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**FILED**  
**DEC 28 2016**  
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:

TITLEFACT, INC. [Cassia County]

Idaho Title Agency License No. 368644

Docket No. 18-3253-16

**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 TITLEFACT, INC. (TitleFact), 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 TitleFact, Inc. [Cassia County] for the Period January 19, 2011 to December 31, 2015 (Report), as filed.

**FINDINGS OF FACT**

1. TitleFact is a title agency licensed by the Department to transact title insurance in

Cassia County, Idaho, under Title Agency License No. 368644.

2. The Department completed an examination of TitleFact pursuant to Idaho Code §§ 41-2710(7) and 41-219(1) and (5) on or about October 17, 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 17, 2016, and was transmitted to TitleFact on the same date. A copy of the Report is attached hereto as Exhibit A.

4. Pursuant to Idaho Code § 41-2710(7), TitleFact had twenty-eight (28) days from service of the Report within which to review, comment, or request a hearing on the Report.

5. No request for hearing, written submission, or rebuttal with respect to any matter contained in the Report was received by the Department from TitleFact.

#### **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 TitleFact, the comments and recommendations contained in the Report are appropriate.

#### **ORDER**

NOW, THEREFORE, based on the foregoing, IT IS HEREBY ORDERED that the Report of Exception Examination of TitleFact, Inc. [Cassia County] for the Period January 19,

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, TitleFact 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 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**

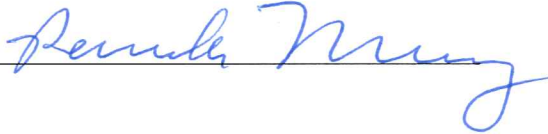
I HEREBY CERTIFY that, on this 29th day of December, 2016, I caused a true and correct copy of the foregoing ORDER ADOPTING REPORT OF EXCEPTION EXAMINATION AS OF DECEMBER 31, 2015, to be served upon the following by the designated means:

TitleFact, Inc.  
163 4<sup>th</sup> Avenue N.  
Twin Falls, ID 83301-6137  
[keasterday@titlefact.com](mailto:keasterday@titlefact.com)

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

Georgia Siehl, CPA, CFE  
Bureau Chief / Chief Examiner  
Idaho Department of Insurance  
700 W. State Street, 3<sup>rd</sup> Floor  
Boise, ID 83720-0043  
[georgia.siehl@doi.idaho.gov](mailto:georgia.siehl@doi.idaho.gov)

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

  
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REPORT OF EXCEPTION EXAMINATION

For the Period January 19, 2011 to December 31, 2015

of

TITLEFACT, INC.

(a title Agent corporation - license #368644 – Cassia County )

as of

December 31, 2015

*Equal Opportunity Employer*



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Boise, Idaho  
September 9, 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;

TitleFact, Inc. – Cassia County  
163 4<sup>th</sup> Avenue North  
Twin Falls, Idaho 83301

Hereinafter referred to as the “Agent”.

The following Report of Exception Examination is respectfully submitted.



## **FOREWORD**

This is an exception examination report of the practices and procedures of TitleFact, Inc. (Agent) an Idaho Title Agent licensed in Cassia 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 Agent's home offices located at 163 4<sup>th</sup> Avenue North in Twin Falls 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 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 Agent.

During the examination, the examiner(s) may cite violations made by the 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 Agent. The report indicates where agreement was not possible.

The final examination report documents consist of the examiners' report, the Agent's response, 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, Idaho Department of Insurance regulations, and promulgated rules issued 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 19, 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 authority of the Idaho Department of Insurance to perform this examination includes, but is not limited to, Idaho Code §41-2710(7), which grants authority to the Idaho Department of Insurance to regular examination of the tract indexes, abstract records, and any other records to ascertain compliance with title 41, Idaho Code, and related rules, of a title Agent not more than every fifth year, unless the Agent otherwise requests or the director has cause to believe the same does not comply with this chapter or the rules thereunder.

