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Department of Insurance
State of Idaho

Attorneys for the Department of Insurance

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:

FIRST AMERICAN TITLE COMPANY [Ada
County], dba: FIRST AMERICAN TITLE
AND ESCROW COMPANY

Idaho Title Agency License No. 323555

Docket No. 18-3259-16

**ORDER ADOPTING REPORT
OF EXCEPTION EXAMINATION
AS OF DECEMBER 31, 2015**

The State of Idaho, Department of Insurance (Department), having conducted an examination of the affairs, transactions, assets, tract indexes, abstract records, and any other records of FIRST AMERICAN TITLE COMPANY [Ada County], dba: FIRST AMERICAN TITLE AND ESCROW COMPANY (First American Title), to ascertain compliance with title 41, Idaho Code, and related rules, pursuant to Idaho Code §§ 41-2710(7) and 41-219(1) and (5), hereby alleges the following facts that constitute a basis for issuance of an order, pursuant to Idaho Code § 41-227(5)(a), adopting the Report of Exception Examination of First American Title Company [Ada County] dba: First American Title and Escrow Company for the Period January 1, 2011 to December 31, 2015 (Report), as filed.

FINDINGS OF FACT

1. First American Title is a title agency licensed by the Department to transact title insurance in Ada County, Idaho, under Title Agency License No. 323555.

2. The Department completed an examination of First American Title pursuant to Idaho Code §§ 41-2710(7) and 41-219(1) and (5) on or about October 21, 2016. The Department's findings are set forth in the Report.

3. Pursuant to Idaho Code § 41-227(4), a copy of the Report was filed with the Department on October 21, 2016, and was transmitted to First American Title on the same date. A copy of the Report is attached hereto as Exhibit A.

4. Pursuant to Idaho Code § 41-2710(7), First American Title had twenty-eight (28) days from service of the Report within which to review, comment, or request a hearing on the Report. First American Title submitted a letter to the Department dated October 4, 2016, responding to comments and recommendations of the examiner. A copy of such letter is attached hereto as Exhibit B.

5. On or about November 8, 2016, the Department received a Waiver from First American Title signed by Matthew B. Sager, its Operations Counsel. By execution of such Waiver, a copy of which is attached hereto as Exhibit C, First American Title consented to the immediate entry of a final order by the Director of the Department (Director) adopting the Report without any modifications; waived its right to make further written submission or rebuttal to the Report; and waived its right to request a hearing and to seek reconsideration or appeal from the Director's final order.

CONCLUSIONS OF LAW

6. Idaho Code § 41-227(5)(a) provides that, after expiration of "the period allowed

for the receipt of written submissions or rebuttals, the director shall fully consider and review the report, together with any written submissions or rebuttals and relevant portions of the examiner's work papers" and shall enter an order adopting the report of examination as filed or with modifications or corrections.

7. Having fully considered the Report, the Director concludes that, with regard to the matters examined and information provided by First American Title, the comments and recommendations contained in the Report, including the Examiner's determination of violations of Department rules by First American Title and corrective actions to be taken identified at pages 15-16 of the Report, Exhibit A, are appropriate and are incorporated herein as if set forth in full.

ORDER

NOW, THEREFORE, based on the foregoing, IT IS HEREBY ORDERED that the Report of Exception Examination of First American Title Company [Ada County] dba: First American Title and Escrow Company for the Period January 1, 2011 to December 31, 2015, is hereby ADOPTED as filed, pursuant to Idaho Code § 41-227(5)(a).

IT IS FURTHER ORDERED, pursuant to Idaho Code §§ 41-2710(7) and 41-227(8), that the adopted Report is a public record and shall not be subject to the exemptions from disclosure provided in chapter 1, title 74, Idaho Code.

IT IS FURTHER ORDERED, pursuant to Idaho Code § 41-227(6)(a), that, within thirty (30) days of the issuance of the adopted Report, First American Title shall file with the Department's Examiner Title & Market Insurance Specialist affidavits executed by each of its directors or, if none, its principal officers, stating under oath that they have received a copy of the adopted Report and related orders.

IT IS FURTHER ORDERED that, no later than thirty (30) days from the date of verification of the Report attached hereto, First American Title shall provide written evidence to the Department that it has revised its processes and fully implemented procedures to ensure that adequate supporting documentation of expenses is being maintained to confirm that First American Title is compliant with title 41, Idaho Code, and related Department rules.

IT IS FURTHER ORDERED that, no later than thirty (30) days from the date of verification of the Report attached hereto, First American Title shall provide written evidence to the Department that it has revised its processes and fully implemented procedures to ensure that First American Title is in compliance with Idaho Code §§ 41-1314(1) and 41-2708(3) with regard to reimbursement of escrow fees and title premium to its employees.

IT IS FURTHER ORDERED that, no later than thirty (30) days from the date of verification of the Report attached hereto, First American Title shall provide written evidence to the Department that it has revised its processes and fully implemented procedures to ensure that First American Title's future business entertainment expenses are in compliance with IDAPA 18.01.56.015.01.

IT IS FURTHER ORDERED that, no later than thirty (30) days from the date of verification of the Report attached hereto, First American Title shall prepare and distribute written procedures for its staff regarding proper handling and billing of title commitment cancellation fees. A copy of such procedures or instructions shall simultaneously be provided to the Department.

