

FILED

AUG 17 2022

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Department of Insurance  
State of Idaho

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE**

**STATE OF IDAHO**

In the Matter of:

TRANSNATION TITLE & ESCROW, INC.,  
dba FIDELITY NATIONAL TITLE  
COMPANY- [Ada County]

Idaho Title Agency License No. 51623

Docket No. 18-4147-22

**ORDER ADOPTING REPORT  
OF EXCEPTION EXAMINATION  
AS OF DECEMBER 31, 2021**

The Idaho Department of Insurance (“Department”) in accordance with Idaho Code §§ 41-2710(7) and 41-219(1) and (5), has examined the affairs, transactions, assets, tract indexes, abstract records, and other records of Transnation Title & Escrow, Inc., dba Fidelity National Title Company– Ada County (“Transnation”) for the period of January 1, 2017, through December 31, 2021. The Department has also prepared a verified Report of Examination (the “Report”) under Idaho Code § 41-227. A copy of the Report is attached as Exhibit “A”.

**FINDINGS OF FACT**

1. Transnation is a title agency licensed by the Department to transact title insurance in Ada County, Idaho, under Title Agency License No.51623.
2. On or about August 1, 2022, the Department completed an exception examination of the practices and procedures of Transnation under Idaho Code §§ 41-2710(7) and 41-219(1) and (5). The Report sets forth the Departments findings. *See* Exhibit “A”.

3. Per Idaho Code § 41-227(4), on August 9, 2022, the Department's examiner-in-charge filed the Report with the Department, and the Department transmitted a copy of the Report to Transnation on August 9, 2022.

4. Transnation had 28 days from the receipt of the Report to make a written submission or rebuttal with respect to matters contained in the Report per Idaho Code § 41-2710(7).

5. On August 9, 2022, the Department received a Waiver from Transnation signed by Amy Kukay, Transnation Assistant Vice President. A copy of the Waiver is attached as Exhibit "B." By executing the Waiver, Transnation consented to the immediate entry of a final order by the Director adopting the report without any modifications. Transnation also waived its right to: (1) examine the Report for not more than 28 days; (2) make a written submission or rebuttal to the Report prior to entry of a final order; (3) request a hearing; and (4) seek reconsideration or appeal from the Director's final order.

### **CONCLUSIONS OF LAW**

6. Idaho Code § 41-227(5) requires the Director to fully consider and review the Report, together with any written submissions or rebuttals and any relevant portions of the examiner's work papers and enter an order adopting the Report as filed or with modifications or corrections, rejecting the Report and reopening the examination, or calling for an investigatory hearing.

7. Having fully considered the Report, and the record, the Director concludes that, regarding the matters examined, the Report's comments, findings, and recommendations are appropriate and are incorporated herein as if set forth in full.

### **ORDER**

NOW, THEREFORE, IT IS ORDERED that the Report is adopted as filed.

IT IS FURTHER ORDERED, that, per Idaho Code §§ 41-2710(7) and 41-227(8), the

adopted Report is a public record and shall not be subject to the exemptions from disclosure in chapter 1, title 74, Idaho Code.

IT IS FURTHER ORDERED, under Idaho Code § 41-227(6)(a), that, within 30 days of the issuance of the adopted Report, Transnation shall file, with the Department's chief examiner, 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.

DATED AND EFFECTIVE this 17<sup>th</sup> day of August, 2022.

STATE OF IDAHO  
DEPARTMENT OF INSURANCE



DEAN L. CAMERON  
Director

## **NOTIFICATION OF RIGHTS**

This is a final order of the agency. Any party may file a motion for reconsideration of this final order within 14 days of the service date of this order. The agency will dispose of the motion for reconsideration within 21 days of its receipt, or the motion will be considered denied by operation of law. *See* Idaho Code § 67-5246(4).

Any such motion for reconsideration shall be served on the Director of the Idaho Department of Insurance, addressed as follows:

Dean L. Cameron, Director  
Idaho Department of Insurance  
700 W. State Street, 3<sup>rd</sup> Floor  
P.O. Box 83720  
Boise, ID 83720-0043

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order or orders previously issued in this case may file a petition for judicial review in the district court of the county in which:

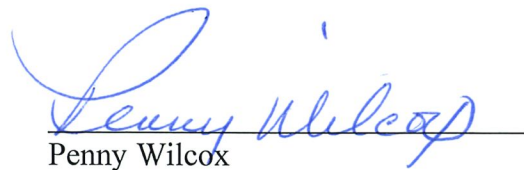
- i. A hearing was held;
- ii. The final agency action was taken;
- iii. The party seeking review of the order resides, or operates its principal place of business in Idaho; or
- iv. The real property or personal property that was the subject of the agency action is located.

A petition for judicial review must be filed within 28 days of: (a) the service date of this final order, (b) the service of an order denying motion for reconsideration, or (c) the failure within 21 days to grant or deny a motion 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. Idaho Code § 67-5274.

