

FILED

OCT 19 2023

Department of Insurance
State of Idaho

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:

LEWIS COUNTY ABSTRACT COMPANY,
LTD, dba LEWIS COUNTY TITLE

License No.5672

Docket No. 18-4339-23

**ORDER ADOPTING REPORT
OF EXCEPTION EXAMINATION
AS OF DECEMBER 31, 2022**

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 Lewis County Abstract Company, LTD, dba Lewis County Title (“Lewis County Title”) for the period of January 1, 2018, through December 31, 2022. 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. Lewis County Title is a title agency licensed by the Department to transact title insurance in Lewis County, Idaho, under License No. 5672.
2. On or about July 27, 2023, the Department completed an examination of Lewis County Title’s practices and procedures, per Idaho Code §§ 41-2710(7) and 41-219(1) and (5), to determine compliance with title 41, Idaho Code, and any related rules. The examiner’s findings are documented

in the Report. In summary, the examiner found that Lewis County Title violated the following Department rules and provides the following recommendations:

- On six (6) occasions, the Agent failed to conform to Escrow Accounting Procedures by not showing each item disbursed from checks or vouchers, only showing the total of all items. These actions are in violation of IDAPA 18.05.01.021.05
- On six (6) occasions, the Agent failed to conform to Escrow Records by not maintaining evidence of all funds received or disbursed, and/or failure to list all items received or disbursed in the final escrow ledger sheet. These actions are in violation of IDAPA 18.05.01.022.

No later than thirty (30) days from the date of this Order, Lewis County Title is required to submit to the Department, in writing, what proposed procedures will be implemented to ensure future Escrow Accounting Procedures and Escrow Records are compliant with IDAPA 18.05.01.021.05 and IDAPA 18.05.01.021.06.

Lewis County Title is required to submit to the Department a copy of First American Title Insurance Company's, its underwriter, the escrow audit report, within thirty (30) days following completion of the report, and the Agent's proposed implementation plan for corrective actions and/or actions already taken.

The Department will perform a targeted escrow audit of Lewis County Title comprising of no less than five (5) randomly selected escrow files in calendar year 2025, for the period to begin no earlier than thirty (30) days following the final order adopting this Report through December 31, 2024.

3. Based on these findings, although administrative monetary penalties are appropriate for the violations identified, the examiner recommends that the penalties be deferred at this time with the understanding that the Department retains the right to impose and enforce the deferred penalties should there be a finding of future violations of these rules.

4. Per Idaho Code § 41-227(4), the Department examiner-in-charge filed the Report with the Department on August 15, 2023, and transmitted a copy to Lewis County Title on August 15, 2023.

5. Per Idaho Code § 41-2710(7), Lewis County Title had 28 days from the receipt of the Report to make a written submission or rebuttal with respect to matters in the Report. No written

submission or rebuttal was received from Lewis County Title.

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. Lewis County Title's actions are considered violations and administrative penalties are appropriate per Idaho Code §§ 41-117, 41-1016, 41-2710(4), and IDAPA 18.05.01.021.05, and 18.05.01.021.06. As noted above, while imposing a monetary penalty for the above violations would be appropriate, such penalty is deferred subject to the understanding that the Department retains the right to impose and enforce the deferred penalties should there be a finding of future violations of these rules.

8. 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(5)(a); 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, Lewis County Title 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. No later than thirty (30) days from the date of this Order, Lewis County Title is required to submit to the Department, in writing, what proposed procedures will be implemented to ensure future Escrow Accounting Procedures and Escrow Records are compliant with IDAPA 18.05.01.021.05 and IDAPA 18.05.01.021.06.

5. Lewis County Title is required to submit to the Department a copy of First American Title Insurance Company's, its underwriter, the escrow audit report, within thirty (30) days following completion of the report, and the Agent's proposed implementation plan for corrective actions and/or actions already taken.

6. The Department will perform a targeted escrow audit of Lewis County Title comprising of no less than five (5) randomly selected escrow files in calendar year 2025, for the period to begin no earlier than thirty (30) days following the final order adopting this Report through December 31, 2024.