IT IS FURTHER ORDERED that an administrative penalty in the amount of one thousand eight hundred dollars (\$1,800.00) is imposed against First American Title, pursuant to IDAPA 18.01.25.004.01 and 18.01.56.018.01; provided, however, that such penalty is waived

subject to the following:

- The Department retains the right to perform a target examination at any time regarding cancellations and billings for such cancellations and to impose new penalties based on findings of violation; and
- First American Title shall provide to the Department, by no later than June 30, 2017, a report of all cancellations of title commitments for the period December 1, 2016, through May 31, 2017. Such report shall be provided in the manner and include such information as prescribed by the Department.

IT IS SO ORDERED.

DATED this 27 day of December, 2016.

STATE OF IDAHO
DEPARTMENT OF INSURANCE



DEAN L. CAMERON
Director

NOTIFICATION OF RIGHTS

This Order constitutes a final order of the Director. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The Director will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. *See*, Idaho Code § 67-5246(4).

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal it by filing a petition for judicial review in the district court of the county in which: (1) the hearing was held; or (2) the final agency action was taken; or (3) the aggrieved party resides or operates its principal place of business in Idaho; or (4) the real property or personal property that was the subject of the agency decision is located. An appeal must be filed within twenty-eight (28) days of: (a) the service date of this final order; or (b) an order denying a petition for reconsideration; or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. *See*, Idaho Code § 67-5273. The filing of a petition for judicial review does not itself stay the effectiveness or enforcement of the order under appeal.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 28th day of December, 2016, I caused a true and correct copy of the foregoing ORDER ADOPTING REPORT OF EXCEPTION EXAMINATION AS OF DECEMBER 31, 2015, to be served upon the following by the designated means:

Matthew B. Sager
Senior Operations Counsel
First American Title Insurance Company
9000 E. Pima Center Parkway
Scottsdale, AZ 85258
msager@firstam.com

- first class mail
- certified mail
- hand delivery
- email

First American Title Company (Ada Co.)
dba: First American Title and Escrow
3540 E. Longwing Ln., Ste. 230
Meridian, ID 83646-1119

- first class mail
- certified mail
- hand delivery
- email

Georgia Siehl, CPA, CFE
Bureau Chief / Chief Examiner
Idaho Department of Insurance
700 W. State Street, 3rd Floor
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- first class mail
- certified mail
- hand delivery
- email





REPORT OF EXCEPTION EXAMINATION
For the Period January 1, 2011 to December 31, 2015
of
First American Title Company dba:
First American Title and Escrow Company
(a title Agent corporation - license #323555 - Ada County)
as of
December 31, 2015

Equal Opportunity Employer



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Boise, Idaho
October 18, 2016

The Honorable Dean L. Cameron
Director of the Idaho Department of Insurance
700 West State Street
Boise, Idaho 83720

Sir:

Pursuant to your instructions and in conformity with Idaho Code §§ 41-219, 41-220, and 41-2713, an examination has been made of the administrative affairs, books, records and financial condition of;

First American Title Company dba:
First American Title and Escrow Company
3540 E. Longwing Lane, Suite #230
Meridian, Idaho 83646
License #323555 - Ada County

Hereinafter referred to as "Title Agent".

The following Report of Exception Examination is respectfully submitted.

FOREWORD

This is an exception examination report of the practices and procedures of First American Title Company dba First American Title and Escrow Company (Title Agent) an Idaho Title Agent licensed in Ada County. However, failure to identify or criticize specific products, procedures or files does not constitute approval thereof by the Idaho Department of Insurance (the Department).

The title and escrow file portion of the examination was conducted at the Title Agent's home offices located at 3540 E. Longwing Lane, Suite #230 in Meridian, Idaho. The remaining portions of the examination was conducted at the Department's offices located at 700 W. State Street in Boise, Idaho. In performing this examination, the examiner(s) reviewed a sample of the Title Agent's procedures, files, and documentation. Some noncompliant practices may not have been discovered during this examination. As such, this report may not fully reflect all of the procedures and practices of the Title Agent.

During the examination, the examiner(s) may cite violations made by the Title Agent. Statutory citations are as of the period under examination unless otherwise noted. The goal of the examination team was to produce an examination report that reflects agreement in content with the Title Agent. The report indicates where agreement was not possible.

The final examination report documents consist of the examiners' report, the Title Agent's response if elected, and any administrative actions based on the findings of the Idaho Department of Insurance.

PURPOSE AND SCOPE OF EXAMINATION

The purpose of this examination is to determine compliance with applicable Idaho Statutes and regulations, and rules promulgated by the Department. In addition, examiners may have documented practices and procedures that did not appear to be in the best interest of Idaho insurance consumers.

The period covered by this examination is January 1, 2011 through December 31, 2015. Specific areas examined include operations/management, claims, advertising and marketing, title file review and escrow fiduciary account and file review.

The Department's authority to conduct this examination includes, but is not limited to, Idaho Code § 41-2710(7), which grants authority for regular examinations of a title agent's tract indexes, abstract records, and any other records to ascertain compliance with title 41, Idaho Code, and related rules, to occur not more than every fifth year, unless the agent otherwise requests or the director has cause to believe the same does not comply with said title or the rules thereunder.

