

No. 3967

**OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF INSURANCE**

Date: MAY 15 2015

Subject Considered:

Stewart Title Company
1980 Post Oak Blvd, STE 800
Houston, Texas 77056-3826

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 7040

General remarks and official action taken:

The commissioner of insurance considers whether disciplinary action should be taken against Stewart Title Company, of Houston, Texas, which holds a title agent license issued by the Texas Department of Insurance.

WAIVER

Stewart acknowledges that the Texas Insurance Code and other applicable laws provide certain procedural rights relating to the subject matter of this proceeding and how it is conducted. Stewart waives all of those procedural rights in consideration of the entry of this consent order.

Pursuant to TEX. INS. CODE § 82.055(b), Stewart has consented to the entry of this order with the express reservation that it does not admit to a violation of any provision of the Texas Insurance Code or a rule of TDI and maintains that the existence of a violation is in dispute.

FINDINGS OF FACT

1. Stewart holds a title agent license issued by TDI.
2. Laura Berta McFaddin was an escrow officer who worked for Stewart in its Midland, Texas office.
3. Michael Duraine Cowan II and Stephen Hilliard are owners of real estate companies in Midland. Cynthia Gayle Hirsch is an Odessa realtor.
4. Numerous flip transactions were closed by McFaddin. In some instances, McFaddin issued title commitments to the lender which showed record title to be vested in the seller. McFaddin prepared settlement statements for the first half of each flip

transaction that incorrectly showed the buyers brought cash to closings. The funds to purchase the property on the front half actually came from the back half transactions.

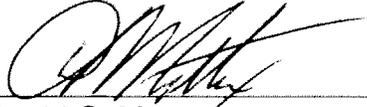
5. In a few instances, McFaddin issued title commitments with incorrect information on Schedule C regarding liens.
6. McFaddin failed to disclose premium splits for title services on settlement statements.
7. McFaddin did not disburse funds in accord with the signed settlement statements.
8. McFaddin charged incorrect premiums when an incorrect sales price was used to calculate the premium.
9. Hirsch, McFaddin, Cowan, and Hilliard pleaded guilty to one count of conspiracy to commit bank fraud and were sentenced in federal court in January 2015. Hirsch was sentenced to five years' probation, with one year to be spent in house arrest, and ordered to pay \$25,000 in damages. Hilliard and Cowan were sentenced to three years in federal prison with four years of supervised release upon the completion of their prison terms, and both were ordered to pay \$1 million in damages. McFaddin was sentenced to one year and one day in federal prison and ordered to pay \$100,000 in damages.
10. Stewart fired McFaddin. Months before the plea by McFaddin, she surrendered her escrow officer license.
11. There have been no claims on any of the title policies issued on these properties. None of the lenders have reported any default on the involved loan obligations.

CONCLUSIONS OF LAW

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051 – 82.056, 2652.057, 2652.201, and 4005.102 – 4005.104; 28 TEX. ADMIN. CODE § 9.1 adopting the *Texas Title Insurance Basic Manual* (Basic Manual); and TEX. GOV'T CODE §§ 2001.051 – 2001.178.
2. The commissioner has authority to dispose of this case informally pursuant to TEX. GOV'T CODE § 2001.056, TEX. INS. CODE § 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. Supervising the preparation and delivery of title insurance commitments and closing the transaction are duties of an escrow officer. TEX. INS. CODE § 2501.003(4). Closing the transaction requires a satisfactory determination that all proceeds have been properly disbursed. TEX. INS. CODE § 2501.006(b)(4).
4. Stewart violated TEX. INS. CODE § 2702.053 by failing to accurately disclose payments on settlement statements.
5. Stewart violated Procedural Rule P-21 by not preparing commitments correctly.

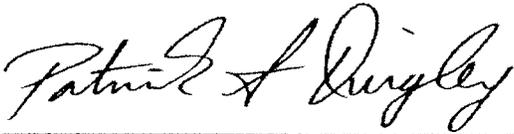
6. Stewart violated Rate Rules R-1 and R-9 by charging incorrect title premium amounts.

The commissioner orders Stewart Title Company to pay a penalty of \$50,000 within fourteen days of the date this order.



David C. Mattax
Commissioner of Insurance

APPROVED AS TO FORM AND CONTENT:



Patrick S. Quigley, Attorney
Texas Department of Insurance

3967

COMMISSIONER'S ORDER

Page 4 of 4

THE STATE OF Texas §

COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared the Affiant, who being by me duly sworn, deposed as follows:

"My name is E. D. Lester. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I hold the office of GROUP SR V.P., and am the authorized representative of Stewart Title Company. I am duly authorized by the organization to execute this statement.

Stewart Title Company waives rights provided by the Texas Insurance Code and other applicable law and acknowledges the jurisdiction of the commissioner.

Stewart Title Company is voluntarily entering into this consent order, and consents to the issuance and service of this consent order."

E. D. Lester
Affiant

SWORN TO AND SUBSCRIBED before me on April 13, 2015.

Candace L. Wiggins
Signature of Notary Public

