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BEFORE THE STATE AUDITOR AND COMMISSIONER OF INSURANCE
STATE OF MONTANA

IN THE MATTER OF THE PROPOSED DISCIPLINARY TREATMENT OF CHICAGO TITLE INSURANCE CO., Respondent.	Case No. 2003-52 <u>CONSENT AGREEMENT</u> <u>AND FINAL ORDER</u>
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The State Auditor and Commissioner of Insurance of the state of Montana (Commissioner), pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101, *et seq.*, hereby makes the following allegations which justify and support disciplinary treatment:

FACT ASSERTIONS

1. Respondent Chicago Title Insurance Company is a Montana licensed title insurer holding certificate of authority #569 issued by the State Auditor and Commissioner of Insurance.
2. From May 5, 2003 through September 22, 2003, Respondent Chicago Title Insurance Company accepted title insurance business in Montana from three individuals acting as title insurance producers without being properly licensed as such and without being properly appointed with Chicago Title Insurance Co.
3. Subsequently, these three individuals obtained title insurance producer licenses from the Commissioner and were appointed with Chicago Title Insurance Co.

CONCLUSIONS OF LAW

1. The State Auditor is the Commissioner of Insurance pursuant to Mont. Code Ann. § 2-15-1903.
2. The Montana Insurance Department (Department) is under the control and

supervision of the Commissioner of Insurance pursuant to Mont. Code Ann. §§ 2-15-1902 and 33-1-301.

3. The Commissioner of Insurance shall administer the Department to protect insurance consumers pursuant to Mont. Code Ann. § 33-1-311.

4. Pursuant to Mont. Code Ann. § 33-1-102, a person or entity may not transact a business of insurance in Montana or a business relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of the Montana Insurance Code.

5. Pursuant to Mont. Code Ann. § 33-17-201, an insurance producer license must be obtained from the Commissioner prior to holding oneself out to be an insurance producer or acting as an insurance producer for subjects of insurance located, residing, or to be performed in Montana.

6. Title insurance is a line of authority or business that an insurance producer must be properly licensed to transact. Mont. Code Ann. §§ 33-17-212 through 33-17-214, and 33-25-101, *et seq.*

7. Pursuant to Mont. Code Ann. § 33-25-105(13), a title insurance producer is any person who holds a valid title insurance producer's license and is authorized in writing by a title insurer to solicit title insurance business, collect rates, determine insurability in accordance with underwriting rules and standards of the insurer, or issues policies of the insurer.

8. Insurance producers may not represent or claim to be a representative of an insurer unless properly appointed with that insurer. Mont. Code Ann. § 33-17-236(1).

9. Pursuant to Mont. Code Ann. § 33-17-236(2), all insurers shall file with the Commissioner and Department a notice of appointment for insurance producers.

10. Pursuant to Mont. Code Ann. § 33-17-231(1), each insurer appointing an insurance producer shall file an appointment with the Commissioner and Department specifying the kinds of insurance to be transacted by the insurance producer for the insurer.

11. By accepting title insurance business from unlicensed, unappointed insurance producers, Chicago Title is in violation of Mont. Code Ann. §§ 33-1-102, 33-17-231(1) and 33-17-236(2).

12. Pursuant to Mont. Code Ann. § 33-1-317, the Insurance Commissioner may impose an administrative fine of up to \$25,000.00 per each violation of the Montana Insurance Code or any administrative rule promulgated thereunder.

AGREEMENT

The Department and Respondent Chicago Title Insurance Company hereby stipulate and agree to the following:

1. The Commissioner and Department have jurisdiction over the subject matter of the above-entitled proceeding.
2. Respondent acknowledges that it was advised of the right to be represented by legal counsel and if represented by legal counsel, that such legal representation was satisfactory.
3. Respondent acknowledges that its authorized representative signing this Consent Agreement and Final Order has read and understands each term of this Consent Agreement and Final Order. Respondent acknowledges that it enters into this Consent Agreement voluntarily, and without reservation. Respondent acknowledges that its authorized representative signing this Consent Agreement is not under the influence of alcohol or drugs (prescription or otherwise) and that he or she does not suffer from any emotional disturbance or mental disease or defect that would render him or her not competent to sign this Consent Agreement. Respondent further acknowledges that this Consent Agreement constitutes the entire agreement between the parties and that no other promises or agreements, either express or implied, have

been made by the Department or by any member, officer, agent or representative of the Department to induce Respondent to enter into this Consent Agreement.