HISTORY AND DESCRIPTION

First American Title Company, Inc. dba First American Title Company, Inc. of Florida was granted a certificate of authority by the Idaho Secretary of State on February 10, 2009. They became licensed in Ada County with the Department and began operations on August 17, 2009. On June 25, 2013 they changed their name to First American Title Agency Company. On October 31, 2013 they changed their name to First American Title Company dba First American Title and Escrow Company (previously defined as "Title Agent"). They conduct business out of offices in Boise, Meridian and Eagle Idaho.

PRIOR EXAMINATION

Our examination included a review to determine if exceptions were noted in our preceding report of examination dated April 28, 2011, which covered the period January 1, 2006 through December 31, 2010. One (1) exception condition was noted and satisfactorily addressed by the Title Agent in June of 2011. No exceptions were noted as a result of this current examination.

PRIOR ESCROW AUDIT

Our examination included a review to determine if exceptions were noted in the November 2012 escrow audit which covered the period July 1, 2009 through June 30, 2012. Fifteen (15) exception conditions were noted. We determined that the Title Agent satisfactorily addressed all

fifteen of those exceptions in March of 2013. No additional exceptions were noted as a result of this current examination.

Our examination included a review to determine if exceptions were noted in the December 2015 escrow audit which covered the period of July 1, 2012, through June 30, 2015. Four (4) exception conditions were noted. We determined that the Title Agent satisfactorily addressed all four of those exception conditions in April 2016. No exceptions were noted as a result of this current examination.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

I. OPERATIONS AND MANAGEMENT

The examination included a review of the Title Agent's operations and management. The focus of this section of the examination includes review of management and control, contracting authority, surety bond, claims, and financial interests of the title entity management and ownership.

A. MANAGEMENT, CONTROL AND FINANCIAL INTERESTS **IDAPA 18.01.39.011, 012 & 013**

The Idaho Secretary of State lists the corporate officers as Corporation Service Company as the current registered agent, Dennis J. Gilmore as President, Jeffrey S. Robinson as Secretary and H. Matthew McCreadie as Treasurer. The Directors are Mark. E. Seaton, Jeffrey S. Robinson, Christopher M. Leavell and Dennis J. Gilmore. Kurt Galitz is the Operations Manager. No exceptions were noted as a result of this examination.

B. CONTRACTING AUTHORITY **Idaho Code § 41-2710(2)**

This is a direct issuing operation by the underwriter, First American Title Insurance Company. As such, there are no underwriting contracts and no requirements for high liability approval. No exceptions were noted as a result of this examination.

C. SURETY BOND **Idaho Code §§ 41-2710(6), 2711** **IDAPA 18.01.25.011.08 & 09**

The Department has on file surety bond # 7609965 in the amount of \$50,000.00 issued by Fidelity and Deposit Company of Maryland on behalf of the Title Agent. The examination confirmed this bond to be currently active. No exceptions were noted as a result of this examination.

D. CLAIMS **Idaho Code § 41-2708(1) & (2)**

The Title Agent reported seven (7) claim losses totaling \$29,222.94 for the examination period. The claims do not appear to be an oversight on the part of the Title Agent and were remedied prior to our examination. Additionally, we did not find material issues with the title plant during the examination. No exceptions were noted as a result of this examination.

II. ADVERTISING AND MARKETING

Idaho Code § 41-2708(3) & (4)

IDAPA 18.01.39.014 & 18.01.56

This examination included a review of the Title Agent's marketing and sales practices. A general ledger for each year under examination for all accounts involving contributions, donations, sales expenses, travel and meal expenses, Title Agent/staff function expenses, as well as samples of listing packages or property profiles were requested and received. After a cursory review of the general ledgers, samples were picked within our examination parameters. Supporting documents for the samples were requested, received and reviewed.

During our examination we noted thirty two (32) of sixty four (64) expenses sampled do not have adequate supporting documentation. We were not able to determine the compliance of these expenses.

Idaho Code § 41-2710(7) states that regular examination of the tract indexes, abstract records and any other records be conducted to ascertain compliance with title 41, Idaho Code, and related rules. This provision in the code impliedly requires agents to keep accurate and complete records sufficient to ascertain compliance with title 41, Idaho Code.

During our examination we noted the following exceptions regarding rebating:

Date of Reimbursement	Amount Reimbursed to Employee	Reason for Reimbursement
1/3/2012	\$ 1,468.00	Title premium and escrow fees
3/31/2012	\$ 1,617.00	Title premium and escrow fees
6/15/2012	\$ 1,600.00	Title premium and escrow fees
10/26/2012	\$ 1,556.00	Title premium and escrow fees
11/7/2012	\$ 1,310.00	Title premium and escrow fees
12/3/2012	\$ 1,829.00	Title premium and escrow fees
2/22/2013	\$ 1,484.00	Title premium and escrow fees
5/15/2013	\$ 830.25	Title premium and escrow fees
6/11/2013	\$ 811.50	Title premium and escrow fees
6/25/2013	\$ 1,118.25	Title premium and escrow fees
6/25/2013	\$ 1,501.00	Title premium and escrow fees
8/1/2013	\$ 1,115.00	Title premium and escrow fees
8/5/2013	\$ 1,377.00	Title premium and escrow fees
8/23/2013	\$ 956.00	Title premium and escrow fees
8/23/2013	\$ 1,544.00	Title premium and escrow fees
8/4/2014	\$ 1,055.00	Title premium and escrow fees

