

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:

AMERITITLE, INC.
[Bannock County]

Idaho Title Agency License No. 135128

Docket No. 18-3543-18

**ORDER ADOPTING REPORT
OF EXCEPTION EXAMINATION
AS OF DECEMBER 31, 2017**

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. [Bannock County] (“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 for the Period January 1, 2013 to December 31, 2017 of Amerititle, Inc. [Bannock County] as of December 31, 2017 (“Report”), as filed.

FINDINGS OF FACT

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

in Bannock County, Idaho, under Title Agency License No. 135128.

2. The Department completed an examination of Amerititle pursuant to Idaho Code §§ 41-2710(7) and 41-219(1) and (5) on or about August 31, 2018. 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 August 31, 2018, and was transmitted to Amerititle on the same date. 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 September 4, 2018, the Department received a Waiver from Amerititle signed by Mark Mills, its Chief Financial Officer. 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.

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 Amerititle, the comments, findings, and recommendations contained in the Report, including the Examiner's determination of violations

or noncompliance by Amerititle and corrective actions to be taken identified at page 12 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 for the Period January 1, 2013 to December 31, 2017 of Amerititle, Inc. [Bannock County] as of December 31, 2017, 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 \$1,314.21 is imposed against Amerititle, pursuant to IDAPA 18.01.56.014.01, 18.01.56.018.01, and 18.01.56.019, for failing to provide proper instruction to an employee, resulting in Amerititle providing self-promotional advertising that included the names of producers of title business on one hundred (100) occasions; PROVIDED, HOWEVER, that such penalty is waived in accordance with and for the reasons stated at page 12 of the Report.

IT IS FURTHER ORDERED that, no later than thirty (30) days from the date of entry of the Final Order adopting the Report, Amerititle shall provide written evidence to the Department that it has revised its processes and fully implemented procedures to ensure that Amerititle's future

self-promotional advertising is in compliance with Idaho law and Department rules, describing the training procedures that will be implemented to ensure that all employees engaged in activities requiring knowledge of IDAPA 18.01.56 will be provided a copy of the rule and be properly instructed in its scope and operation.

IT IS FURTHER ORDERED that, due to Amerititle's failure on five (5) occasions to provide adequate supporting documentation of its expenses, no later than thirty (30) days from the date of entry of the Final Order adopting the Report, Amerititle 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.

IT IS FURTHER ORDERED that, any waiver of penalties for violations or noncompliance set forth above notwithstanding, the Department retains the right to perform a target examination of Amerititle at any time and to impose new penalties based on any future findings of the same violations.

IT IS SO ORDERED.

DATED this 27 day of September, 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 1st day of ~~September~~ October, 2018, I caused a true and correct copy of the foregoing ORDER ADOPTING REPORT OF EXCEPTION EXAMINATION AS OF DECEMBER 31, 2017, to be served upon the following by the designated means:

Amerititle, Inc.
1523 Yellowstone Avenue
Pocatello, ID 83201-4201
mark.mills@futatitile.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, 2013 to December 31, 2017

Of

AMERITITLE, INC.

(A title agent corporation - license #135128 – Bannock County)

As of

December 31, 2017

Equal Opportunity Employer



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Boise, Idaho
July 31, 2018

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.
1523 Yellowstone Avenue
Pocatello, Idaho 83201-4201
License #135128 – Bannock 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 Bannock 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 sister company offices at 380 E Parkcenter Blvd, in Boise, Idaho and at the offices of the Department located at 700 West State Street, 3rd Floor 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 1, 2013 through December 31, 2017. 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 Bannock County with the Idaho Department of Insurance on March 10, 2006. They conduct business out of the office in Pocatello, 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

The examination included a review to determine if exceptions were noted in the June 16, 2013 Report of Examination which covered the period January 1, 2008 to December 31, 2012 was addressed. No exceptions were noted. No exceptions were noted as a result of this current portion of the examination.

PRIOR ESCROW AUDITS

Our examination included a review to determine if the five (5) exceptions noted in the December 28, 2015 escrow audit completed by Ms. Nancy Frandsen of Stewart Title Insurance Company which covered the periods July 1, 2012 through June 30, 2015 were addressed. We determined that the agent satisfactorily addressed these exceptions in 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 31, 2017, 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. 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), 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 two (2) claims during the examination period. The claims appear to be disputes of boundary lines, water easements and scrivener's errors and appear to be in the process of remediation. 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 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 the examination the following exception regarding self-promotional advertising was noted:

On January 26, 2018, the Department received a copy of a self-promotional notepad page that included the name of a licensed producer of title business. In an April 20, 2018 written response, the agent stated that "213 self-promotional pads were ordered with individual agent names. Approximately 100 were distributed to Pocatello Agents in January of 2018." Further in that same response the agent indicated that "these were ordered by a new marketer who has received additional training regarding the regulations. Our office contacted the agents that received the notepads and have destroyed them." After investigating this matter, it was determined that the date of purchase and distribution of these notepads was in January of 2018, which is outside of this examination period. The Department decided to include this investigation and conclusion with this examination rather than open a separate complaint.

