member of the Board.

The Board in accordance with the Company's bylaws appointed the following senior officers:

### **Senior Officers**

**Name**

**Title**

Sheryl Campbell Hughes  
Matthew Shane Englett

Craig Ronald Lynd  
Jeffrey Sanford Kaufman  
Paul M. Pantozzi, II

President  
Vice President, Secretary & Chief  
Executive Officer  
Vice President  
Vice President  
Vice President & Treasurer

Following were the members of the Audit Committee as of December 31, 2009:

**Audit Committee**

Matthew Shane Englett \*

Craig Ronald Lynd

Sheryl Campbell Hughes

\* Chairman

In July 2010, the Company indicated Christopher Hunt had been appointed to the Audit Committee.

**Affiliated Companies**

The Company was a member of an insurance holding company system as defined by Rule 69O-143.045(3), Florida Administrative Code.

**ORGANIZATIONAL CHART**

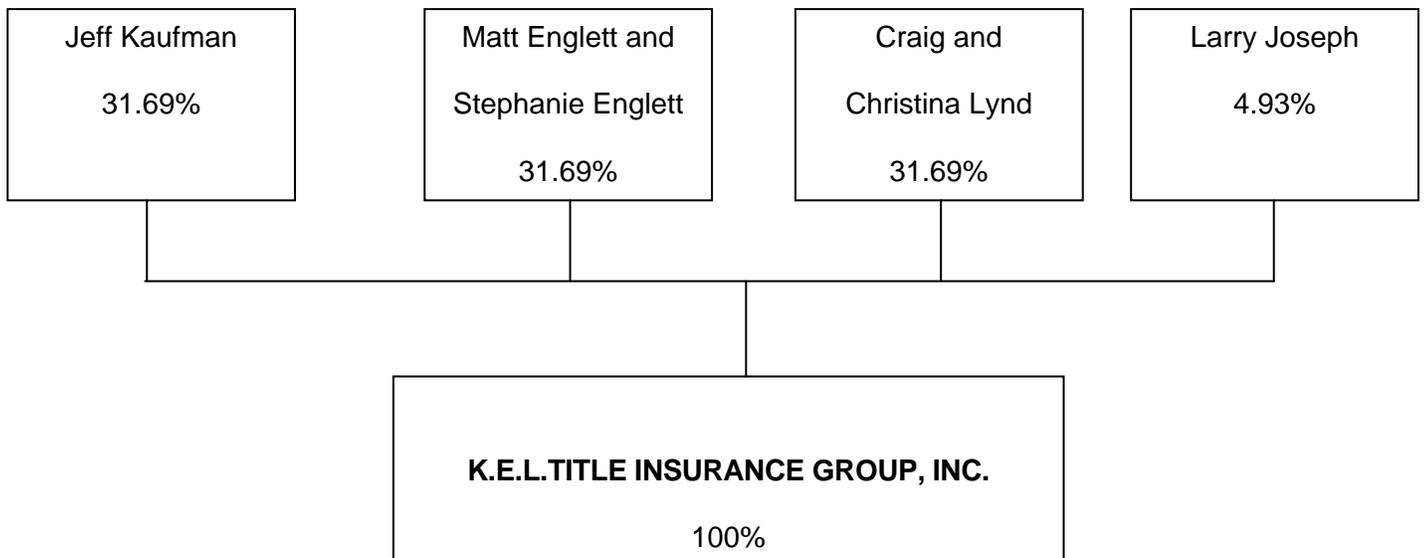
A simplified organizational chart as of December 31, 2009, reflecting the holding company

system, is shown below. Schedule Y of the Company's 2009 annual statement provided a list of all related companies of the holding company group.

**K.E.L. TITLE INSURANCE GROUP, INC.**

**Organizational Chart**

**DECEMBER 31, 2009**



In the organizational chart provided by the Company, K.E.L. Title Insurance Group is presented as a separate stand alone entity. As individuals, the owners of K.E.L. Title Insurance Group also own the affiliated entities. However, there was not a separate entity acting as the holding company. The annual Holding Company Registration Statement required by Section 628.801, Florida Statutes, and Rule 69O-143.046, Florida Administrative Code, was filed late on June 1, 2010.