4. The Department contends as set forth in the preceding Fact Assertions and Conclusions of Law and Respondent admits the same. The Department and Respondent have elected to resolve these matters as follows:

(a) Respondent has ceased accepting title insurance business from unlicensed, unappointed title insurance producers;

(b) For violations of Mont. Code Ann. §§ 33-1-102, 33-17-231, and 33-17-236, the Department may impose a maximum fine of \$25,000.00 per each violation pursuant to Mont. Code Ann. § 33-1-317. For all violations between May 5, 2003 and September 22, 2003, Respondent will pay an administrative fine of \$15,000.00, with all but \$3,000.00 suspended, to the Department within 30 days following the signing of the Final Order in this matter. Respondent agrees to pay the remaining \$12,000.00 of the administrative fine if, within the 12 months following the signing of the Final Order, Respondent fails to comply with the Montana Insurance Code and/or the administrative rules promulgated thereunder. The failure of Respondent to comply during this time period will be determined in a subsequent legal (administrative, civil and/or criminal) proceeding by the Commissioner, Department, and/or State of Montana which need not be concluded within 12 months following the signing of the Final Order in this matter. The remaining \$12,000.00 of Respondent's administrative fine will be due within 30 days following the determination of that Respondent's failure to comply;

(c) The Department and Respondent agree that this Consent Agreement and Final Order resolves the violations set out herein;

(d) Respondent specifically and affirmatively waives a contested case hearing and all rights to appeal under the Montana Administrative Procedure Act, and elects to resolve this matter on the terms and conditions set forth herein;

(e) Respondent agrees that compliance with this Consent Agreement and Final Order shall be a final compromise and settlement of the matters set forth herein;

(f) Respondent fully and forever releases and discharges the Commissioner, Department, and all Department employees from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the factual allegations or conclusions in this Consent Agreement; and

(g) The Department and Respondent agree that this Consent Agreement shall be incorporated and made a part of the attached Final Order issued by the Commissioner herein.

5. Respondent further understands that, upon the signing of the Final Order by the Commissioner or his representative, this Consent Agreement and Final Order will be an order of the Commissioner and failure to comply with the same may constitute separate violations of the Montana Insurance Code, pursuant to Mont. Code Ann. § 33-2-119 and/or other applicable statutes or rules, and may result in subsequent legal action by the Department.

6. Respondent understands that this Consent Agreement is not effective until such time as the following Final Order is signed.

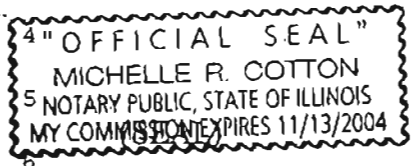
7. Respondent understands that this Consent Agreement and Final Order are public records under Montana law and as such may not sealed or otherwise withheld from the public.

CHICAGO TITLE INSURANCE COMPANY, RESPONDENT

By: Gregory M. Lam Roeyam
Its: Vice President
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5-21-04
Date

Subscribed and Sworn to before me this 21 day of May,
2004.



Michelle J. Cotton

Notary Public for the State of Illinois
Residing at

My commission expires 11-13-04

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ACCEPTED ON BEHALF OF THE INSURANCE DEPARTMENT:

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Jennifer Massman
Jennifer Massman, Staff Attorney

5-25-2004
Date

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FINAL ORDER

Pursuant to the authority vested by the Montana Insurance Code, Mont. Code Ann. § 33-1-101, *et seq.*, and upon review of the forgoing Consent Agreement and good cause appearing therefor,

IT IS ORDERED that the foregoing Consent Agreement between the Insurance Department and Chicago Title Insurance Company is hereby adopted as if set forth fully herein.