9/25/2014	\$ 1,196.00	Title premium and escrow fees
12/1/2014	\$ 1,588.00	Title premium and escrow fees
1/09/2015	\$ 1,037.00	Title premium and escrow fees
3/10/2015	\$ 1,263.00	Title premium and escrow fees
5/22/2015	\$ 1,968.00	Title premium and escrow fees
7/8/2015	\$ 1,083.00	Title premium and escrow fees
7/24/2015	\$ 1,905.00	Title premium and escrow fees
8/3/2015	\$ 1,195.00	Title premium and escrow fees
8/5/2015	\$ 664.00	Title premium and escrow fees

Our examination concluded that of the \$33,071.00 reimbursed, \$7,517.08 was noted as title insurance premium of the underwriter First American Title Insurance Company and \$9,640.50 was noted as escrow fees. The remaining \$15,913.42 was noted as title insurance premium kept as commission for the Title Agent.

Idaho Code § 41-2708(3) states that Section 41-1314(1), Idaho Code, shall be applicable and prohibits title insurers and title agents from providing rebates in connection with underwriting premium, abstracting charges, title examination fees, closing charges and escrow fees. However, Idaho Code § 41-1315A, does allow for employees of an insurer, agent or broker to receive a rebate or reimbursement of insurance premium up to, and not to exceed, the amount of commission received. There is no mention of an allowed reimbursement for any other costs or fees except insurance premium. The Title Agent was in violation of Idaho Code § 41-1314(1) and § 41-2708(3) by reimbursing employees for escrow closing fees.

During the examination the following exceptions regarding entertainment expenses were noted:

Date of Entertainment Expense	Violation of IDAPA 18.01.56.015.01
September 26, 2011	Staff member Sean O'Gara spent \$110.78 each on 3 agents of a producer of title business.
October 4, 2012	Staff member Sean O'Gara spent \$199.00 each on 6 agents of a producer of title business, 5 from the same producer.
March 8, 2012	Staff member Michael Marks spent \$120.10 on 1 agent of a producer of title business.
April 4, 2014	Staff member Michael Marks spent \$140.00 each on 2 agents of a producer of title business.
August 26, 2014	Staff member Tabatha Hyer spent \$195.63 each on 9 agents of a producer of title business.

February 13, 2015	Staff member Chad Smith entertained 7 agents from the same producer of title business.
March 13, 2015	Staff member Chad Smith entertained 6 agents from the same producer of title business.
May 19, 2015	Staff member Mark Adams spent \$175.60 each on 9 agents of a producer of title business.
April 21, 2015	Staff member Tabatha Hyer entertained 11 agents of producers of title business, 5 were from one producer and 6 were from another.
September 16, 2015	Staff member Brian Morkrid entertained 5 agents of a producer of title business.

IDAPA 18.01.56.015.01 states that “a title entity shall not expend more than one hundred dollars (\$100) per person per day for all meals and/or events. Meals and events shall include, but not be limited to, breakfast, brunch, lunch, dinner, cocktails, sporting events, sporting activities, trips and music and art events. In addition, a title entity may entertain no more than four (4) persons who are employed by or agents of any single producer of title business in a single day. Spouses and/or guests of the producers of title business or employees or agents thereof shall be included in the count for purposes of determining the four (4) person maximum.” The Title Agent was in violation of IDAPA 18.01.56.015.01 by expending more than one hundred dollars (\$100) per person per day for meals and/or events for producers of title business and entertaining more than four (4) persons who are employed by, or agents of any single producer of title business in a single day.

Recommendations

It is recommended that the Title Agent submit to the Department in writing what proposed procedures that the Title Agent will implement in order to maintain accurate and complete records sufficient to ascertain compliance with title 41, Idaho Code and associated rules. No administrative sanctions or penalties are recommended at this time as this is the first instance of this violation noted in an examination.

It is recommended that the Title Agent submit to the Department in writing what proposed procedures that the Title Agent will implement in order to be in compliance with Idaho Code §41-1314(1) and § 41-2708(3) regarding the reimbursement of escrow fees and title premium to its employees. No administrative sanctions or penalties are recommended at this time as this is the first instance of this violation noted in an examination.

It is recommended that the Title Agent submit to the Department in writing what proposed procedures that the Title Agent will implement to ensure that future business entertainment expenses subject to IDAPA 18.01.56.015.01 will be compliant. No administrative sanctions or penalties are recommended at this time as this is the first instance of this violation noted in an examination.

III. TITLE FILE REVIEW

Idaho Code §§ 41-2702, 2708 & 2709

IDAPA 18.01.25 & 18.01.56.017 & Exhibit 1(9)

The Title Agent's Title Department is managed by May Lin Carlsen and is comprised of five (5) title officers. The title plant is leased from Alliance Title Corporation and is posted and maintained at their corporate offices located at 9288 W. Emerald Street in Boise, Idaho. A sample of title files were reviewed within the parameters of the examination for the rates charged, the correct insured amount of the owner's and mortgagee's policies, proper countersignatures, double sales, proper use of the Standards of Liability and liens and encumbrance rules, cancellation fees, and unique kind or class of risk.

During the examination, the following exception regarding the rates charged was noted:

1. Title policy #1852415 was issued as a standard policy but the rate charged was for an Eagle extended coverage policy.

Idaho Code § 41-1323(2) states that no person shall willfully collect as premium any sum in excess of the premium applicable to such insurance. The Title Agent was in violation of this statute by collecting more premium than the rate for a standard policy filed with the Department.