The following agreements were in effect between the Company and its affiliates:

**Management Agreement**

The Company was party to a Management Agreement with the Law Firm of Kaufman, Englett & Lynd, P.A. The initial agreement required the Company to pay an amount equivalent to 10% of gross title insurance premiums for services performed under the agreement. The Agreement was amended effective May 21, 2009, to delete the 10% and charge a flat monthly fee of \$12,000.

### **Cost Allocation Agreement**

The Company was party to a Cost Allocation Agreement with the law firm of Kaufman, Englett & Lynd, PA; K.E.L. Title Insurance Agency, Inc.; K.E.L. Constructors; KEL Homes; K.E.L. Real Estate; and Uptown Scanning. The agreement specified the percentage of expenses that each party will be charged for office space, materials, equipment and personnel.

### **Issuing Agency Contract- K.E.L.**

On June 29, 2007, the Company entered into an agreement with K.E.L. Title Insurance Agency, Inc. Pursuant to the contract, K.E.L. Title Insurance Agency would appoint an agent as a policy issuing agent, for the sole purpose of issuing title insurance commitments, policies, endorsements and other approved title assurances. The Company and its affiliates and subsidiaries had, and retained, the right to service directly any customer and do the following:

- Issue directly, from any of its offices, or from any location nationwide, commitments, policies, endorsements, or any other title assurance or evidence, search or real estate information product, or any other product whatsoever, now in existence or hereafter developed.
- Purchase or otherwise obtain from any source any search data or information.

### **Issuing Agency Contract- Titan**

On October 20, 2009, the Company entered into an agreement with Titan Title and Escrow, LLC. Pursuant to the contract Titan Title and Escrow, LLC would appoint an agent as a policy issuing agent, for the sole purpose of issuing title insurance commitments, policies, endorsements and other approved title assurances. The Company and its affiliates and subsidiaries had, and retained, the right to service directly any customer and do the following:

- Issue directly, from any of its offices, or from any location nationwide, commitments, policies, endorsements, or any other title assurance or evidence, search or real estate information product, or any other product whatsoever, now in existence or hereafter developed.
- Purchase or otherwise obtain from any source any search data or information.

#### **FIDELITY BOND**

The Company maintained fidelity bond coverage up \$1,000,000 with a deductible of \$5,000 which was an amount considered adequate by NAIC guidelines.

#### **PENSION, STOCK OWNERSHIP AND INSURANCE PLANS**

The Company had no employee retirement or stock ownership plans.

#### **TERRITORY AND PLAN OF OPERATIONS**

The Company was only authorized to transact insurance in the State of Florida.

#### **Treatment of Policyholders**

The Company established procedures for handling written complaints in accordance with

Section 626.39541 (1) (j), Florida Statutes.

The Company maintained a claims procedure manual that included detailed procedures for each type of claim in accordance with Section 626.9541 (1) (i) 3a, Florida Statutes.

## **COMPANY GROWTH**

### **Profitability of Company**

The following table shows the profitability trend (in dollars) of the Company for the period of operations, as reported in the annual statements.

	<b>2009</b>	<b>2008</b>	<b>2007</b>
Premiums Earned	3,277,582	2,301,754	554,387
Net Operating Gain/(Loss)	153,262	100,072	(222,944)
Net Income	113,451	144,915	(167,546)
Net Admitted Assets	2,972,320	2,649,843	2,378,411
Total Liabilities	484,608	172,474	45,957
Surplus As Regards Policyholders	2,487,712	2,477,369	2,332,454

## **LOSS EXPERIENCE**

No significant changes in the Company's loss experience during the period under examination.

## **REINSURANCE**

The Company utilized facultative reinsurance to place risks in accordance with Section

627.778(1)(a)2, Florida Statute.

**Assumed**

The Company did not assume any risk during the period under examination.

**Ceded**

The Company did not cede any risk during the period under examination.

**ACCOUNTS AND RECORDS**

The Company maintained its principal operational offices in Orlando, Florida, where this examination was conducted.

An independent CPA audited the Company's statutory basis financial statements annually for the years 2008 and 2009, in accordance with Section 624.424(8), Florida Statutes. Supporting work papers were prepared by the CPA as required by Rule 69O-137.002, Florida Administrative Code.