DATED this 25th day of May, 2004.

JOHN MORRISON
State Auditor and Commissioner of Insurance




By: Alicia Pichette
Deputy Insurance Commissioner

CERTIFICATE OF SERVICE

I hereby certify that on the 25 day of May, 2004, I served a true and accurate copy of the foregoing Consent Agreement and Final Order upon the Respondent and Department, by mail, postage prepaid, at the following address:

Joseph P. Mazurek
Crowley, Haughey, Hanson, Toole & Deitrich, PLLP
P.O. Box 797
Helena, MT 59624
(Legal Counsel for Respondent)

Jennifer Massman
Staff Attorney
Insurance Department



NOTICE OF REGULATORY ACTIVITY (RIRS)

For submission of regulatory actions reported to the NAIC.

ENTITY INFORMATION

Entity name, address and a numeric identifier (CoCode, AA/FEIN, SSN, Entity Number or National Producer Number) are required.

Entity Name: **CHICAGO TITLE INSURANCE COMPANY** State ID: **1009500**

(for Individual Name key in Last Name, First Name, Middle Name and Suffix if available)

NAIC Entity No: **50229** NAIC CoCode: **269** AA/FEIN: **36 - 2468956**

Entity Type Code: F I Entity Function Code: D
R N UDI - U.S. O
M D (listed on back) B S
(select one) S - -
N

Addr: **171 N CLARK ST 8TH FL** Line 2 Addr: **Line 3 Addr:**

City: **CHICAGO** State: **IL** Zip: **60601 -** Phone: **(312) 223 - 2000**

ACTION INFORMATION

ORIGIN OF ACTION

Check at least one item in the section below - maximum 4

- | | | |
|--|---|---|
| <input type="checkbox"/> (1005) Complaint Investigation | <input type="checkbox"/> (1020) Insurer Report | <input type="checkbox"/> (1045) Combined Exam |
| <input type="checkbox"/> (1007) Field Investigation | <input type="checkbox"/> (1023) Statistical Filing | <input type="checkbox"/> (1050) Bankruptcy Notices |
| <input type="checkbox"/> (1008) Public Inquiry | <input type="checkbox"/> (1025) Legal | <input type="checkbox"/> (1055) Third Party Information |
| <input checked="" type="checkbox"/> (1010) Routine Dept. Action | <input type="checkbox"/> (1030) Market Conduct Exam | <input checked="" type="checkbox"/> (1060) Licensing Administration |
| <input type="checkbox"/> (1015) Other States Action | <input type="checkbox"/> (1035) Financial Exam | <input type="checkbox"/> (1063) Background Check |
| <input type="checkbox"/> (1018) Information/Referral from Another state Agency | <input type="checkbox"/> (1040) Workers Comp Exam | <input type="checkbox"/> (1065) Other (enter up to 50 char) |

* If checked you must enter description.