During the examination, the following exceptions regarding the charging for and/or failing to make efforts to collect cancellation fees were noted:

Commitment #2448278 cancelled after 07/23/14 and no cancellation fee was charged.
Commitment #2475433 cancelled after 07/23/14 and no cancellation fee was charged.
Commitment #2482212 cancelled after 07/23/14 and no cancellation fee was charged.
Commitment #2511616 cancelled after 07/23/14 and no cancellation fee was charged.
Commitment #2520917 cancelled after 07/23/14 and no cancellation fee was charged.
Commitment #2522682 cancelled after 07/23/14 and no cancellation fee was charged.

Pursuant to IDAPA 18.01.25.004.01...“where a preliminary report is issued, the order for the policy may be canceled prior to closing upon applicant being required to pay a cancellation charge of fifty percent (50%) of the premium with a minimum of fifty dollars (\$50) provided that any portion of the charge in excess of one hundred dollars (\$100) may be waived....”

IDAPA 18.01.25.004.02.d provides that no title insurance agent shall “issue a title insurance binder, commitment or preliminary report without an order and without making a charge therefor if a policy is not issued thereon....”

Furthermore, pursuant to IDAPA 18.01.56, EXHIBIT 1.9...“A title entity shall not waive a cancellation fee, fail to charge for a cancellation fee, or otherwise fail to make efforts to collect a cancellation fee from the recipient of services provided by the title entity.” When a title

commitment issued by a title agent in response to an order does not result in a policy of title insurance, the title agent must charge a cancellation fee in the amount required by the rules and make an effort to actually collect the cancellation fee. IDAPA 18.01.39.10.04 and 18.01.56.010.05 define uncollected cancellation fees for title commitments as “things of value.” Additionally, providing things of value such as uncollected cancellation fees to a customer is considered an illegal inducement.

On July 23, 2014, an advisory addressing the issues on charging and collection of cancellation fees was issued by the Department to all title agents. Within that advisory, agents were reminded that providing things of value such as uncollected cancellation fees to a customer is considered an illegal inducement.

The Title Agent was in violation of IDAPA 18.01.25.004.01, 18.01.25.004.02.d, 18.01.56, EXHIBIT 1.9, and 18.01.56.11 by not charging cancellation fees.

Recommendations

It is recommended that the Title Agent submit to the Department in writing how they intend to rectify title insurance policy #1852415 which was issued as a standard policy rather than as an Eagle extended coverage policy. No administrative sanctions or penalties are recommended at this time as this is the first instance of this violation noted in an examination.

It is recommended that the Title Agent submit to the Department in writing what proposed procedures will be implemented to ensure that all future cancellations of title commitments are compliant with IDAPA 18.01.25.004.01 and IDAPA 18.01.56, EXHIBIT 1.9.

It is also recommended that the Director enter an order for administrative penalties as a result of violating IDAPA 18.01.25.004.01, 18.01.25.004.02.d, 18.01.56, EXHIBIT 1.9, and 18.01.56.11 in the amount of \$1,800.00.

IV. ESCROW FIDUCIARY ACCOUNTS AND FILE REVIEW

The Escrow Department is managed by Tabatha Hyer and is comprised of five (5) escrow officers.

A. FIDUCIARY ACCOUNTS

IDAPA 18.01.25.011.04, 05 & 10

The examination included a review of the fiduciary accounts utilized during the examination period. The accounts were reviewed for correct labeling, separation from operating funds, reconciliation, and negative balances. There are five (5) fiduciary accounts for this office that are balanced on a daily basis and reconciled on a monthly basis by the National Trust Accounting Center. Monthly reconciliations are reviewed by the branch escrow employees. No exceptions were noted as a result of this examination.

B. ESCROW FILE REVIEW

Idaho Code § 41-2705(3)

IDAPA 18.01.25.011 & 12, 18.01.56.017

A sample of the escrow files were reviewed within the parameters of the examination for adequate written instructions, conformity to the written instructions by the Title Agent, rates charged as filed, signed settlement statements, receipt and disbursement ledgers, evidence of receipts and disbursements made, file overdrafts, and business interests of the escrow officers. No exceptions were noted as a result of this examination.

CONCLUSION

I certify and attest that I have examined the Title Agent's tract indexes, abstract records, as well as other records, and the operation of the Title Agent's business and other matters relevant to the affairs of the Title Agent. I further certify that I have no relationship, other than in my capacity as examiner and/or regulator, with the Title Agent or its employees and that no conflict of interest exists that would prevent me from conducting the examination. I acknowledge the assistance and cooperation of the Title Agent's employees during the examination. Based on my examination, I prepared this Examiner's Report of Exceptions (the "Report") in accordance with Idaho Code § 41-2710(7). I confirm that the findings, conclusions, and recommendations contained in this Report are my own.

Respectfully submitted,



Jim Scanlon
Examiner Title & Market Insurance Specialist
Idaho Department of Insurance

PENALTY, STIPULATIONS AND APPEAL NOTIFICATION

This matter comes before the Idaho Department of Insurance (“Department”) as a result of this Report of Exception Examination (“Examination”). The Department has fully considered and reviewed this Examination, the written submissions and rebuttals provided October 4, 2016, by the Title Agent in response to the Examination, and the recommendations of the Examiner.