The Company's accounting records were maintained on two computerized systems for general ledger and statutory financial reporting. The Company's general ledger accounts were reconciled to the line items of the annual statement submitted to the Office.

The Company and non-affiliates had the following agreements:

**Custodial Agreement**

The Company did not have a Custodial Agreement; all funds were held in cash accounts only.

**Independent Auditor Agreement**

The Company entered into an agreement with Averett Warmus Durkee on November 9, 2009, to audit the Company's 2009 Financial Statements and to provide related audit procedures.

## INFORMATION TECHNOLOGY REPORT

Examination Resources, LLC, performed an evaluation of the information technology and computer systems of the Company. Results of the evaluation were noted in the Information Technology Report provided to the Company.

## STATUTORY DEPOSITS

The following securities were deposited with the State of Florida as required by Section 624.411, Florida Statutes:

STATE	Description	Par Value	Market Value
FLORIDA	Cash	<u>\$100,000</u>	<u>\$100,000</u>
TOTAL FLORIDA DEPOSITS		<u>\$100,000</u>	<u>\$100,000</u>
TOTAL SPECIAL DEPOSITS		<u>\$100,000</u>	<u>\$100,000</u>

## FINANCIAL STATEMENTS PER EXAMINATION

The following pages contain financial statements showing the Company's financial position as of December 31, 2009, and the results of its operations for the year then ended as determined by this examination. Adjustments made as a result of the examination are noted in the section of this report captioned, "Comparative Analysis of Changes in Surplus."

**K.E.L. TITLE INSURANCE GROUP, INC.  
ASSETS**

**DECEMBER 31, 2009**

	<b>Assets</b>		
	<b>Per Company</b>	<b>Examination Adjustments</b>	<b>Per Examination</b>
Cash and short term investments	\$ 2,914,239		\$ 2,914,239
Investment income due and accrued	1,246		1,246
Uncollected premiums and agents' balances in course of collection	52,835		52,835
Net deferred tax asset	4,000		4,000
Total assets	<u>\$ 2,972,320</u>		<u>\$ 2,972,320</u>

**K.E.L. TITLE INSURANCE GROUP, INC.  
LIABILITIES, SURPLUS AND OTHER FUNDS**

**DECEMBER 31, 2009**

	<b>Per Company</b>	<b>Examination Adjustments</b>	<b>Per Examination</b>
Statutory premium reserve	\$ 301,892		\$ 301,892
Supplemental reserve	98,108		98,108
Taxes licenses and fees	17,085		17,085
Current Federal income taxes	67,000		67,000
Aggregate write-ins for liabilities	523		523
Total liabilities	\$ 484,608	-	\$ 484,608
Common capital stock	\$ 10,000		\$ 10,000
Gross paid in and contributed capital	2,490,000		2,490,000
Unassigned funds (surplus)	(12,288)		(12,288)
Surplus as regard policyholders	\$ 2,487,712		\$ 2,487,712
Total liabilities capital and surplus	\$ 2,972,320		\$ 2,972,320

Note: Common capital stock reported on the 2008 Annual Report (\$9,507) did not reflect the interest issued to Mr. Joseph (\$493); however, that interest was included in the 2009 report.

**K.E.L. TITLE INSURANCE GROUP, INC.  
STATEMENT OF INCOME**

**DECEMBER 31, 2009**

**Underwriting Income**

Title Insurance Premiums earned	\$ 3,277,582
Other title fees and services charges	34,770
<b>Total Operating Income</b>	<u>\$ 3,312,352</u>
<b>Deductions</b>	
Losses and loss adjustment expenses incurred	\$85,923
Operating expenses incurred	3,073,167
Total underwriting deductions	<u>\$3,159,090</u>
Net underwriting gain or (loss)	\$153,262
<b>Investment Income</b>	
Net investment income earned	\$18,189
Net investment gain (loss)	\$18,189
Net income before before taxes	<u>\$171,451</u>
Federal and foreign income taxes incurred	58,000
Net income	<u>\$113,451</u>
<b>Capital and Surplus Account</b>	
Surplus as regard policyholders, December 31 prior year	\$2,487,369
Net income for current year	113,451
Change in nonadmitted assets	(15,000)
Change in supplemental reserves	(98,108)
Surplus as regards policyholders	<u><u>\$ 2,487,369</u></u>