REASON FOR ACTION

Check at least one item in the section below - maximum 20

- | | | |
|---|---|--|
| <input type="checkbox"/> (2005) Underwriting | <input type="checkbox"/> (2040) Failure to Timely File | <input type="checkbox"/> (2075) Failure to report other state action |
| <input type="checkbox"/> (2010) Marketing & Sales | <input type="checkbox"/> (2042) Failure to Pay Child Support | <input type="checkbox"/> (2080) Dissolution |
| <input type="checkbox"/> (2012) Life Insurance Replacement Violation | <input type="checkbox"/> (2045) Rebating | <input type="checkbox"/> (2085) Failure to pay tax |
| <input type="checkbox"/> (2014) Misrepresentation of Insurance Product/Policy | <input type="checkbox"/> (2050) Rate Violation | <input type="checkbox"/> (2090) Failure to pay fine |
| <input type="checkbox"/> (2015) Claim Handling | <input type="checkbox"/> (2053) Use of Unapproved Forms | <input type="checkbox"/> (2095) Failure to pay assessment |
| <input type="checkbox"/> (2020) Policyholder Service | <input type="checkbox"/> (2055) No License | <input type="checkbox"/> (2097) Bail Bond Forfeiture Judgement |
| <input type="checkbox"/> (2025) Advertising | <input type="checkbox"/> (2056) Demonstrated Lack of Fitness or Trustworthiness | <input type="checkbox"/> (2100) No Certificate of Authority |
| <input type="checkbox"/> (2026) Premium Finance Act Violation | <input type="checkbox"/> (2058) Misstatement on Application | <input type="checkbox"/> (2101) Certification Violation |
| <input type="checkbox"/> (2027) Surplus Lines Violation | <input type="checkbox"/> (2059) Failure to Make Required Disclosure on application | <input type="checkbox"/> (2102) Unauthorized Insurance Business |
| <input type="checkbox"/> (2028) TPA Violation | <input type="checkbox"/> (2060) Not Appointed | <input type="checkbox"/> (2103) Fiduciary Violation |
| <input type="checkbox"/> (2029) Unfair Insurance Practices Act Violation | <input type="checkbox"/> (2061) Selling for Unlicensed Insurer | <input type="checkbox"/> (2104) Failure to Remit Premiums to Insurer |
| <input type="checkbox"/> (2030) Failure to meet Continuing Education Requirements | <input checked="" type="checkbox"/> (2062) Allowed Business from Agent Not Appointed/Licensed | <input type="checkbox"/> (2105) Misappropriation of Premium |
| <input type="checkbox"/> (2032) Continuing Education Requirements Met | <input type="checkbox"/> (2063) Employed Unlicensed Individuals | <input type="checkbox"/> (2106) Forgery |
| <input type="checkbox"/> (2035) Failure to Respond | <input type="checkbox"/> (2064) Paid Commissions to Unappointed Agents | <input type="checkbox"/> (2107) Criminal Record/History |
| <input type="checkbox"/> (2036) Late or Incomplete Response | <input type="checkbox"/> (2065) Notice of Financial Impairment from another state | <input type="checkbox"/> (2108) Criminal Proceedings |
| <input type="checkbox"/> (2037) Failure to Notify Department of Address Change | <input type="checkbox"/> (2070) Financial Impairment | <input type="checkbox"/> (2110) Reconsideration |
| <input type="checkbox"/> (2038) Failure to Comply with Previous Order | <input type="checkbox"/> (2072) Cure of Financial Impairment | <input type="checkbox"/> (2115) Other (enter up to 50 char) |
| <input type="checkbox"/> (2039) Failure to Maintain Books & Records | <input type="checkbox"/> (2074) Other States Action | |

* If checked you must enter description.