## **HISTORY AND DESCRIPTION**

Boone County Title Company was established in 1963 by T.W. Stivers, the father of the current owner. He was granted a certificate of authority by the Idaho Secretary of State on March 25, 1970 when the name was changed to TitleFact, Inc. They became licensed in Cassia County with the Idaho Department of Insurance on January 19, 2011. They conduct business out of newly constructed owned offices in Twin Falls, Idaho.

## **PRIOR EXAMINATION**

As this Agent became licensed in January of 2011, there is no previous 5 year examination.

## **PRIOR ESCROW AUDIT**

Our examination included a review to determine if prior exceptions were noted in the November 24, 2014 escrow audit completed by Mr. Richard J. Monthei of Old Republic National Title Insurance Company which covered the period July 1, 2011 through June 30, 2014 and whether these exceptions were addressed. No exceptions were noted in the prior escrow audit report.

## **SUMMARY OF FINDINGS AND RECOMMENDATIONS**

### **I. OPERATIONS AND MANAGEMENT**

The examination included a review of the 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 Richard B. Stivers as the current registered Agent, Director and President, Robert Todd Blass as Director and Kathy C. Easterday as Secretary. No exceptions were noted as a result of the examination.

#### **B. CONTRACTING AUTHORITY**

##### **Idaho Code § 41-2710(2)**

This Agent has underwriting contracts with Fidelity National Title Insurance Company and Old Republic Title Insurance Company. All premiums appear to be paid current. All underwriting contracts require a high liability approval of \$1,000,000.00 with deductibles for loss of \$5,000.00. No exceptions were noted as a result of the examination.

#### **C. SURETY BOND**

##### **Idaho Code §§ 41-2710(6), 2711**

##### **IDAPA 18.01.25.011.08 & 09**

The Idaho Department of Insurance has on file surety bond # PB11831700192 in the amount of \$50,000.00 issued by Philadelphia Indemnity Insurance Company on behalf of the Agent. The examination confirmed this bond to be currently active. No exceptions were noted as a result of the examination.

#### **D. CLAIMS**

##### **Idaho Code § 41-2708(1) & (2)**

The Agent has stated that there were no claims to report for the examination period. No exceptions were noted as a result of the 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 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, 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. No exceptions were noted as a result of the examination.

## **III. TITLE FILE REVIEW**

**Idaho Code §§ 41-2702, 2708 & 2709**

**IDAPA 18.01.25 & 18.01.56.017 & Exhibit 1(9)**

The title plant is managed by Land Title and Escrow, Inc., (LTE) through a yearly automatically extendable lease agreement executed on February 11, 2010. The title department is managed by R. Todd Blass and consists of 3 title officers. LTE prepares a preliminary commitment and TitleFact, Inc. issues a final commitment to the parties based on that preliminary. TitleFact, Inc. then issues the title policy based on the date down endorsement by LTE. Payment of the title premium is collected by TitleFact. A sample of title files were reviewed within the parameters of our 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. No exceptions were noted as a result of the examination.

#### **IV. ESCROW FIDUCIARY ACCOUNTS AND FILE REVIEW**

The escrow department is managed by Kathy Easterday and consists of 1 long term escrow officer and 3 closing 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. The 2 fiduciary accounts for this office are balanced on a daily basis and reconciled on a monthly basis by Kathy Easterday at the corporate offices in Twin Falls, Idaho. Monthly reconciliations are reviewed by R. Todd Blass and/or Richard B. Stivers. No exceptions were noted as a result of the 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 our examination for adequate written instructions, conformity to the written instructions by the 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 the examination.

## CONCLUSION

I certify and attest that I have examined the Agent's tract indexes, abstract records, as well as other records, and the operation of the Agent's business and other matters relevant to the affairs of the Agent. I further certify that I have no relationship, other than in my capacity as examiner and/or regulator, with the Agent or its employees and that no conflict of interest exists that would prevent me from conducting the examination. I acknowledge that the assistance and cooperation of the 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

I further certify that on this 17th 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:


Kathy Easterday  
TitleFact, Inc.  
163 4<sup>th</sup> Avenue North  
Twin Falls, Idaho 83301  
keasterday@titlefact.com

SUBSCRIBED AND SWORN to before me this 17<sup>th</sup> day of October, 2016.



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



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