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**FILED**  
**AUG 22 2017**   
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:

AMERITITLE, INC.  
[Adams County]

Idaho Title Agency License No. 157247

Docket No. 18-3348-17

**ORDER ADOPTING REPORT  
OF EXCEPTION EXAMINATION  
AS OF DECEMBER 31, 2016**

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 AMERITITLE, INC. (Amerititle), 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 Amerititle, Inc. [Adams County] for the Period January 1, 2012 to December 31, 2016 (Report), as filed.

**FINDINGS OF FACT**

1. Amerititle is a title agency licensed by the Department to transact title insurance in Adams County, Idaho, under Title Agency License No. 157247.

2. The Department completed an examination of Amerititle pursuant to Idaho Code §§ 41-2710(7) and 41-219(1) and (5) on or about July 17, 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 July 17, 2017, and was transmitted to Amerititle on July 19, 2017. A copy of the Report is attached hereto as Exhibit A.

4. Pursuant to Idaho Code § 41-2710(7), Amerititle 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 July 21, 2017, the Department received a Waiver from Amerititle signed by Jenna L. Edwards, its Assistant Vice President and Area Manager. By execution of such Waiver, a copy of which is attached hereto as Exhibit B, Amerititle 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 Amerititle.

#### **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 Amerititle, the comments and recommendations contained in the Report, including the Examiner's determination of violations of Department rules by Amerititle identified at page 9 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 Amerititle, Inc. [Adams County] for the Period January 1, 2012 to December 31, 2016, 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, Amerititle 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 an administrative penalty in the amount of three hundred (\$300.00) is imposed against Amerititle, pursuant to IDAPA 18.01.25.004.01, 18.01.25.004.02.d, 18.01.56.011, and Exhibit 19 of 18.01.56 for failure to charge cancellation fees for a cancelled title commitment; PROVIDED, HOWEVER, that such penalty is waived in accordance with and for the reasons stated at page 9 of the Report, i.e., that the Department is in

the negotiated rulemaking process of proposing changes to IDAPA 18.01.25 and 18.01.56 as they pertain to collection of cancellation fees.

**IT IS SO ORDERED.**

DATED this 17 day of August, 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 22<sup>nd</sup> day of August, 2017, I caused a true and correct copy of the foregoing ORDER ADOPTING REPORT OF EXCEPTION EXAMINATION AS OF DECEMBER 31, 2016, to be served upon the following by the designated means:

Amerititle, Inc.  
Jenna Edwards  
Assistant Vice President/Area Manager  
110 Illinois Avenue  
Council, ID 83672  
[jenna.edwards@amerititle.com](mailto:jenna.edwards@amerititle.com)

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

Hermoliva Abejar  
Chief Deputy Examiner  
Idaho Department of Insurance  
700 W. State Street, 3<sup>rd</sup> Floor  
Boise, ID 83720-0043  
[hermoliva.abejar@doi.idaho.gov](mailto:hermoliva.abejar@doi.idaho.gov)

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

  
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REPORT OF EXCEPTION EXAMINATION  
For the Period January 1, 2012 to December 31, 2016

Of

AMERITITLE, INC.

(A title agent corporation - license #157247 – Adams County)

As of

December 31, 2016

*Equal Opportunity Employer*



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Boise, Idaho  
July 11, 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;

AmeriTitle, Inc.  
110 Illinois Avenue  
Council, Idaho 83672  
License #157247 – Adams County

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 AmeriTitle, Inc. an Idaho Title Agent licensed in Adams 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 Agent's affiliate company offices at 380 E Parkcenter Blvd, in Boise, Idaho and offsite. 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 1, 2012 through December 31, 2016. 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**

AmeriTitle, Inc. was incorporated on August 5, 1985. They were issued a Certificate of Authority with the Idaho Secretary of State on December 13, 1999, which was withdrawn and reissued on December 2, 2016 with a change of “jurisdiction of formation” from Oregon to Delaware. They purchased Weiser Valley Title, Inc. in 2003 from Jay & Jenna Edwards the current operating managers of the Adams County office. They were licensed in Adams County with the Idaho Department of Insurance on August 28, 2007. They conduct business out of the office in Council, Idaho.

Futura Title & Escrow, the parent company of Boise Idaho based Alliance Title & Escrow Corporation, purchased AmeriTitle, Inc. in early 2013. The companies maintain their separate brand identities.

The sale of AmeriTitle, Inc. was part of a strategy by previous owner, Klamath Falls based Jeld-Wen, to focus on its core door and window manufacturing business. The company owned AmeriTitle, Inc. for 28 years.

In October 2015 AmeriTitle, Inc. provided their 90-day written notice of termination of the work charge and service agreement with Nextitle, Northwest Title.

In March 2015 AmeriTitle, Inc. entered into a workshare title and post-closing services agreement with ServiceLink NLS, LLC.

