

LAWRENCE G. WASDEN
Attorney General

JUDY L. GEIER – ISB No. 6559
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, Idaho 83720-0043
Telephone: (208) 334-4204
Facsimile: (208) 334-4298
judy.geier@doi.idaho.gov

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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:

LAND TITLE OF NEZ PERCE COUNTY,
INC.

Idaho Title Agency License No. 13221

Docket No. 18-3446-18

**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 LAND TITLE OF NEZ PERCE COUNTY, INC. (“Land 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 Land Title of Nez Perce County, Inc. for the Period January 1, 2012 to December 31, 2016 (“Report”), as filed.

FINDINGS OF FACT

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

Nez Perce County, Idaho, under Title Agency License No. 13221.

2. The Department completed an examination of Land Title pursuant to Idaho Code §§ 41-2710(7) and 41-219(1) and (5) on or about November 30, 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 November 30, 2017, and was transmitted to Land Title on the same date. A copy of the Report is attached hereto as Exhibit A.

4. Pursuant to Idaho Code § 41-2710(7), Land 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 December 4, 2017, the Department received a Waiver from Land Title signed by Joe Strohmaier, its Owner/Manager. By execution of such Waiver, a copy of which is attached hereto as Exhibit B, Land 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 Land 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 Land Title, the comments and recommendations contained in the Report, including the Examiner's determination of violations of Department rules by Land Title identified at page 10 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 Land Title of Nez Perce County, Inc. 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, Land 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, Land Title shall provide written evidence to the Department demonstrating that Land Title has revised its processes and fully implemented procedures to ensure that future expenses will have adequate supporting documentation for the Department to ascertain compliance with IDAPA 18.01.56.

IT IS FURTHER ORDERED that, no later than thirty (30) days from the issuance of this

Order adopting the Report, Land Title shall provide written evidence to the Department demonstrating that Land Title has revised its processes and fully implemented procedures to ensure that the business interests of its escrow agents in an escrow transaction are disclosed to consumers in written escrow instructions and compliant with IDAPA 18.01.25.011.02.

IT IS FURTHER ORDERED that no administrative penalties are imposed for any specific instances of violation addressed in the Report, however the Department retains the right to perform a target examination at any time in the future to ensure that Land Title is retaining adequate documentation and making proper disclosures to consumers, and to impose penalties based on any new findings of violations.

IT IS SO ORDERED.

DATED this 22 day of January, 2018.

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 24th day of January, 2018, 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:

Land Title of Nez Perce County, Inc.
Joe Strohmaier, Owner/Manager
1230 Idaho Street
Lewiston, ID 83501-1941
joe@landtitlelewiston.com

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

Nathan Faragher
Chief Examiner, Company Activities Bureau Chief
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
nathan.faragher@doi.idaho.gov

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

Judy L. Geier
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043

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





REPORT OF EXCEPTION EXAMINATION

For the Period January 1, 2012 to December 31, 2016

Of

Land Title of Nez Perce County, Inc.
(a title agent corporation - license #13221 – Nez Perce County)

As of

December 31, 2016

Equal Opportunity Employer



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Boise, Idaho
November 30, 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;

Land Title of Nez Perce County, Inc.
1230 Idaho Street
Lewiston, Idaho 83501
License #13221– Nez Perce 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 Land Title of Nez Perce County, Inc. an Idaho Title Agent licensed in Nez Perce 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 1230 Idaho Street in Lewiston, Idaho and remotely at the offices of the Idaho Department of Insurance located at 700 West 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 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, 2016. 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

Land Title of Nez Perce County, Inc. was licensed with the Department and began doing business in November 1984.

PRIOR EXAMINATION

The examination included a review to determine if exceptions were noted in the November 29, 2012 Report of Examination which covered the period January 1, 2007 to December 31, 2011 and whether those exceptions were addressed. There were no exceptions noted. No exceptions were noted as a result of this current portion of the examination.

PRIOR ESCROW AUDIT

The examination included a review to determine if exceptions were noted in the December 30, 2015 escrow audit completed by Kody Waite of Stewart Title Guaranty Company which covered the period July 1, 2012 through June 30, 2015 and whether those exceptions were addressed. One (1) exception condition was noted. We determined that the agent satisfactorily addressed this exception in January of 2016. No exceptions were noted as a result of this current portion of the examination.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

I. OPERATIONS AND MANAGEMENT

The examination included a review of the Title Agent's operations and management. The focus of this 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**

Paul T. Clark is listed as the current Registered Agent. The corporate officers are listed as Joe Strohmaier as President and Director, Denice Strohmaier as Secretary and Director and Theodore F. Strohmaier as Director. Business is conducted out of offices in Lewiston, Idaho. 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 an underwriting agreements with Stewart Title Guaranty Company and Old Republic National Title Insurance Company. The underwriting contracts require a high liability approval for risks in excess of \$1,000,000.00 with a \$10,000.00 deductible required for claims. 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 #58113872 in the amount of \$30,000.00 issued by Western 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 no claim loses during the examination period. We did not find material issues with the title plant during the examination. 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 Title Agent's marketing and sales practices. A general ledger for each year under examination for all accounts involving contributions, donations, sales expenses, travel and meal expenses, Title Agent/staff function expenses, as well as samples of listing packages or property profiles were requested and received. After a cursory review of the general ledgers, samples were picked within our examination parameters. Supporting documents for the samples were requested, received, and reviewed.

