

FILED

MAR 5 2010

Docketed by: LP



OFFICE OF INSURANCE REGULATION

KEVIN M. McCARTY  
COMMISSIONER

IN THE MATTER OF:

Case No.: 107564-09

STEWART TITLE GUARANTY COMPANY  
2007 Market Conduct Examination

CONSENT ORDER

THIS CAUSE came on for consideration as the result of an agreement between STEWART TITLE GUARANTY COMPANY (hereinafter referred to as "STEWART TITLE") and the OFFICE OF INSURANCE REGULATION, (hereinafter referred to as the "OFFICE"). Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the OFFICE hereby finds as follows:

1. The OFFICE has jurisdiction over the subject matter of, and parties to, this proceeding.

2. STEWART TITLE is a foreign title insurance company authorized to transact title insurance business in Florida and is subject to the jurisdiction and regulation of the OFFICE pursuant to the Florida Insurance Code.

3. The OFFICE conducted a market conduct examination of STEWART TITLE, pursuant to Section 624.3161, Florida Statutes. As a result, the OFFICE has determined that STEWART TITLE violated the following provisions of the Florida Insurance Code and/or Florida Administrative Code:

- (a) Section 626.541 (1)(j), Florida Statutes - Failure to maintain compliant handling procedures; failure to maintain a complete record of all complaints received in 10 of 75 filed reviewed.

- (b) Section 624.509, Florida Statutes - The Company did not account for the full amount of title insurance premium charged to consumers by its agents in 2004 and 2005 and therefore did not pay the correct premium tax in 58 of 100 files reviewed.
- (c) Section 626.9541 (1)(h) 3.a., Florida Statutes and Rule 69O-186.003(9)(a), Fla. Admin. Code - The Company did not receive and retain at least 30% of the risk premium charged to consumers in 49 of 100 files reviewed.
- (d) Rule 69O-186.003(1), Fla. Admin. Code - Failure to charge promulgated rates in 43 of 100 files reviewed. Included in the 43 violations were 3 instances where insureds were undercharged in violation of Section 626.9541(1)(h)3.a., Florida Statutes and 40 instances where insureds were overcharged in violation of Section 626.9541 (1)(o), 2., Florida Statutes.
- (e) Section 627.8473 (6), Florida Statutes and Rules 69O-186.003 (9)(c) & 69O-186.009, Fla. Admin. Code - Agents of the Company did not remit insurance premiums, less commission, in a timely manner in 58 of 100 files reviewed.
- (f) Rule 69O-186.009, Fla. Admin. Code - Failure to maintain escrow account reconciliation records for 5 agencies and produce them upon request of the Office.
- (g) Section 627.7773, Florida Statutes - The Company could not account for outstanding forms for 45 of 50 agencies (90%) in calendar year 2005.

4. The OFFICE and STEWART TITLE expressly waive a hearing in this matter, and the making of Findings of Fact and Conclusions of Law by the OFFICE and all further and other proceedings herein to which the parties may be entitled by law. STEWART TITLE hereby knowingly and voluntarily waive all rights to challenge or to contest this Order, in any forum now available, including the right to any administrative proceeding, circuit or federal court action, or any appeal.

5. STEWART TITLE agrees that upon the execution of this Consent Order it shall be subject to the following terms and conditions:

- (a) STEWART TITLE shall pay a penalty of \$150,000.00 and administrative costs of \$15,000.00 on or before the 30th day after this Consent Order is executed.
- (b) STEWART TITLE shall henceforth comply with all applicable provisions of the Florida Insurance Code and the Florida Administrative Code.
- (c) STEWART TITLE is hereby placed on notice of the requirements of the above referenced sections of law and agrees that any future violations of these sections by STEWART TITLE may be deemed willful, subjecting STEWART TITLE to appropriate penalties.
- (d) STEWART TITLE must provide to the OFFICE certification by an officer of the Company that corrective actions requested in the examination report have been completed. The certification is to be received within 30 days of the execution of the Consent Order.

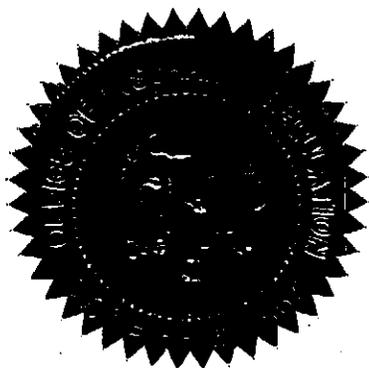
6. STEWART TITLE agrees that the failure to adhere to one or more of the above terms and conditions of this Order shall constitute a violation of a lawful order of the OFFICE, and shall be subject to such administrative action as the OFFICE may deem appropriate.

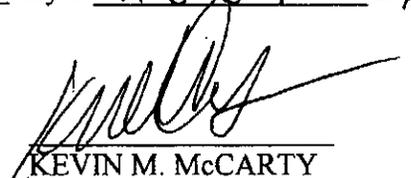
7. Except as noted above, each party to this action shall bear its own costs and attorney's fees.

8. THEREFORE, the agreement between STEWART TITLE and the OFFICE, the terms and conditions of which are set forth above, is APPROVED.

FURTHER, all terms and conditions above are hereby ORDERED.

DONE AND ORDERED this 5 day of March 2009.



  
\_\_\_\_\_  
KEVIN M. McCARTY  
Commissioner  
Office of Insurance Regulation

By execution hereof, STEWART TITLE GUARANTY COMPANY consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that he or she has the authority to bind STEWART TITLE GUARANTY COMPANY to the terms and conditions of this Consent Order and has personal knowledge of the Application and the information provided therein.

STEWART TITLE GUARANTY COMPANY

By: Michael Skalka

Corporate Seal

Michael Skalka  
Print or Type Name

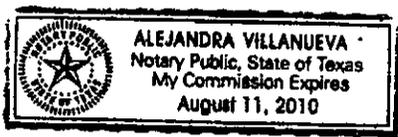
Title: PRESIDENT

Date: February 23, 2010

STATE OF Texas

COUNTY OF Harris

The foregoing instrument was acknowledged before me this 23 day of February 2010,  
by Michael Skalka as President  
(Name of person) (type of authority... e.g. officer, trustee attorney in fact)  
for Stewart Title Guaranty Company  
(company name)



Alejandra Villanueva  
(Signature of the Notary)  
Alejandra Villanueva  
(Print/Type or Stamp Commissioned Name of Notary)

Personally Known X or Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

[NOTARIAL SEAL]

My Commission Expires: August 11, 2010

**COPIES FURNISHED TO:**

**Michael B. Skalka, President  
Stewart Title Guaranty Company  
1980 Post Boulevard  
P.O. Box 2029  
Houston, TX 77056**

**Jim Bennett, Director  
Office of Insurance Regulation  
Market Investigations  
200 East Gaines Street  
Tallahassee, FL 32399-4210**

**Jeffrey Joseph  
Office of Insurance Regulation  
Legal Services  
200 East Gaines Street  
Tallahassee, Florida 32399**