## **PRIOR EXAMINATION**

Our examination included a review to determine if exceptions were noted in our preceding report of examination dated June 19, 2012 which covered the period January 1, 2007 to December 31, 2011 and whether these exceptions were addressed. No exceptions were noted. No exceptions were noted as a result of this portion of the examination.

## **PRIOR ESCROW AUDITS**

Our examination included a review to determine if the one (1) exception noted in the January 8, 2013 escrow audit and the five (5) exceptions noted in the December 28, 2015 escrow audit both completed by Ms. Nancy Frandsen of Stewart Title Insurance Company which covered the periods July 1, 2009 through June 30, 2012 and July 1, 2012 through June 30, 2015 were addressed. We determined that the agent satisfactorily addressed these exceptions in January of 2013 and January of 2016. No exceptions were noted as a result of this portion of the examination.

## **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**

As of December 2, 2016, the Idaho Secretary of State lists Larry Matney as the CEO. Mr. Matney is also the President and Director. Darlene Allman is Vice President and Secretary, Mark Mills is Treasurer and Brent Lloyd is Director. The current registered agent is CT Corporation System. Jenna Edwards is office manager for this office. No exceptions were noted as a result of this portion of the examination.

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

This agent has underwriting contracts with Fidelity National Title Insurance Company, Stewart Title Guaranty Company, WFG National Title Insurance Company (Williston Financial Group LLC), Chicago Title Insurance Company, Old Republic National Title Insurance Company and Commonwealth Land Title Insurance Company. The underwriting contracts require a high liability approval ranging from \$750,000.00 to \$2,000,000.00 with no deductible for loss with WFG and a range of \$2,500.00 to \$5,000.00 deductible for loss with the other carriers. 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 Idaho Department of Insurance has on file surety bond # 2161580 in the amount of \$50,000.00 issued by North American Specialty Insurance Company on behalf of the agent. We confirmed during the examination that this bond is currently active. No exceptions were noted as a result of this portion of the examination.

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

The agent reported there were no claims for this location during the examination period. No exceptions were noted as a result of this portion 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, 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 department is managed by Jonathan P (Jay) Edwards, General Manager/Sr. Title Officer and Kerry Brent, Title Manager. Julie Wilson is another Title Officer at this branch. This location has a standalone title plant. 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 was noted:

Commitment number 17324AM was cancelled after 07/23/2014 and no cancellation fee was charged.
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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**

Pursuant to IDAPA 18.01.25.004.01, 18.01.25.004.02.d, 18.01.56, EXHIBIT 1.9, and 18.01.56.11, this should be considered a violation and an administrative penalty in the amount of \$300.00 is appropriate. The Department is in the negotiated rule making process of proposing changes to the sections of IDAPA Rule 25 and IDAPA Rule 56 as they pertain to the failing to charge cancellation fees and the failure to attempt to collect them as being an illegal inducement or rebate. Therefore, it is the recommendation of this examiner that the administrative penalty be waived.

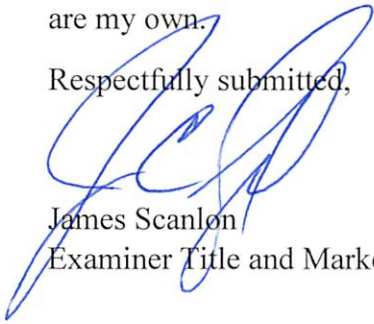
## **IV. ESCROW FIDUCIARY ACCOUNTS AND FILE REVIEW**

No Escrow Services are provided at this location.

**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,



James Scanlon  
Examiner Title and Market Insurance Specialist

SUBSCRIBED AND SWORN to before me this 17<sup>th</sup> day of July, 2017.



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





State of Idaho  
**DEPARTMENT OF INSURANCE**

C. L. "BUTCH" OTTER  
Governor

700 West State Street, 3rd Floor  
P.O. Box 83720  
Boise, Idaho 83720M0043  
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, 2016, of:

**Amerititle, Inc.**  
**110 Illinois Avenue**  
**Council, Idaho 83672**  
**License #157247 – Adams County**

By executing this Waiver, the Agent hereby acknowledges receipt of the above-described examination report, verified as of the 17th day of July 2017, and by this Waiver hereby consents to the immediate entry of a final order by the Director of the Department of insurance adopting said report without any modifications.

By executing this Waiver, the Company also hereby waives:

1. its right to examine the report 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 report prior to entry of a final order 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 report as provided by section 41-227(6), Idaho Code, or elsewhere in the Idaho Code.

Dated this 21<sup>st</sup> day of July, 2017

AMERITITLE, INC.

Jenna L. Edwards  
Name (print)

Jenna L. Edwards  
Name (signature)

Assistant Vice President  
Title Area Manager

