FILED

FEB 15 2023

Department of Insurance
State of Idaho

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

**STATE OF IDAHO**

| In the Matter of: | Docket No. 18-4241-23 |
| --- | --- |
| FIRST AMERICAN TITLE COMPANY, INC. (TWIN FALLS COUNTY)<br><br>License No. 5607 | **ORDER ADOPTING REPORT OF EXCEPTION EXAMINATION AS OF DECEMBER 31, 2021** |

The Idaho Department of Insurance ("Department"), in accordance with Idaho Code §§ 41-219(1) and (5) and 41-2710(7), has examined the affairs, transactions, assets, tract indexes, abstract records, and other records of First American Title Company, Inc., Twin Falls County ("First American") for the period of January 1, 2017, through December 31, 2021. The Department's verified Report of Examination ("Report"), reflecting the examiner's findings, was then filed with the Department per Idaho Code § 41-227.

Having reviewed the Report and record, the Director enters this Order adopting the Report as filed. A copy of the Report is attached to this Order as Exhibit "A".

## FINDINGS OF FACT

1. First American is a title agency licensed by the Department to transact title insurance in Twin Falls County, Idaho, under License No. 5607.

2. On or about October 26, 2022, the Department completed an examination of the first American's practices and procedures, per Idaho Code §§ 41-2710(7) and 41-219(1) and (5), to determine whether they complied with title 41, Idaho Code, and any related rules. The examiner's findings are documented in the Report. In summary, the Report contains no material

adverse findings, exceptions, or recommendations. *See* Exhibit "A" hereto.

3. Per Idaho Code § 41-227(4), the Department's examiner-in-charge filed the Report with the Department on October 26, 2022. A copy of the Report was transmitted to First American on November 22, 2022.

4. First American had 28 days from the receipt of the Report to make a written submission or rebuttal with respect to matters in the Report. *See* Idaho Code § 41-2710(7). The Department received no written submission or rebuttal from First American.

## CONCLUSIONS OF LAW

5. 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.

6. Having fully considered the Report and record, the Director concludes that, regarding the matters examined, the Report is appropriate and should be adopted and incorporated into this Order 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 §§ and 41-227(8) and 41-2710(7), 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, per Idaho Code § 41-227(6)(a), that within 30 days of the service date of this Order adopting the Report, First American must 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.

IT IS SO ORDERED.

DATED AND EFFECTIVE this 14th day of February, 2023.

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, 3rd 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 15th day of February 2023, 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:

| | |
|---|---|
| FIRST AMERICAN TITLE COMPANY, INC.<br>1502 Locust St N., Suite 300<br>Twin Falls, ID 83301-4163 | ☐ First Class Mail<br>☒ Certified Mail (First American only)<br>☐ Hand Delivery<br>☐ Facsimile<br>☒ Email: anita.mcmurtrey@titlefc.com |
| Karl T. Klein<br>Deputy Attorney General<br>IDAHO DEPARTMENT OF INSURANCE<br>700 W. State Street, 3rd Floor<br>P.O. Box 83720<br>Boise, ID 83720-0043 | ☐ First Class Mail<br>☐ Certified Mail<br>☐ Hand Delivery<br>☐ Facsimile<br>☒ Email: karl.klein@doi.idaho.gov |

Penny Wilcox

# REPORT OF EXCEPTION EXAMINATION

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

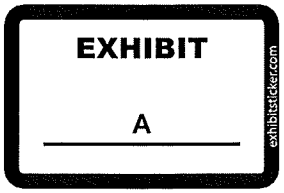
Of

FIRST AMERICAN TITLE COMPANY, INC.
(a title agent corporation - license #5607 – Twin Falls County)

