

**FILED**

**MAY 10 2023**

**Department of Insurance  
State of Idaho**

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE  
STATE OF IDAHO**

In the Matter of:

FIRST AMERICAN TITLE COMPANY, INC.  
(BENEWAH COUNTY)

License No. 61735

Docket No. 18-4260-23

**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., Benewah 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 Benewah County, Idaho, under License No. 61735.

2. On or about December 22, 2022, the Department completed an examination of 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 examiner found that First American violated the Department’s rules as follows:

- In February 2017, First American violated IDAPA 18.01.56.014.01<sup>1</sup> on one occasion by purchasing and distributing a total of \$117.44 on edible gift items as Valentine gifts to producers of title business.
3. Based on these findings, the examiner recommended First American:
- Revise its procedures to ensure future self-promotional items comply with the Department's rules; and
  - Pay a \$352.32 administrative penalty for the violation that occurred in February 2017.
4. Per Idaho Code § 41-227(4), the Department's examiner-in-charge filed the Report with the Department on January 11, 2023. A copy of the Report was transmitted to First American on January 17, 2023.
5. Per Idaho Code § 41-2710(7), 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.
6. On January 19, 2023, the Department received a Waiver from First American signed by Quinn Stuffelbeam, First American's CEO and authorized signatory. A copy of the Waiver is attached hereto as Exhibit "B". By executing the Waiver, First American consented to the Director's immediate entry of a final order adopting the Report without modification. First American also waived its rights 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**

7. 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

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<sup>1</sup> In February 2017, when the violation occurred, IDAPA 18.01.56.014.01 (3-30-07) was applicable, this rule was re-designated as IDAPA 18.05.01.031.04(a), effective March 20, 2020.

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.

8. First American's actions are considered violations and administrative penalties are appropriate per Idaho Code §§ 41-2708(3), 41-117, 41-2710(7), and IDAPA 18.01.56.014.01.

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

### **ORDER**

NOW, THEREFORE, IT IS ORDERED:

1. The Report is adopted as filed;
2. Per Idaho Code §§ 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;
3. Per Idaho Code § 41-227(6)(a), within 30 days of the service date of this Order, 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.
4. Within 30 days of the service date of this Order, First American must: (a) pay the Department a \$352.32 administrative penalty, and (b) revise its policies and procedures to ensure that any future self-promotional items comply with IDAPA 18.05.01.031.04(a).

DATED AND EFFECTIVE this 11 day of <sup>April</sup>~~March~~, 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, 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 10<sup>th</sup> day of ~~March~~ May, 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:

<p>FIRST AMERICAN TITLE COMPANY, Inc. C/O Title Financial Corporation Attn: Anita McMurtrey 195 S. Broadway Blackfoot, ID 83221</p>	<p><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:anita.mcmurtrey@titlefc.com">anita.mcmurtrey@titlefc.com</a></p>
<p><del>Karl T. Klein</del> <u>John Keenan</u> Deputy Attorney General IDAHO DEPARTMENT OF INSURANCE 700 W. State Street, 3<sup>rd</sup> Floor P.O. Box 83720 Boise, ID 83720-0043</p>	<p><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> <u>John Keenan</u></p>

  
\_\_\_\_\_  
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 #61735 – Benewah County)

As of

December 31, 2021

*Equal Opportunity Employer*

**EXHIBIT**

**A**

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Boise, Idaho  
December 22, 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.  
831 Main Avenue  
Saint Maries, Idaho 83861-1735  
License #61735 – Benewah 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 Benewah 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**

The examination found the following areas of concern:

- **Exception:** The Agent expended a total of \$117.44 on edible gift items, a self-promotional item specifically not allowed, and distributed them as Valentine's gifts to various producers of title business.

The Agent was in violation of IDAPA 18.01.56.014.01<sup>1</sup> for expending a total of \$117.44 on edible gift items, a self-promotional item specifically not allowed, and distributing them as Valentine's gifts to various producers of title business.

The one (1) exception above is noted herein Section II. Advertising and Marketing, pages 7-8.

## **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 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 March 5, 1998, they were licensed with the Department in Benewah County. 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

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<sup>1</sup> In February 2017, when this expense occurred, IDAPA 18.01.56.014.01 (3-30-07) was applicable, this rule was re-designated as IDAPA 18.05.01.031.04(a), effective March 20, 2020.

subsidiary of Title Financial Corporation. They conduct business in Benewah County out of offices in Saint Maries, Idaho.

### **PRIOR EXAMINATION**

Our examination included a review to determine if the five (5) exceptions noted in the preceding report of exception examination dated November 8, 2017, which covered the period of January 1, 2013 to December 31, 2016 were addressed. We determined that the Agent satisfactorily address 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. Pamela Shawver 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 five (5) 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.

The following one (1) exception was noted as a result of this portion of the examination:

- 1) During the examination the following exception regarding a self-promotional gift item was noted:

<b>Date of Gift Item Expense</b>	<b>Violation of IDAPA 18.01.56.014.01</b>
February 27, 2017	Staff member Pamela Shawver purchased edible gift items, a self-promotional gift item specifically not allowed, for a total expenditure of \$117.44, and distributed them as Valentine's gifts to various producers of title business.

IDAPA 18.01.56.014.01<sup>2</sup> states in relevant part: “***Self-Promotional Items.*** A title entity may distribute self-promotional items having an acquisition value of less than ten dollars (\$10) to producers of title business, consumers, and members of the general public. These self-promotional items are limited to novelty gifts, advertising novelties, and generic business forms and specifically do not include food or beverages. A recipient of a novelty gift or advertising novelty shall not receive gifts or advertising novelties in excess of ten dollars (\$10) of cumulative value per month and no more than fifty dollars (\$50) of cumulative value of gifts or advertising novelties per year...”