The Department makes the following findings of fact and imposes penalties and stipulations:

1. The Title Agent failed to provide adequate supporting documentation of expenses causing the Department to be unable to ascertain if these expenses were in compliance with title 41, Idaho Code, and related rules. This failure constitutes a violation of Idaho Code § 41-2710(7).

No later than thirty (30) days from the date this Examination was verified, the Title Agent shall provide written evidence to the Department that it has revised its processes and fully implemented procedures to ensure that adequate supporting documentation of expenses is being maintained which will confirm that they are compliant with title 41, Idaho Code, and related rules.

2. The Title Agent, on multiple occasions, reimbursed escrow closing fees to its employees. These actions constitute a violation of Idaho Code §41-1314(1) and § 41-2708(3).

No later than thirty (30) days from the date this Examination was verified, the Title Agent shall provide written evidence to the Department that it has revised its processes and fully implemented procedures to ensure that they are in compliance with Idaho Code §41-1314(1) and § 41-2708(3) regarding the reimbursement of escrow fees and title premium to its employees.

3. The Title Agent, on multiple occasions, expended more than one hundred dollars (\$100) per person per day for meals and/or events for producers of title business and entertained more than four (4) persons who are employed by, or agents of, any single producer of title business in a single day. These actions constitute violations of IDAPA 18.01.56.015.01.

No later than thirty (30) days from the date this Examination was verified, the Title Agent shall provide written evidence to the Department that it has revised its processes and fully implemented procedures to ensure that future business entertainment expenses are in compliance with IDAPA 18.01.56.015.01.

4. The Title Agent, on six (6) occasions, failed to charge cancellation fees for cancelled title commitments. These failures constitute violations of IDAPA 18.01.25.004.01, 18.01.25.004.02.d, 18.01.56, EXHIBIT 1.9, and 18.01.56.11.

No later than thirty (30) days from the date this Examination was verified the Title Agent is required to prepare and distribute written procedures for its staff regarding proper handling and billing of title commitment cancellation fees. A copy of such procedures/instructions should also be provided to the Department within the same time frame.

The Department shall assess a penalty in the amount of \$1,800.00 in accordance with IDAPA 18.01.25.004.01 and 18.01.56.018.01. However, the Department waives this penalty with the stipulation and understanding that the Department retains the right to perform a target exam anytime in the future regarding cancellations and billings for such cancellations and impose new penalties based on any findings of violations. The Department requires the Title Agent to provide a report to the Department of all cancellations of title commitments for the period December 1, 2016 through May 31, 2017 with the information in the Excel format attached. This report is due June 30, 2017.

Pursuant to Idaho Code § 41-2710(7), you have twenty eight (28) days to review, comment and request a hearing regarding these findings. Unless a hearing is requested in accordance with Idaho Code §§ 41-227(5) and (6), 41-232(2)(b), or elsewhere in the Idaho Code within the twenty eight (28) day review period, the Director will issue an order adopting the report and it shall be deemed available to the public.

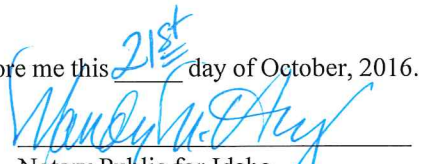
I certify that on this 21st day of October, 2016, I submitted a final copy of this Report to the Director of the Idaho Department of Insurance and served a final copy of the same by Electronic Mail to:

Matthew B. Sager
Senior Operations Counsel
First American Title Insurance Company
9000 E. Pima Center Parkway
Scottsdale, AZ 85258
msager@firstam.com

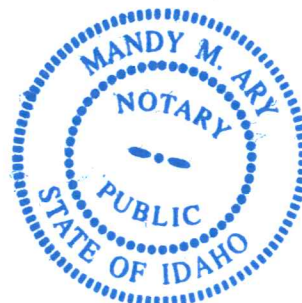


Jim Scanlon
Examiner Title & Market Insurance
Specialist
Idaho Department of Insurance

SUBSCRIBED AND SWORN to before me this 21st day of October, 2016.



Notary Public for Idaho
Residing at: Boise, Idaho
Commission Expires: 7/24/18





**First American
Title Insurance Company**

MATTHEW B. SAGER
SENIOR OPERATIONS COUNSEL

October 4, 2016

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STATE OF IDAHO
DEPT OF INSURANCE

Jim Scanlon
Examiner Title & Market Insurance Specialist
Idaho Department of Insurance
700 West State Street, 3rd Floor
P.O. Box 83720
Boise, Idaho
83720-0043

**RE: First American Title Company ("First American")
5 Year Department Examination
Ada County: License #323555**

Dear Mr. Scanlon:

This letter provides First American's response to matters raised in the Idaho Department of Insurance (the "Department") Report of Exception Examination as of December 31, 2015 of First American's operations located in Ada County (the "Audit Report").

First American appreciates the Department's review of First American's operations and we are committed to address those issues noted in the Audit Report. The company's management has initiated a thorough review of the cited matters and has instructed the responsible parties to take all necessary action to correct the discrepancies noted. First American will be providing training to all escrow personnel in which the company will review the Audit Report and the regulations applicable to the issues raised therein. In addition to its ongoing education and training, First American has emphasized to all escrow personnel the importance of thoroughness and attention to detail.