Continue form on reverse side

DISPOSITION

Check at least one item in the section below – maximum 4

<input type="checkbox"/> (3001) License, Denied	<input type="checkbox"/> (3028) Certificate of Authority, Expired	<input type="checkbox"/> (3065) Show Cause
<input type="checkbox"/> (3003) License, Suspended	<input type="checkbox"/> (3029) Certificate of Authority, Probation	<input type="checkbox"/> (3070) Re-exam
<input type="checkbox"/> (3004) License, Cancelled	<input type="checkbox"/> (3031) Certificate of Authority, Reinstated	<input type="checkbox"/> (3075) Rescission of
<input type="checkbox"/> (3006) License, Revoked	<input type="checkbox"/> (3034) Certificate of Authority, Surrendered	<input type="checkbox"/> (3076) Involuntary Forfeiture
<input type="checkbox"/> (3009) License, Probation	<input type="checkbox"/> (3036) Certificate of Authority, Other (enter up to 50 char)	<input type="checkbox"/> (3078) Restitution
<input type="checkbox"/> (3010) License, Conditional		<input type="checkbox"/> (3079) Suspended from writing new business; renewals ok
<input type="checkbox"/> (3011) License, Supervision	<input type="checkbox"/> (3042) Cease and Desist from Violations	<input type="checkbox"/> (3080) Supervision
<input type="checkbox"/> (3012) License, Reinstatement	<input type="checkbox"/> (3043) Cease and Desist from all Insurance Activity	<input type="checkbox"/> (3085) Rehabilitation
<input type="checkbox"/> (3013) License, Granted	<input checked="" type="checkbox"/> (3045) Consent Order	<input type="checkbox"/> (3090) Liquidation
<input type="checkbox"/> (3014) License, Surrendered	<input checked="" type="checkbox"/> (3046) Stipulated Agreement/Order	<input type="checkbox"/> (3095) Conservatorship
<input type="checkbox"/> (3015) License, Voluntarily Surrendered	<input type="checkbox"/> (3047) Previous Order Vacated	<input type="checkbox"/> (3100) Receivership
<input type="checkbox"/> (3016) License, Other (50 Char)	<input type="checkbox"/> (3048) Ordered to provide requested information	<input type="checkbox"/> (3101) Ancillary Receivership
<input type="checkbox"/> (3021) Certificate of Authority, Denied	<input type="checkbox"/> (3050) Temporary Restraining Order	<input type="checkbox"/> (3102) Monetary Penalty
<input type="checkbox"/> (3023) Certificate of Authority, Suspended	<input type="checkbox"/> (3055) Reprimand	<input checked="" type="checkbox"/> (3103) Aggregate Monetary Penalty
<input type="checkbox"/> (3025) Certificate of Authority, Suspension Extended	<input checked="" type="checkbox"/> (3060) Hearing Waiver	<input type="checkbox"/> (3104) Settlement
<input type="checkbox"/> (3026) Certificate of Authority, Revoked		(3105) Other (you must enter up to 50 char)
		<input checked="" type="checkbox"/> \$15,000 FINE IMPOSED WITH ALL BUT \$3,000 SUSPENDED

Complete as needed

Time or Length of Order: () (If DAYS, enter number of days) _____ Penalty/Fine/Forfeiture \$ **3000** Enter amount in whole dollars only. Do not use punctuation.
 * Length of time required for Suspensions, Probations and Supervisions.

Required, please complete

Action Date: 5/21/2004 Effective Date: 5/25/2004 File Reference # 2003-52

CONTACT INFORMATION

Required, Please complete.

Action State MT Contact Name: Last Massman First: Jennifer MI: L
 Phone: (406) 444 - 2040 e-mail address: jmassman@state.mt.us

Mail completed form to: NAIC, RIRS, 2304 McGee Suite 800 Kansas City, Mo 64108
 Or
 Fax completed form to: NAIC, RIRS, 816.460.7510 or e-mail to: mktdata@naic.org (Re: RIRS)

ENTITY FUNCTION CODES

Code	Description	Code	Description	Code	Description
ADJ	Adjuster/Appraiser	KEE	Key Employee	RRF	Risk Retention Group
AIR	Alien Insurer/Reinsurer	MET	MET/MEWA	SCY	Security
CAI	Captive Insurer	MGA	Managing General Agent	SEC	Secretary
CEO	Chief Executive Officer	OFF	Officer	SEI	Self Insured
COO	Chief Operating Officer	OTH	Other	STF	State Funded
DIT	Director/Trustee	PFC	Premium Finance Co.	TPA	Third Party Administrator
EMP	Employee	PRE	President	UDI	U.S. Domiciled Insurer
HCP	Health Care Provider	PRI	Principal/Owner	UNK	Unknown
HMO	Health Maintenance Org.	PRO	Producer (agency, brokerage etc)	URO	Utilization Review Org.
INC	Insurance Consultant	REI	Reinsurance Intermediary	VIP	Vice President
JUA	Joint Underwriting Assoc.	RPG	Risk Purchasing Group		