The Agent was in violation of IDAPA 18.01.56.014.01 for expending a total of \$117.44 on edible gift items, a self-promotional item specifically not allowed, and distributing them as Valentine’s gifts to various producers of title business.

**Recommendations:** It is recommended the Agent revise its procedures to ensure future self-promotional items are compliant with IDAPA 18.05.01.031.04(a).

Furthermore, the prior examination dated November 8, 2017, noted Advertising and Marketing exceptions without an administrative penalty; therefore, it is also recommended that the Director enter an order for administrative penalty as a result of violating IDAPA 18.01.56.014.01, in the amount of three hundred fifty-two dollars and thirty-two cents. (\$352.32).

### **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 Pamela Shawver and is comprised of two (2) Title Officers and one (1) Title Assistant. The title plant is posted and maintained by the Agent in Coeur d’Alene, 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 Pamela Shawver and is comprised of one (1) Escrow Officer and one (1) Escrow Assistant.

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<sup>2</sup> In February 2017, when this expense occurred, IDAPA 18.01.56.014.01 (3-30-07) was applicable, this rule was re-designated as IDAPA 18.05.01.031.04(a), effective March 20, 2020.

**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 Pamela Shawver, 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**

The recommendations made below identify corrective measures the Department finds necessary as a result of the exceptions noted in this Report of Exception Examination ("Report"). Location in the Report is referenced in parenthesis.

**1) (Section II. Advertising and Marketing, pages 7-8)**

It is recommended the Agent revise its procedures to ensure future self-promotional items are compliant with IDAPA 18.05.01.031.04(a).

Furthermore, it is recommended that the Director enter an order for administrative penalty as a result of violating IDAPA 18.01.56.014.01<sup>3</sup>, in the amount of three hundred fifty-two dollars and thirty-two cents (\$352.32).

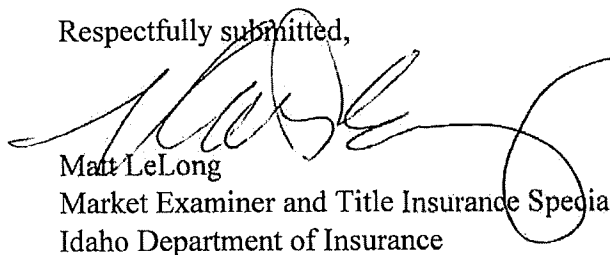
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<sup>3</sup> Ibid., pp. 5, 8.

## AFFIDAVIT OF EXAMINER

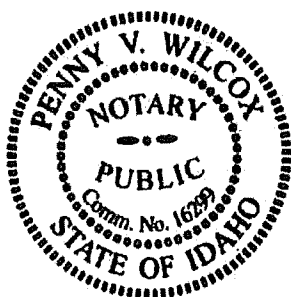
I certify and attest that I have examined the Agent's tract indexes, abstract records, as well as other records, and the operation of the Agent's business and other matters relevant to the affairs of the Agent. I further certify that I have no relationship, other than in my capacity as examiner and/or 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.

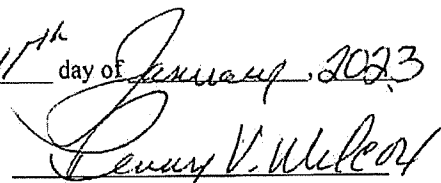
Respectfully submitted,

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

SUBSCRIBED AND SWORN to before me this

11<sup>th</sup> day of January, 2023



  
Notary Public for Idaho,

Residing at: Ada County

Commission Expires: 07/02/2027

## **PENALTY, STIPULATIONS AND APPEAL NOTIFICATION**

This matter comes before the 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 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 Agent, on one (1) occasion, expended a total of \$117.44 on edible gift items, a self-promotional item specifically not allowed, and distributed them as Valentine’s gifts to various producers of title business. This action constitutes a violation of IDAPA 18.01.56.014.01<sup>4</sup>.

The Department shall assess a penalty in the amount of three hundred fifty-two dollars and thirty-two cents (\$352.32) for violation of IDAPA 18.01.56.014.01. No later than thirty (30) days from the date the Final Order is adopted, the Agent shall remit penalty payment of three hundred fifty-two dollars and thirty-two cents (\$352.32) to the Department.

These actions are considered violations and administrative penalties are appropriate pursuant to Idaho Code §§ 41-2708(3), 41-117, 41-2710(7), and IDAPA 18.01.56.014.01.

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<sup>4</sup> Ibid., pp. 5, 8.



State of Idaho  
**DEPARTMENT OF INSURANCE**

BRAD LITTLE  
Governor

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:

**First American Title Company, Inc.  
195 S. Broadway Street  
Blackfoot, Idaho 83221**

Benewah County – License #61735	Bonner County – License #5603	Bonneville County – License #5614
Jerome County – License #5605	Kootenai County – License #12541	Madison County – License #5626
Valley County – License #52780		

By executing this Waiver, the Agent hereby acknowledges receipt of the above-described examination report, verified as of the 11th day of January 2023, 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 19 day of January, 2023

**First American Title Company, Inc.**

Quinn Stoffbeorn

Name (print)

[Signature]

Name (signature)

CEO

Title

*Equal Opportunity Employer*

**EXHIBIT**

B

exhibiticker.com