II. ADVERTISING AND MARKETING

**Idaho Code § 41-2708(3)&(4)
IDAPA 18.01.39.014 & 18.01.56**

Supporting Documentation on Expenses

First American would appreciate the opportunity to research and review the Auditor's finding that certain expense samples did not have adequate supporting documentation. The Audit Report, however, did not identify the sampled expenses. As such, First American is unable to respond or investigate this further. Absent the additional information necessary to identify the expenses referenced in the report, First American is unable to provide a response or supporting documentation. First American will provide training to its employees reminding them of the requirement to provide supporting documentation for expenses.

9000 E. Pima Center Parkway, Scottsdale, AZ 85258
DIRECT 602.685.7511 • CELL 801.588.9871 • FAX 602.685.7015
msager@firstam.com • www.firstam.com



First American Employee Reimbursement

Within the Audit Report, the Department noted exceptions regarding reimbursements of title premiums and escrow fees for transactions involving First American's employees. The Department referenced Idaho Code § 41-1314(1) as the basis for this exception. First American respectfully disagrees with the Auditor's findings as Idaho Code § 41-1314 does not expressly prohibit rebates or reimbursements of escrow fees. Instead, this particular code addresses any "rebate of premiums payable on the [insurance] contract," or providing any special benefits, dividends, securities or agreements for returns or profits as an inducement for the purchase of products or services which are not included in the contract of insurance or policy issued. This code section is silent as to rebates of any fees outside of insured products or premiums, such as fees for escrow services. Accordingly, First American should not be charged with a violation for reimbursing a portion of an escrow fee paid by an employee.

With respect to employee reimbursements for title premiums and escrow costs, Idaho Code § 41-1315A provides an exception to the anti-rebate provisions of Idaho Code §41-1314, allowing for discounts to employees of the title company as the code recognizes that reimbursement to an employee is not an inducement. This particular code states that "[n]o provision of title 41... shall be deemed to prohibit allowance by an insurer... of a discount from the premium otherwise payable ... on the employee's property or risks other than property or risks used or involved in business operations of the employee other than as an employee of the insurer, agent or broker." First American believes that Idaho Code § 41-1315A generally permits a company to provide a discount pertaining to the amounts paid by an employee to cover risks involved with the employee's property, which includes both the insurance contract and escrow services.

First American also respectfully disagrees with the finding that the underwriter, First American Title Insurance Company, did not provide permission for the reimbursement of title insurance premiums to First American's employees. First American is a direct issuing operation of First American Title Insurance Company. Given the relationship between First American and First American Title Insurance Company, First American believes that the employee reimbursement program is within the parameters set by Idaho Code §§ 41-1314 and 41-1315A and is authorized by the insurer, First American Title Insurance Company.

Marketing and Entertainment Expenses

First American has conducted an investigation into each of the expenses noted in the Audit Report. First American responds to each of the Auditor's findings as follows:

Expenses dated September 26, 2011 and October 4, 2012 (Sean O'Gara):

First American has reviewed these expenses and has discussed them with its Idaho sales team. For the two expenses identified in the Audit Report for Sean O'Gara, First American believes that multiple types of expenses may have been grouped together and inadvertently mischaracterized in our expense reporting system for each of these events. First American will provide additional training to our sales team regarding the proper identification and reporting of customer and employee expenses to prevent similar reporting issues in the future.

Expenses dated March 8, 2012 and April 4, 2014 (Michael Marks):

First American acknowledges the finding of the Audit Report as it pertains to these two expenses. For your information, Mr. Michael Marks is no longer employed with First American. First American has and will continue to provide training to its employees regarding the permitted entertainment expenses under IDAPA 18.01.56.015 and the limits of how much may be expended per producer of title business.

Expenses dated August 26, 2014 and April 21, 2015 (Tabatha Hyer Gutierrez):

First American has investigated the expenses identified within the Audit Report referencing Ms. Tabatha Hyer Gutierrez and found that the expenses were mischaracterized within our expense reporting system. The two expenses by Ms. Gutierrez were for the purchase of season tickets for Boise State University football games. First American purchased two separate blocks of four seats each, for a total cost of \$3,130 annually. This expense breaks down to approximately \$65.21 per seat. These two expense reports, however, were submitted for the entire purchase of the season tickets. Consequently, the list of producers submitted with the expense report only contained a partial list based upon invitees for the first game and for those who would be receiving an invitation to future games. As reported in Ms. Gutierrez's expense report, the total cost for all of the tickets were included in one report and did not include the entire or actual list of attendees to each game, so the expense report disproportionately inflated the amount spent on each producer. Based on the actual ticket amount for each game of \$65.21 a seat, First American did not exceed the limits set by IDAPA 18.01.56.015.

In order to better track this expense, First American adjusted the payment procedures for its season ticket allotments in 2016. Going forward, we have implemented policies and procedures so that our reporting systems accurately reflect the price allocation per seat purchased and will continue to educate our employees on proper expense reporting procedures.

Expense dated May 19, 2015 (Mark Adams):

First American has looked into this expense and found that this expense was incorrectly categorized in the expense reporting system. This expense included a receipt for food which was done for a First American open house celebrating the opening of our new office in The Village at Meridian. The list of producers attached to the expense report did not include all of or accurately reflect the nearly two hundred guests we welcomed for that open house event. Given the circumstances, this expense is more appropriately reviewed under IDAPA 18.01.56.012.02.b which pertains to title entities hosting open houses. First American believes this expense complied with the requirements of that regulation. First American will provide training to its employees so that expenses are reported correctly to avoid future mischaracterization of expenses.