**K.E.L. TITLE INSURANCE GROUP, INC.  
COMPARATIVE ANALYSIS OF CHANGES IN SURPLUS**

**DECEMBER 31, 2009**

Surplus as Regards Policyholders as of December 31, 2009 per Company	\$ 2,487,712
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	<b>Per Company</b>	<b>Per Examination</b>	<b>Increase (Decrease) in Surplus</b>
Assets No adjustment			0
Liabilities No adjustment			0
Net Change in Surplus			0
Surplus as regards Policyholders as of December 31, 2009 per Examination			<hr style="border: 0.5px solid black;"/> <u><u>\$ 2,487,712</u></u>

## COMMENTS ON FINANCIAL STATEMENTS

### Assets

**Cash** \$2,914,239

Cash reported in the amount of \$2,914,239 was accepted for examination purposes. The cash account included a money market fund in the amount of \$2,191,074 and a special deposit on behalf of the Office in the amount of \$100,000. In addition, \$623,165 was held in various cash accounts.

**Uncollected premiums and agents' balances in course of collection** \$ 38,527

As a result of this examination, agents balances were overstated by \$14,308. The aging of premiums due from agents/brokers at December 31, 2009, indicated that premiums due in the amount of \$14,308 had not been remitted to the Company within ninety days in compliance with Rule 69O-138.024, Florida Administrative Code. Since the amount of \$14,308 was less than 5% of surplus, no financial adjustment was made.

### Liabilities

**Statutory Premium Reserve** \$301,892  
**Supplemental Reserve** \$ 98,108

An outside actuarial firm appointed by the Board, rendered an opinion that the amounts carried on the balance sheet as of December 31, 2009, made a reasonable provision for all unpaid loss and loss expense obligations of the Company under the terms of its policies and agreements.

The Office engaged Brent Sallay, FCAS, MAAA, and R. Glenn Taylor, ACAS, MAAA, actuaries from the Taylor- Walker & Associates, Inc., to review the Statutory Premium Reserve carried in the Company's balance sheet as of December 31, 2009. The examination actuaries also confirmed that the procedures for setting the Statutory Premium Reserve amount were consistent with the requirements stipulated in Section 625.111, Florida Statutes.

### **Capital and Surplus**

The amount reported by the Company of \$2,487,712 exceeded the minimum of \$1,500,000 required by Section 624.408, Florida Statutes.

## **SUMMARY OF RECOMMENDATIONS**

### **Current examination comments and corrective action:**

The following is a brief summary of items of interest and corrective action to be taken by the Company regarding findings in the examination report as of December 31, 2009:

### **Consent Order**

We recommend, as mentioned in the prior examination, that the Company file updates to its Holding Company Registration Statements and submit all agreements in writing for review and prior written approval by the OIR as required by the Consent Order.

We also recommend that the Company comply with Rule 69O-143.046 (10), Florida Administrative Code, by submitting complete and accurate information on the holding company registration filing (Forms B and C).

### **Capitalization**

We recommend that the Company comply with their By-laws and issue certificates evidencing the ownership of shares of the Company to those entitled to them.

### **Agents' Balances**

We recommend that premiums received by its agents and not remitted to the Company within ninety days of December 31, year-end, be non-admitted in compliance with Rule 69O-138.024,

Florida Administrative Code.

### **CONCLUSION**

The insurance examination practices and procedures as promulgated by the NAIC have been followed in ascertaining the financial condition of **K.E.L. Title Insurance Group, Inc.** as of December 31, 2009, consistent with the insurance laws of the State of Florida.

Per examination findings, the Company's Surplus as regards policyholders was \$2,487,712 in compliance with Section 624.408, Florida Statutes.

In addition to the undersigned, Vetrechia Smith; Financial Specialist, Office of Insurance Regulation, Beverly Dale, CFE, CIE, FLMI, CPA, Senior Insurance Examiner, Examination Resources, LLC, participated in the examination. We also recognize Deanna Leyden, IS Specialist, Examination Resources, LLC, Glenn Taylor, ACAS, MAAA and, Brent Sallay, FCAS, MAAA, Taylor-Walker & Associates participation in the examination.

Respectfully submitted,

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Kethessa Carpenter, CPA  
Financial Examiner/Analyst Supervisor  
Florida Office of Insurance Regulation