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State fines 3 title companies over kickback allegations

Article by: Susan E. Peterson

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As part of a yearlong investigation and crackdown on real estate title insurance companies, the Minnesota Commerce Department on Wednesday announced enforcement actions against four companies, including the California-based giant First American Title Insurance Co.

First American was fined \$500,000 for operating what the department said were sham title agencies that provided illegal referral kickbacks to local real estate agents, mortgage brokers, developers and other industry players.

The department, working in cooperation with the U.S. Department of Housing and Urban Development, expects additional enforcement actions as the investigation continues.

"We are sending a clear message today that these sham business arrangements need to end immediately," Commerce Commissioner Glenn Wilson said. "Minnesota consumers are paying too much for title insurance in order to support these illegal kickbacks, and most of the time they don't even know it's happening."

In addition to the First American fine, the owner of a Bloomington title agency was fined \$500,000 for misappropriating clients' funds. Two other title firms paid smaller fines for allegedly illegal activities, the department said.

"That's a very large fine," said department spokesman Bill Walsh, who noted that the department's largest fine was \$2.5 million, assessed last year against insurer Conseco, which was accused of selling unsuitable insurance products.

Wilson and other department officials said it's hard to know how much extra Minnesota consumers might have paid for title insurance because of the kickbacks and other illegal activities.

"It's difficult to ascertain if any one consumer is harmed," Wilson said. "But if they're adding additional layers [to the title process], the only effect is to raise costs."

While state and federal laws forbid direct compensation to agents and other real estate professionals for referrals for title and other settlement services, the laws allow "affiliated business arrangements," the Commerce Department said. However, those affiliated businesses must provide actual services.

The department charged that First American set up sham title agencies that were partly owned by agents, mortgage brokers and others who typically bought in for \$500 each. The sham agencies provided no services, but paid the owners "dividends" to get around the prohibition on kickbacks for referrals, the department said.

First American signed a consent decree, agreeing to shut down 35 affiliated title agencies in Minnesota and pay the \$500,000 fine, but it did not admit or deny the department's allegations. In a prepared statement, the company said: "Although First American believes it operated the joint ventures consistent with then-existing state and federal law, it recognizes that the regulatory landscape is changing and the company is adapting accordingly."

Although Wilson said the First American sham partnerships had been going on for a number of years, the company was not ordered to make restitution to consumers.

The department decided it was better to negotiate an end to the long-standing practices rather than get tied up in litigation that could take years, said Paul Hanson, the department's chief examiner. "It's most effective to basically stop the problem," he said.

The department also acted against three other firms:

- It imposed a \$500,000 civil penalty against Dale Dodge, owner of Verity Title and Abstract of Bloomington, for allegedly misappropriating \$2.4 million in customers' money to "support an extravagant lifestyle." Verity has filed for bankruptcy, the department said; Dodge could not be reached for comment.
- Gibraltar Title Agency of Edina signed a consent order agreeing to close four affiliated title businesses, to reimburse customers a total of \$100,000 and to pay a \$10,000 fine.
- American Residential Mortgage of Maplewood signed a consent order agreeing to a \$5,000 fine for allegedly failing to disclose an affiliated business arrangement.

Department officials emphasized that the investigation into title insurance practices is continuing.

"This should be a wide-reaching investigation," Walsh said. "There are over 600 referral partners with First American alone."

Susan E. Peterson • 612-673-4506 • sepeterson@startribune.com

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