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FILED
MAR 21 2017 *BJ*
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:

PIONEER TITLE COMPANY
OF ADA COUNTY, INC.
[Boise County]

Idaho Title Agency License No. 5687

Docket No. 18-3285-17

**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 PIONEER TITLE COMPANY OF ADA COUNTY, INC. [Boise County] (“Pioneer 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 Pioneer Title Company of Ada County, Inc. [Boise County] for the Period January 1, 2012 to December 31, 2015 (“Report”), as filed.

FINDINGS OF FACT

1. Pioneer Title is a title agency licensed by the Department to transact title insurance in Boise County, Idaho, under Title Agency License No. 5687.

2. The Department completed an examination of Pioneer Title pursuant to Idaho Code §§ 41-2710(7) and 41-219(1) and (5) on or about February 14, 2017. 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 February 14, 2017, and was transmitted to Pioneer Title on the same date. A copy of the Report is attached hereto as Exhibit A.

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

5. On or about February 27, 2017, the Department received a Waiver from Pioneer Title signed by Jesse Hamilton, its General Counsel and Senior Vice President. By execution of such Waiver, a copy of which is attached hereto as Exhibit B, Pioneer 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 a 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.

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

CONCLUSIONS OF LAW

7. 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.

8. Having fully considered the Report, the Director concludes that, with regard to the matters examined and information provided by Pioneer Title, the comments and recommendations contained in the Report, including the Examiner's determination of violations of Department rules by Pioneer 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 Pioneer Title Company of Ada County, Inc. [Boise County] for the Period January 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, Pioneer 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 issuance of this Order adopting the Report, Pioneer Title shall provide written evidence to the Department

demonstrating that Pioneer Title has revised its processes and fully implemented procedures to ensure that copies of buyer's or seller's signed settlement statements are retained, pursuant to IDAPA 18.01.25.011.03.

IT IS FURTHER ORDERED that, no later than thirty (30) days from the issuance of this Order adopting the Report, Pioneer 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 Six Hundred Dollars (\$600.00) is imposed against Pioneer Title, pursuant to IDAPA 18.01.56.018.01; provided, however, that such penalty is waived subject to the understanding that 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.

IT IS SO ORDERED.

DATED this 20th day of March, 2017.

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 21st day of March, 2017, 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:

Jesse Hamilton
Legal Counsel
Pioneer Title Company of Ada County
1211 W. Myrtle Street, Ste. 100
Boise, ID 83702
jesse@pioneer1031.com

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

Pioneer Title Company of Ada County
8151 W. Rifleman Street
Boise, ID 83704-9003

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

Hermoliva Abejar
Chief Deputy 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, 2012 to December 31, 2015

Of

Pioneer Title Company of Ada County, Inc.
(a title agent corporation - license # 5687 – Boise County)

As of

December 31, 2015

Equal Opportunity Employer



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Boise, Idaho
February 7, 2017

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;

Pioneer Title Company of Ada County, Inc.
8151 W Rifleman Street
Boise, Idaho 83704-9003
License #5687 – Boise 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 Pioneer Title Company of Ada County (Title Agent) an Idaho Title Agent licensed in Boise 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 examination was conducted at the Title Agent's office located at 8151 W Rifleman Street, Boise, Idaho, remotely at the offices of AM Interim Services LLC located at 5122 S. Adonis Way in Boise, Idaho and at the Idaho Department of Insurance at 700 W State Street, 3rd Floor, Boise, Idaho 83702. 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 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 Department.

PURPOSE AND SCOPE OF EXAMINATION

The purpose of the 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, 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 the 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

Ada County Abstract Company was filed as a corporation with the Idaho Secretary of State and began their operations in Boise in December of 1949. In March of 1954 they changed their name to Capitol Title Company. In September 1976 they changed their name to Pioneer Title Company of Ada County. They were licensed in Boise County with the Department on July 17, 1981. They conduct business in Boise County out of offices in Boise, Meridian and Eagle Idaho.

PRIOR EXAMINATION

The examination included a review to determine if exceptions were noted in our preceding report of examination dated June 24, 2012, which covered the period January 1, 2007 through December 31, 2011. No exceptions were noted.

PRIOR ESCROW AUDIT

The examination included a review to determine if exceptions were noted in the December 14, 2015 escrow audit completed by Mr. Richard J. Monthei of Old Republic National Title Insurance Company which covered the period July 1, 2012 through June 30, 2015 and whether those exceptions were addressed. No exceptions were noted.

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 portion of the examination included a review of the 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 Pioneer Title Company of Ada County as a Corporation. Tim Bundgard is named as President and Registered Agent, Joe Glaisyer as Director and Jesse Hamilton as Secretary. No exceptions were noted as a result of this portion of the examination.

B. CONTRACTING AUTHORITY

Idaho Code § 41-2710(2)

The Title Agent has underwriting agreements with Fidelity National Title Insurance Company, First American Title Insurance Company, National Title Insurance of New York Inc., and Old Republic National Title Insurance Company. The underwriting contracts high liability approval requirements range from \$500,000.00 to \$1,000,000.00 with a range of \$2,500.00 to \$5,000.00 deductible for loss. No exceptions were noted as a result of this portion of the examination.

C. SURETY BOND

Idaho Code §§ 41-2710(6), 2711

IDAPA 18.01.25.011.08 & 09

The Department has on file surety bond #104850945 in the amount of \$50,000.00 issued by Travelers Casualty and Surety Company on behalf of the Title Agent. The examination confirmed this bond to be currently active. No exceptions were noted as a result of this portion of the examination.

