

MAY 17 2013

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

STATE OF NEBRASKA)
 DEPARTMENT OF INSURANCE,)
)
 PETITIONER,)
 VS.)
)
 NEBRASKA DEFAULT & TITLE)
 SERVICES, INC. d/b/a ALL STATES)
 TITLE and REAL ESTATE SERVICES)
)
 RESPONDENT.)

FILED

CONSENT ORDER

CAUSE NO. A-1971

In order to resolve this matter, the Nebraska Department of Insurance (“Department”), by and through its attorney, Matthew W. Holman, and Nebraska Default & Title Services, Inc. d/b/a All States Title and Real Estate Services (“Respondent”), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb. Rev. Stat. §§ 44-101.01, and 44-4047 to 44-4067 (Reissue 2010).
2. Pursuant to Neb. Rev. Stat. § 44-4059(5), the director retains authority to enforce the provisions of and impose any penalty or remedy authorized by the Insurance Producers Licensing Act even if the person’s license or registration has lapsed by operation of law.
3. Respondent was licensed as an insurance producer under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Nebraska Default & Title Services, Inc. d/b/a All States Title and Real Estate Services, Cause Number A-1971 on April 16, 2013. A copy of the petition was served upon the Respondent at Respondent's registered business, 4940 S. 114th Street, Suite B, Omaha, NE 68137, with copies sent to Judith Zavitz, Nebraska Default & Title Services, Inc., 408 Elk Ridge Drive, Papillion, NE 68046 and to Respondent's attorney, Diana Vogt, Sherrets Bruno & Vogt LLC, 260 Regency Parkway Drive, Suite 200, Omaha, Nebraska 68114, by certified mail, return receipt requested and by regular U.S. mail.

2. Respondent is alleged to have violated Neb. Rev. Stat. §§ 44-19,116(1)(e), 44-4059(1)(b), and 44-4059(1)(h) (Reissue 2010) as follows:

- a. On or about June 18, 2012, Respondent conducted a real estate closing for a property located at 4019 Vinton Street, Omaha, NE 68105.
- b. Prior to this closing, the buyer, Joe Semin, procured a certified check from First National Bank in the amount of \$3,800 as an earnest deposit for the purchase of the above mentioned property. This check was lost in the mail prior to the June 18, 2012 real estate closing.
- c. On or about June 18, 2012, Respondent, through its closing agent Rachael Becker, conducted the real estate closing without the \$3,800 earnest deposit. At the closing, Respondent received a cashier's check from Mr. Semin in the amount of \$34,244.25.
- d. On or about June 18, 2012, Respondent issued checks related to this real estate transaction from its escrow account totaling \$4,602.52. That same day, Respondent transferred an additional \$72.60 from the escrow account for title charges related to the transaction.
- e. On or about June 19, 2012, Respondent wired \$33,369.13 from its escrow account to Federal National Mortgage Association for payment related to this real estate transaction.

- f. As of June 19, 2012, Respondent had deposited \$34,244.25 into its escrow account related to this real estate transaction and made disbursements totaling \$38,044.25 from its escrow account related to this real estate transaction. This resulted in a shortage of \$3,800 related to this transaction.
 - g. On or about June 22, 2012, Respondent deposited \$3,800 representing the earnest deposit for this real estate transaction into the company's escrow account.
3. Respondent is alleged to have violated Neb. Rev. Stat. §§ 44-4061(1), 44-4059(1)(a), 44-4059(1)(b), 44-4059(1)(h), and 44-4059(1)(j) as follows:
- a. On or about August 19, 2010, Respondent submitted its agency license renewal application to the Department. On the application, Respondent designated Edwin Peabody as one of its designated/responsible licensed producers, without Mr. Peabody's knowledge or consent. Mr. Peabody was not an employee of Respondent at this time or at any time material hereto.
 - b. Respondent maintained an agency agreement with First American Title Insurance Company from July 1, 2004 until October 2, 2012. Martin Dale Long acted as Respondent's appointed agent with First American Title Insurance Company from September 2011 until such time as his employment with Respondent was terminated.
 - c. In or around July 2012, Martin Long, Respondent's only licensed and appointed title insurance agent was terminated by Respondent. As of this time, Respondent employed no licensed title insurance agent, and had no employee appointed with First American Title Insurance Company.
 - d. Subsequent to Mr. Long's termination, Respondent continued to issue title commitments and conduct the business of title insurance without a licensed and appointed title insurance producer. Specifically, Respondent issued title insurance commitments on behalf of First American Title Insurance Company under the names Edwin Peabody and Edward Peabody. Some of these commitments were affixed with the signature of Edwin Peabody.
 - e. Mr. Peabody was unaware of, and did not authorize, Respondent's use of his name or signature on title commitments issued on behalf of Respondent or First American. Mr. Peabody is not, and has never been, an appointed agent of First American.

4. Respondent was informed of its right to a public hearing. Respondent waives that right and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving its right to a public hearing, Respondent also waives its right to confrontation of witnesses, production of evidence, and judicial review.

5. Respondent denies the allegations contained in Paragraphs 2 and 3 of the Stipulation of Facts, but does not contest them in order to resolve this matter.

CONCLUSIONS OF LAW

Respondent's conduct as alleged above constitutes violations of Neb. Rev. Stat. §§ 44-19,116(1)(e), 44-4059(1)(a), 44-4059(1)(b), and 44-4059(1)(h), 44-4059(1)(j), and 44-4061(1).

CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed by Respondent that Respondent's insurance producer license shall be placed in a revoked status.

In witness of their intention to be bound by this Consent Order, each party has executed this document by subscribing his signature below.

Matthew W. Holman
Matthew W. Holman, #24410
d/b/a Attorney for Petitioner
941 "O" Street, Suite 400
Lincoln, NE 68508
(402) 471-2201

Judith R Kowal-Zavitz
Nebraska Default & Title Services, Inc.,
All States Title and Real Estate Services
Respondent J

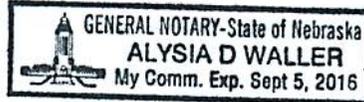
By: Judith R Kowal-Zavitz, President

5/17/2013
Date

5-15-13
Date

State of Nebraska)
County of Douglas)

) ss.



On this 15 day of May, 2013, Judith Kowal-Zavitz personally appeared before me on behalf of Nebraska Default & Title Services, Inc., d/b/a All States Title and Real Estate Services and read this Consent Order, executed the same, and acknowledged the same to be his voluntary act and deed.

Alysia D Waller
Notary Public

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance v. Nebraska Default & Title Services, Inc., d/b/a All States Title and Real Estate Services, Cause No. A-1971.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Bruce Ramge
Director of Insurance

5-17-2013

Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Consent Order was served upon Respondent by mailing a copy to Respondent's business address, 4940 S. 114th Street, Suite B, Omaha, NE 68137; to Judith Zavitz, Nebraska Default & Title Services, Inc., 408 Elk Ridge Drive, Papillion, NE 68046; and to Respondent's attorney, Diana Vogt, Sherrets Bruno & Vogt LLC, 260 Regency Parkway Drive, Suite 200, Omaha, Nebraska 68114, by certified mail, return receipt requested, on this May day of 17 2013.