During our examination we noted thirty seven (37) of eighty three (83) expenses sampled did not have adequate supporting documentation. We were not able to determine the compliance of these expenses.

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

Recommendations

It is recommended that the Title Agent provide in writing their proposed changes to procedures in order to maintain compliance with trade association donations, permitted business entertainment and to be able to supply the proof needed for the Department to ascertain compliance with IDAPA Rule 56. No administrative sanctions or penalties are recommended at this time as this is the first instance of this violation noted in an examination.

III. TITLE FILE REVIEW

Idaho Code §§ 41-2702, 2708 & 2709

IDAPA 18.01.25 & 18.01.56.017 & Exhibit 1(9)

The Title Agent's Title Department is managed by Brett Gile and is comprised of two (2) title assistants. The title plant is posted and maintained by the Title Agent in Lewiston, 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. No exceptions were noted as a result of this portion of the examination.

IV. ESCROW FIDUCIARY ACCOUNTS AND FILE REVIEW

The Title Agent's Escrow Department is managed by Lori Stone and is comprised of one (1) escrow officer and two (2) escrow assistants. No exceptions were noted as a result of this portion of the examination.

A. FIDUCIARY ACCOUNTS

IDAPA 18.01.25.011.04, 05 & 10

The examination included a review of the fiduciary account 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 Jewlie Cunningham. Reconciliations are reviewed by Lori Stone and Joe Strohmaier. 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 all four (4) escrow files reviewed where an escrow officer had a business interest in the transaction, there was no interest disclosure to the consumer in the written escrow instructions.

IDAPA 18.01.25.011.02 states that "If an escrow agent has a business interest in the escrow transaction other than as escrow agent, the relationship or interest must be disclosed in the written escrow instructions. After noting such interest, an additional statement shall appear as follows: "We call this interest to your attention for disclosure purposes. This interest will not, in our opinion, prevent us from being a fair and impartial escrow agent in this transaction, but you are, nevertheless, free to request the transaction be closed by some other escrow agent." The Title Agent was in violation of IDAPA 18.01.25.011.02 by not providing an interest disclosure to the consumer in the written escrow instructions.

Recommendation

It is recommended that the Title Agent submit to the Department in writing what proposed procedures the Title Agent will implement to ensure that escrow agent interest disclosure will be provided in the written escrow instructions in the future. No administrative sanctions or penalties are recommended at this time as this is the first instance of this violation noted in an 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,



James Scanlon
Examiner Title and Market Insurance Specialist

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, any written submissions and rebuttals provided by the Title Agent in response to the Examination and the recommendations of the Examiner.

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

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

No later than thirty (30) days from the date 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 future expenses will have adequate supporting documentation for the Department to ascertain compliance with IDAPA 18.01.56. No penalties are being imposed. The Department retains the right to perform a target exam anytime in the future to ensure that documentation is being retained in order to ascertain that expenses are compliant with Idaho Code and promulgated rules and impose penalties and/or stipulations based on any new findings of violations.

2. The Title Agent, on four (4) occasions, failed to disclose the business interest of its escrow agent in the escrow transaction to the consumer in the written escrow instructions. These failures constitute a violation of IDAPA 18.01.25.011.02.

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 the business interests of its escrow agents in an escrow transaction is disclosed to consumers in the written escrow instructions and compliant with IDAPA 18.01.25.011.02. No penalties are being imposed. The Department retains the right to perform a target exam anytime in the future to ensure that proper disclosures are being provided that are compliant with Idaho Code and promulgated rules and impose penalties and/or stipulations based on any new findings of violations.

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 30th day of November, 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:

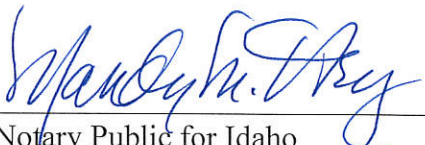
Mr. Joe Strohmaier
1230 Idaho Street
Lewiston, Idaho 83501
joe@landtitlelewiston.com



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

SUBSCRIBED AND SWORN to before me this 30th day of November, 2017.





Notary Public for Idaho
Residing at: Boise, Idaho
Commission Expires: 7/24/2018

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:

**Land Title of Nez Perce County. Inc.
1230 Idaho Street
Lewiston, Idaho 83501
License #13221 – Nez Perce County**

By executing this Waiver, the Agent hereby acknowledges receipt of the above-described examination report, verified as of the 14th day of November 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 4th day of December, 2017

Land Title of Nez Perce County. Inc.

Joe Strohmayer

Name (print)

Joe Stro

Name (signature)

Owner/Manager

Title