Expenses dated February 13, 2015, March 13 2015 and September 16, 2015 (Chad Smith and Brian Morkrid):

For each of these expenses, the Audit Report noted that more than four guests, including spouses, from one producer were present. First American has discussed these exceptions with

the sales team and reminded them that no more than four guests from one producer, including spouses, may be entertained by the company per day, regardless of the number of employees also in attendance at the event. First American will continue to provide training to its employees to remind them of the limits of IDAPA 18.01.56.015.

III. TITLE FILE REVIEW

Idaho Code §§ 41-2702, 2708 & 2709

IDAPA 18.01.25 & 18.01.56.017 & Exhibit 1(9)

Policy Rates

The Auditor's Report identified one file where a standard policy was issued but the charge for an Eagle Owner's Policy was collected. First American has corrected the policy that was issued and has provided the customer with an Eagle Owner's Policy. The issuance of the Standard Owner's Policy was due to an administrative error. A copy of the Eagle Owner's Policy that has been issued is included with this letter for your reference. First American will also provide training to its employees to identify and prevent similar errors in the future.

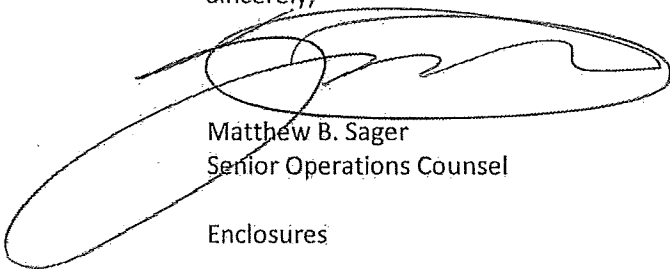
Cancellation Fees

The Auditor's Report identified certain files where a cancellation fee should have been collected. First American responds to each of the files identified as follows:

1. File No. 2130260 – This file was cancelled in 2013, prior to the Department's final advisory that was issued in July of 2014 regarding cancellation fees (the "Final Advisory"). The cancellation date that appears in First American's electronic records was due to administrative corrections and clean-up. As this file was cancelled prior to the Final Advisory, First American does not believe that a penalty is justified.
2. File No. 2244730 – This file was cancelled in May 2014, prior to the issuance of the Final Advisory. Therefore, First American does not believe that a penalty is justified for this file.
3. File No. 2270376 – This file was cancelled in June of 2014, prior to the issuance of the Final Advisory. Therefore, First American does not believe that a penalty is justified for this file.
4. File No. 2348475 – First American did not generate or issue a title commitment to any party prior to cancellation of this file. As such, no cancellation fee could have or should have been charged under IDAPA 18.01.25.001.01. As no cancellation fee could have been applied to this file, there should not be a finding of a violation.
5. File No. 2484388 – First American did not issue or generate a title commitment to any party prior to cancellation of this file. Additionally, our file notes indicate that the file was cancelled as an order was opened with another title company. As no commitment was issued and an order was opened at another title company, there should not be a finding of a violation.
6. File Nos. 2448278, 2475433, 2482212, 2511616, 2520917, 2522682 – First American acknowledges that a cancellation fee should have been charged for these particular files. First American will send a cancellation fee notice to the parties for these files. Additionally, First American will provide training to its employees regarding the requirements to timely invoice and charge a cancellation fee.

Thank you, on behalf of First American, for the opportunity to respond to the concerns raised in the Audit Report. Please feel free to contact me if you have any questions about the content of this response.

Sincerely,

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke.

Matthew B. Sager
Senior Operations Counsel

Enclosures

State of Idaho
DEPARTMENT OF INSURANCE

C. L. "BUTCH" OTTER
Governor

700 West State Street, 3rd Floor
P.O. Box 83720
Boise, Idaho 83720-0043
Phone (208)334-4250
FAX # (208)334-4398

DEAN L CAMERON
Director

WAIVER

In the matter of the Report of Examinations as of December 31, 2015, of:

First American Title Company dba:
First American Title and Escrow Company
3540 E. Longwing Lane, Suite #230
Meridian, Idaho 83646
License #323555 - Ada County
License #425706 - Canyon County

By executing this Waiver, the Title Agent hereby acknowledges receipt of the above-described examination reports, verified as of the 21st day of October 2016, and by this Waiver hereby consents to the immediate entry of final orders by the Director of the Department of Insurance adopting said reports without any modifications.

By executing this Waiver, the Title Agent also hereby waives:

1. its right to examine the reports for up to twenty eight (28) days as provided in Idaho Code § 41-2710(7),
2. its right to make additional written submission or rebuttal to the reports prior to entry of final orders as provided in Idaho Code § 41-2710(7) and,
3. any right to request a hearing under Idaho Code §§ 41-227(5) and (6), § 41-232(2)(b), or elsewhere in the Idaho Code, and
4. any right to seek reconsideration and appeal from the Director's orders adopting the reports as provided by Idaho Code § 41-227(6), or elsewhere in the Idaho Code.

Dated this 8 day of November, 2016

NAME OF ENTITY UNDER EXAMINATION

First American Title Company
Name (print)

[Signature]
Name (signature)

Operations Counsel
Title