As of

December 31, 2021

*Equal Opportunity Employer*



# Table of Contents

SALUTATION....3
FOREWORD....4
PURPOSE AND SCOPE OF EXAMINATION....5
EXECUTIVE SUMMARY....5
HISTORY AND DESCRIPTION....5
PRIOR EXAMINATION....5
EXAMINATION FINDINGS AND RECOMMENDATIONS....6
I. OPERATIONS AND MANAGEMENT....6
A. MANAGEMENT, CONTROL AND FINANCIAL INTERESTS....6
B. CONTRACTING AUTHORITY....6
C. SURETY BOND....6
D. CLAIMS....7
II. ADVERTISING AND MARKETING....7
III. TITLE FILE REVIEW....7
IV. ESCROW FIDUCIARY ACCOUNTS AND FILE REVIEW....7
A. FIDUCIARY ACCOUNTS....7
B. ESCROW FILE REVIEW....8
SUMMARY OF RECOMMENDATIONS....8
AFFIDAVIT OF EXAMINER....9

Boise, Idaho
October 26, 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;

First American Title Company, Inc.
1502 Locust Street N., Suite 300
Twin Falls, Idaho 83301-4163
License #5607 – Twin Falls 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 First American Title Company, Inc., an Idaho Title Agent licensed in Twin Falls County. The examination was conducted remotely from the offices of the Idaho Department of Insurance (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. 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

TitleWest, Inc., was formed and incorporated on July 9, 1973. On April 11, 1975, they merged with Sun Valley Title, Inc. On January 17, 1978, they were licensed with the Department in Twin Falls County. On February 27, 1981, they merged with TitleWest of Twin Falls, Inc., First American Title Company of Sandpoint, Inc., and First American Title Company of Pocatello, Inc. On March 31, 1981, they changed their name to First American Title Company, Inc. On July 1, 1982, they merged with Nez Perce County Title Company, Inc. On November 28, 2003, First American Title Holding Company (FATHCO) was formed and incorporated. On December 26, 2003, the Agent was merged into its new parent company, FATHCO. On September 29, 2011, FATHCO changed its name to Title Financial Corporation. First American Title Company, Inc., is a wholly owned subsidiary of Title Financial Corporation. They conduct business in Twin Falls County out of offices in Twin Falls, Idaho.

## PRIOR EXAMINATION

Our examination included a review to determine if the nine (9) exceptions noted in the preceding report of exception examination dated December 1, 2017, which covered the period of January 1, 2014 to December 31, 2016 were addressed. We determined that the Agent satisfactorily addressed these exceptions.

# 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 October 3, 2022, the Idaho Secretary of State lists Quinn H. Stufflebeam as Registered Agent and President, Janae Humphrey as Treasurer, and Anne M. Howe as Secretary. The Vice Presidents are listed as Peggy Turner, Robert J. Sewell III, and Jace McInelly. The Directors are listed as Quinn H. Stufflebeam, Kevin G. Fink, Jerry Hong, Ted Lovec, Joe Parkinson, Donald P. Kennedy II, and Charlotte Law. Brian Avram is a Vice President and County Manager at the Agent. 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 First American Title Insurance Company, Old Republic National Title Insurance Company, Commonwealth Land Title Insurance Company, Fidelity National Title Insurance Company, Chicago Title Insurance Company, Westcor Land Title Insurance Company, and National Title Insurance Company of New York, Inc. The underwriting contract with First American Title Insurance Company requires a high liability approval for risks in excess of $2,000,000.00 and is subject to a $2,500.00 deductible for loss. All the other underwriting contracts require a high liability approval for risks in excess of $1,000,000.00 and are subject to 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 surety bond #70956858 in the amount of $50,000.00 issued by Western Surety 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 eleven (11) claims during the examination period. The claims appear to be related to purported missed easements, boundary line discrepancies, and/or oversights on the part of employees 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 Brian Avram and is comprised of four (4) Title Officers and two (2) Title Assistants. The title plant is posted and maintained by the Agent in Twin Falls, 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 Brian Avram and is comprised of four (4) Escrow Officers and two (2) 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 June Hogan at Title Financial Corporation in Blackfoot, Idaho. The monthly reconciliations are reviewed by both Anita McMurtrey at Title Financial Corporation in Blackfoot, Idaho, and Brian Avram, a Vice President and County Manager at the Agent. 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 22nd day of November, 2022.

MICHELE MUÑOZ
COMMISSION #20211631
NOTARY PUBLIC
STATE OF IDAHO

Notary Public for Idaho
Residing at: Boise ID
Commission Expires: 03-30-2027