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 18 day of August, 2022, I caused a true and correct copy of the foregoing ORDER ADOPTING REPORT OF EXCEPTION EXAMINATION AS OF December 31, 2021, to be served upon the following parties by the designated means:

Amy Kukay Assistant Vice President TRANSNATION TITLE & ESCROW dba FIDELITY NATIONAL TITLE CO. 485 E. Riverside Dr., Suite 200 Eagle, ID 83615-6059	<input type="checkbox"/> First Class Mail <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email: <a href="mailto:amy.kukay@fnf.com">amy.kukay@fnf.com</a> <a href="mailto:james.duncan@fnf.com">james.duncan@fnf.com</a> <a href="mailto:todd.niemczyk@fnf.com">todd.niemczyk@fnf.com</a> <a href="mailto:katie.schmidt@fnf.com">katie.schmidt@fnf.com</a>
Shannon Hohl Company Activities Bureau Chief IDAHO DEPARTMENT OF INSURANCE 700 W. State Street, 3 <sup>rd</sup> Floor Boise, ID 83720-0043	<input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email: <a href="mailto:shannon.hohl@doi.idaho.gov">shannon.hohl@doi.idaho.gov</a>
Karl T. Klein Deputy Attorney General IDAHO DEPARTMENT OF INSURANCE 700 W. State Street, 3 <sup>rd</sup> Floor P.O. Box 83720 Boise, ID 83720-0043	<input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email: <a href="mailto:karl.klein@doi.idaho.gov">karl.klein@doi.idaho.gov</a>

  
Penny Wilcox



REPORT OF EXCEPTION EXAMINATION

For the Period January 1, 2017 to December 31, 2021

Of

Transnation Title & Escrow, Inc.  
d/b/a Fidelity National Title Company  
(A title agent corporation - license #51623 – Ada County)

As of

December 31, 2021

*Equal Opportunity Employer*



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Boise, Idaho  
August 1, 2022

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;

Transnation Title & Escrow, Inc.  
d/b/a Fidelity National Title Company  
485 E Riverside Dr, Ste 200  
Eagle, Idaho 83616-6059  
License #51623 – Ada County

Hereinafter referred to as “Agent”.

The following Report of Exception Examination is respectfully submitted.



## **FOREWORD**

This is an exception examination report of the practices and procedures of Transnation Title & Escrow, Inc., d/b/a Fidelity National Title Company, an Idaho Title Agent licensed in Ada County. The examination was conducted remotely from the offices of the Idaho Department of Insurance (the "Department") located at 700 West State Street, 3<sup>rd</sup> 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. However, failure to identify or criticize specific practices, products, or files does not constitute approval thereof by the Department.

It should be recognized that the examination comments are restricted to areas of concern and are not intended as commentary on the various favorable aspects of the Agent's operations. It should be further understood that these comments should not be regarded as reflecting on the integrity or capabilities of individuals at the Agent. As such, this report may not fully reflect the procedures and practices of the Agent.

This examination report cites Idaho Statute and administrative rules promulgated by the Department. Statute and rule citations are current unless otherwise noted.

The final examination report documents consist of the examiners' report, the Agent's response, and any administrative actions based on the findings of the Department. 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 or was not possible.

## **PURPOSE AND SCOPE OF EXAMINATION**

The purpose of this examination is to determine compliance with applicable Idaho Statutes, 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, 2017 through December 31, 2021. Specific areas examined include operations/management, claims, advertising and marketing, title file review and escrow fiduciary account and file review.

The authority of the Department to perform this examination includes, but is not limited to, Idaho Code § 41-2710(7), which grants authority to the Department to regular examinations 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 said title or the rules thereunder.

## **EXECUTIVE SUMMARY**

Our examination of the Agent did not disclose any material adverse findings. No exceptions and recommendations were noted as a result of the examination.

## **HISTORY AND DESCRIPTION**

Transnation Title & Escrow, Inc., was licensed with the Department and began operations in Ada County on July 30, 1996. Fidelity National Title is a subsidiary of Fidelity National Financial (FNF). In 2008, FNF purchased LandAmerica Financial Group which included Commonwealth Land Title Insurance Company, Lawyers Title Insurance Company, and United Capital Title Insurance Company. An Assumed Business Name of Fidelity National Title Company was filed with the Idaho Secretary of State on November 19, 2010. They conduct business in Ada County out of offices in Eagle, Meridian, and Nampa, Idaho.

## **PRIOR EXAMINATION**

Our examination included a review to determine if the four (4) exceptions noted in the December 28, 2017 examination, which covered the period of January 1, 2012 to December 31, 2016 were addressed. We determined that the Agent satisfactorily addressed these exceptions in January of 2018.

## **EXAMINATION 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 18.05.01.014 & 015**

As of January 7, 2021, the Idaho Secretary of State lists Raymond R. Quirk as President and Marjorie Nemzura as Secretary. The Registered Agent is listed as CT Corporation System. No exceptions were noted as a result of this portion of the examination.

