



March 22, 2007

RE: Civil Penalty Agreement

Dear

The Department has been conducting an investigation into the title insurance industry. As part of that investigation, the joint venture that you are involved with through First American Title Insurance Company was reviewed. The Department recently settled its issues with First American Title Insurance Company which you may review at the Commerce Department website at [www.commerce.state.mn.us](http://www.commerce.state.mn.us) and click on "What's New." Evidence obtained from our investigation shows that you are one of the Referral Partners of Horizon Title. Based on the investigation findings to date, the Department alleges that you, as a Referral Partner, committed violations of Minnesota law, specifically that:

1. You accepted kickbacks, rebates or other things of value for the referral of business through a sham affiliated business arrangement, in this instance Horizon Title. This is in violation of Minn. Stat. §72A.20, subd. 18 and RESPA, Section 8 (12 U.S.C. 2607).
2. You solicited the sale of title insurance by either asking or urging home purchasers to obtain services, including both lender and owners title insurance policies, through the Joint Venture. You are neither licensed as a title insurance agent nor appointed by First American. Selling insurance without a license, accepting compensation while unlicensed and not being appointed are all in violation of Minn. Stat. §§60K.32, 60K.33, 60K.48, subd. 2 and 60K.49, subd. 2.
3. As a real estate agent you failed to act in the best interest of your clients in violation of Minn. Stat. §82.22.
4. You failed to either completely or accurately disclose your affiliated business arrangement with the joint venture and First American in violation of Minn. Stat. §72A.20, subd. 18 and the (RESPA), 12 U.S.C. 2607 (c) (4), and RESPA regulations (Regulation X), 24 CFR Part 3500.15.

While our investigation of the conduct specifically involving you has not been concluded, the Department has decided to offer to settle these issues before proceeding further.

Enclosed please find a Civil Penalty Agreement (Agreement), which provides a means to resolve this now. This document contains the minimum terms that our Department would accept at this time. This disciplinary action is limited to what is specifically stated in the Agreement.

Alternatively, you may refuse to accept this settlement offer and exercise your right to an administrative hearing. In that instance, the Department will withdraw our current offer and continue the investigation of your specific conduct in preparation of the administrative hearing process. Upon completion of the

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investigation, a Statement of Charges will be prepared. This will involve an administrative hearing before an Administrative Law Judge (ALJ). A Statement of Charges detailing our investigative findings and all allegations would be issued with an Order for Hearing. All of these documents are open to public review. The Statement of Charges will list numerous allegations of violations. It will only be necessary for the state to prove one violation of any statute or regulation to justify administrative action.

The Administrative Law Judge will make a determination concerning whether violations have occurred. However, the determination as to the proper penalty is strictly at the discretion of the Commissioner of Commerce. The maximum penalty that can be imposed is revocation of your license and/or a \$10,000 civil penalty per violation. If the Administrative Law Judge finds any violations of statutes or regulations, the Commissioner will issue an Order imposing the penalty that he feels is appropriate.

If you do not return the signed Agreement within **ten days** of your receipt of it or contact our Department within the specified time period, I will assume that you desire to proceed with the issuance of the Statement of Charges, and any other action deemed necessary by our Department. **If you accept the terms of the Agreement, please send your check payable to the State of Minnesota and the signed and notarized Agreement to the following address:**

Attention: Pamela Gergen  
Minnesota Department of Commerce  
Market Assurance Division  
85 7<sup>th</sup> Place East, Suite 500  
St. Paul, MN 55101

If you have any questions, or need clarification on any issue, please call **651-297-8121**.

Sincerely,



PAMELA GERGEN  
Senior Investigator  
Market Assurance Division

PG/jl  
Enclosures



## CIVIL PENALTY AND AGREEMENT

March 22, 2007

RE: Horizon Title

Dear

Based upon the evidence obtained throughout our investigation, you:

- (1) Accepted kickbacks from a sham affiliated business arrangement in violation of Minn. Stat. §72A.20, subd. 18 and RESPA, Section 8 (12 U.S.C. 2607);
- (2) Accepted compensation for the sale of title insurance while unlicensed and unappointed in violation of Minn. Stat. §§60K.32, 60K.33, 60K.48, subd. 2 and 60K.49, subd. 2.
- (3) Failed to act in the best interests of your clients in violation of Minn. Stat. §82.22.
- (4) Failed to properly disclose your affiliated business arrangement in violation of Minn. Stat. §72A.20, subd. 18, and RESPA, 12 U.S.C. 2607(c)(4), and RESPA regulations (Regulation X), 24 CFR Part 3500.15

You have agreed to resolve this matter by paying a civil penalty of \$1000. By signing this statement and paying the penalty you agree to the following:

1. That the violation as described occurred and you agree to resolve it in this manner;
2. That you are aware of your right to a hearing and hereby waive that right;
3. That you have been advised of your right to legal counsel and that you have either had legal counsel or waive your right to legal counsel; and
4. Your check, payable to the state of Minnesota, must accompany this document.

March 22, 2007

\_\_\_\_\_  
(Signature and Title of Authorized Representative)

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

\_\_\_\_\_  
(Signature of notary officer)

Signed before me on \_\_\_\_\_ (date) \_\_\_\_\_

by [Respondent]  
Title (and Rank)

My Commission expires: \_\_\_\_\_

(stamp)