IDAPA 18.01.056.014.01 states that "Self-promotional items shall not contain the name, logo or any reference to a producer of title business, trade association or donee."

IDAPA 18.01.056.019 states that "All title entities are instructed to distribute a copy of this rule to every employee that may be engaged in activities requiring knowledge of its contents, and to instruct all employees in its scope and operation."

The Title Agent was in violation of IDAPA 18.01.056.014.01 and IDAPA 18.01.056.019 by distributing self-promotional items that contained the name of a licensed producer of title business and for failing to instruct an employee that is engaged in activities requiring knowledge of IDAPA 18.01.56 in its scope and operation.

During our examination we noted five (5) of one hundred eight (108) 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. The agent was in violation of Idaho Code § 41-2710(7) by not being able to provide documentation of sampled expenses to determine compliance.

Recommendations

It is recommended that the Title Agent submit to the Department in writing what proposed procedures the Title Agent will implement to ensure that future self-promotional advertising subject to IDAPA 18.01.56.014.01 will be compliant and what training procedures will be implemented to ensure that all employees engaged in activities requiring knowledge of IDAPA 18.01.56 will be provided a copy of it and be properly instructed in its scope and operation.

Pursuant to IDAPA 18.01.56.014.01, IDAPA 18.01.056.019 and IDAPA 18.01.056.018.01, these actions should be considered a violation and an administrative penalty in the amount of \$1,314.21 is appropriate. However, as this is the first instance of this violation noted in an examination of this agent, it is the recommendation of this examiner that the administrative penalty be waived.

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 Brynne Hansen and consists of four (4) title officers. This location leases its digital title plant from its sister company Alliance Title & Escrow Corp. 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 Thais Ayre and is comprised of two (2) escrow officers and two (2) 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 accounts utilized during the examination period. The accounts were reviewed for correct labeling, separation from operating funds, reconciliation, and negative balances. The fiduciary accounts for this office are balanced on a

daily basis and reconciled on a monthly basis by the corporate office in Bend, Oregon. 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. No exceptions were noted as a result of this portion of the 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,

A handwritten signature in blue ink, appearing to read 'J. Scanlon', is written over a light blue horizontal line.

James Scanlon, MCM
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 instruct an employee that was engaged in activities requiring knowledge of IDAPA 18.01.56 in its scope and operation and as a result, on one hundred (100) occasions, provided self-promotional advertising which included the names of licensed producers of title business. These actions constitute a violation of IDAPA 18.01.56.014.01 and IDAPA 18.01.056.019.

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 self-promotional advertising subject to IDAPA 18.01.56.014.01 will be compliant and what training procedures will be implemented to ensure that all employees engaged in activities requiring knowledge of IDAPA 18.01.56 will be provided a copy of it and be properly instructed in its scope and operation.

The Department shall assess a penalty in the amount of \$1,314.21 in accordance with IDAPA 18.01.56.018.01. As this is the first instance of this violation noted in an examination, the Department waives this penalty with the stipulation and understanding that the Department retains the right to impose new penalties based on any future findings of these same violations.

2. The Title Agent, on five (5) occasions, 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.

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 31st day of August 2018, 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:

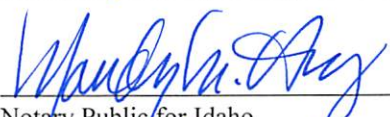
Amerititle, Inc.
Mark Mills, Senior Vice President & CFO
mark.mills@futuraitle.com



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

SUBSCRIBED AND SWORN to before me this 31st day of August, 2018.




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

Handwritten notes and scribbles, including the word "STATE" and other illegible markings.



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, 2017, of:

Amerititle, Inc.
380 E. Parkcenter Blvd, Ste 105
Boise, ID 83706
License #135128 – Bannock County
License #85677 – Blaine County
License #108479 – Bonneville County
License #101219 – Payette County
License #74777 – Valley County

By executing this Waiver, the Agent hereby acknowledges receipt of the above-described examination reports, verified as of the 31st day of August 2018, and by this Waiver hereby consents to the immediate entry of a final order 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 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 reports as provided by section 41-227(6), Idaho Code, or elsewhere in the Idaho Code.

Dated this 4 day of September, 2018

AMERITITLE, INC.

Mark Mills

Name (print)

Mark Mills

Name (signature)

CFO

Title