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

The Agent has underwriting contracts with Fidelity National Title Insurance Company, Chicago Title Insurance Company, and Commonwealth Land Title Insurance Company. The underwriting contracts calls for a high liability approval requirement of \$10,000,000.00 with a \$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 18.05.01.021.07 & 08**

The Department has on file a Custody Agreement for a Certificate of Deposit (CD) in the amount of \$50,000.00 issued by US Bank on behalf of the Agent. We confirmed during the examination that this CD is active and currently funded. No exceptions were noted as a result of this portion of the examination.

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

The Agent reported fifteen (15) claims during the examination period. The claims appear to be related to purported missed easements and/or unintentional oversights on the part of the Agent. There does not appear to be any problem with the title plant. No exceptions were noted as a result of this portion of the examination.

## **II. ADVERTISING AND MARKETING**

**Idaho Code § 41-2708(3) & (4)**

**IDAPA 18.05.01.031 & Exhibit 1**

The examination included a review of the Agent's marketing and sales practices. A general ledger for each year under examination for all accounts involving contributions, donations, sales expenses, travel and meal expenses, Agent/staff function expenses, as well as samples of listing packages or property profiles were requested and received. After a cursory review of the general ledgers, samples were picked within our examination parameters. Supporting documents for the samples were requested, 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 18.05.01.012, 013 & Exhibit 1(9)**

The title department is managed by Kim Yelm and is comprised of five (5) Title Officers and five (5) Title Assistants. The title plant is posted and maintained by the Agent in Eagle, 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, 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 escrow department is managed by its respective administrative branch managers, Alec Cindrich, PJ Nava, Kim Yelm, and Amy Kukay, it is comprised of fifteen (15) Escrow Officers and nineteen (19) Escrow Assistants.

### **A. FIDUCIARY ACCOUNTS**

**IDAPA 18.05.01.021.04, 05 & 09**

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 are balanced on a daily basis and reconciled on a monthly basis by the Operational Accounting Center (OAC) located in Washington State. Monthly reconciliations are also reviewed by OAC located in Washington State. No exceptions were noted as a result of this portion of the examination.

**B. ESCROW FILE REVIEW**

**Idaho Code § 41-2705(3)**

**IDAPA 18.05.01.021 & 022**

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, 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.

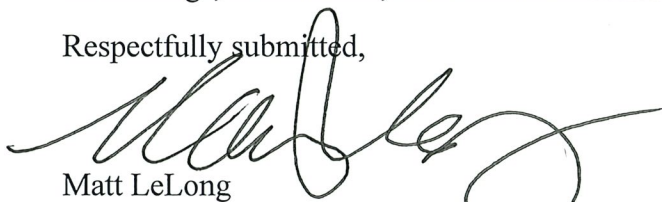
**SUMMARY OF RECOMMENDATIONS**

There were no recommendations as a result of the examination.

## AFFIDAVIT OF EXAMINER

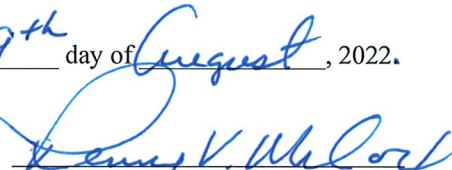
I certify and attest that I have examined the Agent's tract indexes, abstract records, as well as other records, and the operation of the Agent's business and other matters relevant to the affairs of the Agent. I further certify that I have no relationship, other than in my capacity as examiner and/or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



Matt LeLong  
Market Examiner and Title Insurance Specialist  
Idaho Department of Insurance

SUBSCRIBED AND SWORN to before me this 9<sup>th</sup> day of August, 2022.



Notary Public for Idaho  
Residing at: Ada County  
Commission Expires: 07/02/2027

BRAD LITTLE  
Governor

*State of Idaho*  
**DEPARTMENT OF INSURANCE**

700 West State Street, 3rd Floor  
P.O. Box 83720  
Boise, Idaho 83720-0043  
Phone 208-334-4250  
Fax 208-334-4398  
Website: <https://doi.idaho.gov>

DEAN L. CAMERON  
Director

**WAIVER**

In the matter of the Report of Examinations as of December 31, 2021, of:

**Transnation Title & Escrow, Inc.**  
**d/b/a Fidelity National Title Company**  
**485 E Riverside Dr, Ste 200**  
**Eagle, Idaho 83616-6059**

**License #51623 – Ada County**

**License #55916 – Canyon County**

By executing this Waiver, the Agent hereby acknowledges receipt of the above-described examination report, verified as of the 9<sup>th</sup> day of August 2022, 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 twenty-eight (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 9<sup>th</sup> day of August, 2022

**Transnation Title & Escrow, Inc.**  
**d/b/a Fidelity National Title Company**

Amy L. Kukay  
Name (print)

Amy L. Kukay  
Name (signature)

Asst. Vice President  
Title