D. CLAIMS

Idaho Code § 41-2708(1) & (2)

The Title Agent reported that there were five (5) claims with no losses during the examination period. The claims appear to be oversights on the part of employees 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

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 portion 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 Agent's Title Department is managed by John R. Farmer and is comprised of eleven (11) title officers and one (1) searcher. The title plant is posted and maintained by the Title Agent in Boise, Idaho. 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.

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

Commitment #558760 was cancelled after July 23, 2014 and no cancellation fee was charged.

Commitment #558611 was cancelled after July 23, 2014 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, the 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, 18.01.25.004.02.d 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 \$600.00.

IV. ESCROW FIDUCIARY ACCOUNTS AND FILE REVIEW

The Title Agent's Escrow Department is managed by Mike Ranieri and is comprised of nineteen (19) escrow officers, and thirteen (13) escrow assistants.

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 account was reviewed for correct labeling, separation from operating funds, reconciliation, and negative balances. The fiduciary account for this office is balanced on a daily basis and reconciled on a monthly basis by personnel in the Ada County Accounting office on Rifleman Street. Monthly reconciliations are reviewed by Cindy Truchot, CFO. No exceptions were noted as a result of this portion of the examination.

B. ESCROW FILE REVIEW **Idaho Code § 41-2705(3)** **IDAPA 18.01.25.011 & 12, 18.01.56.017**

The examination included a review of the escrow files opened during the examination period. 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 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.

During our examination we noted the following exception regarding settlement statements:

File number 517401 did not contain copies of the buyer's signed settlement statements.

IDAPA 18.01.25.011.03 states that "On completion of an escrow transaction the agent shall deliver to each principal a written closing statement signed by the agent of each principal's account. The same shall show all receipts and disbursements and any charge made by and disbursements to the escrow agent shall be clearly noted. A copy shall be retained."


Recommendations

It is recommended that the agent submit to the Department in writing what proposed procedures the agent will implement to ensure that pursuant to IDAPA 18.01.25.011.03, copies of the signed settlement statements will be retained in all files. No administrative sanctions or penalties are recommended at this time as this is the first instance of this violation noted in an examination.

CONCLUSION

We certify and attest that we 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. We further certify that we have no relationship, other than in our capacity as examiners and/or regulators, with the Title Agent or its employees and that no conflict of interest exists that would prevent us from conducting the examination. We acknowledge the assistance and cooperation of the Title Agent's employees during the examination. Based on our examination, we prepared this Examiner's Report of Exceptions (the "Report") in accordance with Idaho Code § 41-2710(7). We confirm that the findings, conclusions, and recommendations contained in this Report are our own.

Respectfully submitted,

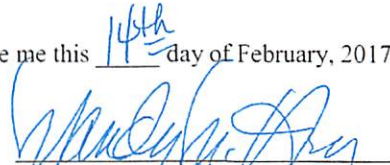


Arlene Barrie
Contract Title Agent Examiner

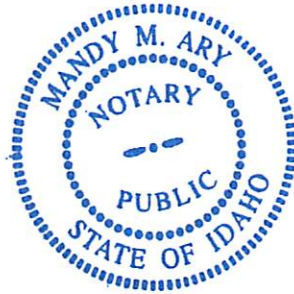


Jim Scanlon
Examiner Title and Market Insurance Specialist

SUBSCRIBED AND SWORN to before me this 14th day of February, 2017.



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



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 by the Title Agent in response to the Examination, and the recommendations of the Examiners.

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

1. The Title Agent, on two (2) 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 the Final Order is adopted, 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 \$600.00 in accordance with IDAPA 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.

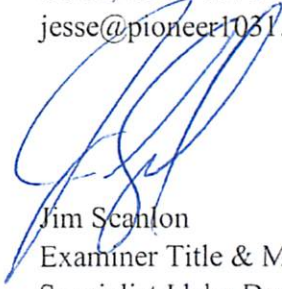
2. The Title Agent, on one (1) occasion, failed to retain copies of the buyer’s or seller’s signed settlement statements. This failure constitutes a violation of IDAPA 18.01.25.011.03.

No later than thirty (30) days from the date the Final Order is adopted, the Title Agent shall provide written evidence to the Department that it has revised its processes and fully implemented procedures to ensure that pursuant to IDAPA 18.01.25.011.03, copies of the buyer’s or seller’s signed settlement statements are retained.

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 14th day of February 2017, 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:

Jesse Hamilton
Legal Counsel
Pioneer Title Company of Ada County
1211 W Myrtle Street, Ste #100
Boise, Idaho 83702
jesse@pioneer1031.com



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

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:

Pioneer Title Company
8151 W. Rifleman Street
Boise, ID 83704

By executing this Waiver, the Agent hereby acknowledges receipt of the above-described examination reports, verified as of the 14th day of February 2017, 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 Company also hereby waives:

1. its right to examine the reports for up to thirty (28) days as provided in Idaho Code section 41-2710(7),
2. its right to make additional written submissions or rebuttals to the reports prior to entry of final orders as provided in Idaho Code section 41-2710(7) and,
3. any right to request a hearing under Idaho Code sections 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 order adopting the reports as provided by section 41-227(6), Idaho Code, or elsewhere in the Idaho Code.

Dated this 27th day of February, 2017

PIONEER TITLE COMPANY

Jesse Hamilton

Name (print)

Jesse Hamilton

Name (signature)

General Counsel / S.V.P.

Title

EXHIBIT

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