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

Idaho Title Agency License No. 425706

Docket No. 18-3258-16

**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 [Canyon 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 [Canyon County] dba: First American Title and Escrow Company for the Period October 1, 2012 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 Canyon County, Idaho, under Title Agency License No. 425706.

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 page 11 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 [Canyon County] dba: First American Title and Escrow Company for the Period October 1, 2012 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 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 three hundred dollars (\$300.00) 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 20th 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 (Canyon 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 October 1, 2012 to December 31, 2015

of

First American Title Company dba:
First American Title and Escrow Company
(a title agent corporation - license #425706 - Canyon 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 #425706 - Canyon County

Hereinafter referred to as the "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 Canyon 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 October 1, 2012 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 Canyon County with the Department and began operations on October 1, 2012. 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

The Title Agent was licensed in 2012. Therefore, no previous 5 year examination has been done.

PRIOR ESCROW AUDIT

The Title Agent was licensed in 2012 and did not begin escrow closings until late 2015. Therefore, no prior 3 year escrow audit has been done.

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. 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 has reported that there were no claims during the examination period. 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

The 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. No exceptions were noted as a result of this 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 charging for and/or failing to make efforts to collect cancellation fees was noted:

Commitment #2398081 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 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 \$300.00.

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 the following penalty and stipulation:

1. For file # 2398081, the Title Agent failed to charge a cancellation fee for the cancelled title commitment. This failure constitute a 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.

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 \$300.00 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

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

Mandy M. Ary
Notary Public for Idaho
Residing at: Boise, Idaho
Commission Expires: 7/24/18

Jim Scanlon

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





**First American
Title Insurance Company**

MATTHEW B. SAGER
SENIOR OPERATIONS COUNSEL

October 4, 2016

RECEIVED
2016 OCT -5 AM 10:17
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
Canyon County: License #425706**

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 Canyon 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 review of the cited matters and, where appropriate, 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.

III. TITLE FILE REVIEW

**Idaho Code §§ 41-2702, 2708 & 2709
IDAPA 18.01.25 & 18.01.56.017 & Exhibit 1(9)**

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. 2357586 – First American believes that the file referenced in the Audit Report is not correct as First American is not able to locate this particular file. It is possible that either the file number provided to the Department may have been incorrect or that the Audit Report contained an incorrect file number. As First American is not able to locate this particular file, it is not able to respond to provide a response to the Audit Report's finding that a cancellation fee should have been charged.
2. File No. 2398081 – First American acknowledges that a cancellation fee should have been charged. First American will send a cancellation fee notice to the parties for this file.

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

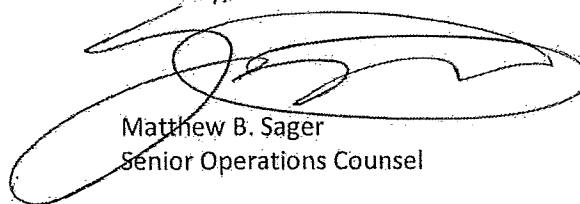


Additionally, First American will provide training to its employees regarding the requirements to timely invoice and charge a cancellation fee.

3. File No. 2480418 –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.

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 handwritten signature in black ink, appearing to read 'Matthew B. Sager', is written over a large, loopy scribble that also forms a signature.

Matthew B. Sager
Senior Operations Counsel

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