DATED AND EFFECTIVE this 19 day of October, 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:

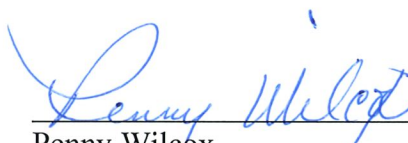
- i. A hearing was held;
- ii. The final agency action was taken;
- iii. The party seeking review of the order resides, or operates its principal place of business in Idaho; or
- iv. The real property or personal property that was the subject of the agency action is located.

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 20th day of October, 2023, I caused a true and correct copy of the foregoing ORDER ADOPTING REPORT OF EXCEPTION EXAMINATION AS OF DECEMBER 31, 2022, to be served upon the following parties by the designated means:

Polley McLeod LEWIS COUNTY ABSTRACT CO., LTD dba LEWIS COUNTY TITLE 603 Fourth Avenue Nezperce, ID 83543	<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: polley@lewiscountytile.us
John Keenan Deputy Attorney General IDAHO DEPARTMENT OF INSURANCE 700 W. State Street, 3 rd 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: john.keenan@doi.idaho.gov


Penny Wilcox



REPORT OF EXCEPTION EXAMINATION

For the Period January 1, 2018 through December 31, 2022

Of

LEWIS COUNTY ABSTRACT COMPANY, LIMITED

d/b/a LEWIS COUNTY TITLE

(a title agent corporation - license #5672 – Lewis County)

As of

December 31, 2022

Equal Opportunity Employer

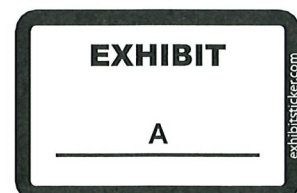


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Boise, Idaho
July 27, 2023

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, 41-2710(7), and 41-2713, an examination has been made of the administrative affairs, books, records, and financial condition of;

Lewis County Abstract Company, Limited
d/b/a Lewis County Title
603 Fourth Avenue
Nezperce, Idaho 83543
License #5672 – Lewis 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 Lewis County Abstract Company, Limited d/b/a Lewis County Title, an Idaho Title Agent licensed in Lewis 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. In addition, examiners may have documented practices and procedures that did not appear to be in the best interest of Idaho insurance consumers. However, failure to identify or criticize specific practices, products, or files does not constitute approval thereof by the Department.

It should be understood that 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 recognized that these comments should not be regarded as reflecting 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.

The period covered by this examination is January 1, 2018 through December 31, 2022. 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:

1) **Escrow Fiduciary Accounts and File Review** (Section IV, pages 8-10.)

The Agent, on six (6) occasions, had two (2) exceptions on each occasion, resulting in a total of twelve (12) exceptions. The following twelve (12) exceptions were noted as a result of this portion of the examination:

- **6 Exceptions – IDAPA 18.05.01.021.05 “Escrow Accounting Procedures.”**

Disbursements will be posted from checks or other vouchers and each item, not the total of items, will be entered. . . .

- **6 Exceptions – IDAPA 18.05.01.021.06 “Escrow Records.”**

Each escrow agent will maintain in each escrow transaction:

Evidence of all funds received . . . evidence of all funds disbursed . . . A final ledger sheet for each escrow transaction listing all items received and disbursed. . . .

The Agent, on six (6) occasions; 1) failed to conform to Escrow Accounting Procedures prescribed in IDAPA 18.05.01.021.05 by not showing each item disbursed from checks or vouchers, only showing the total of all items; and 2) failed to conform to Escrow Records prescribed in IDAPA 18.05.01.021.06 by not maintaining evidence of all funds received or disbursed, and/or failure to list all items received or disbursed in the final escrow ledger sheet.

HISTORY AND DESCRIPTION

Lewis County Abstract Company, Limited, was formed and incorporated on March 15, 1912, by Adam G. Gross, York Herren, and Emma Nebelsieck. In November of 1967, the business and corporation were purchased by John Kemper and Margaret Kemper. In 1973, a state statutory licensure requirement was set forth and they became licensed by the Department on September 10, 1973. In May of 1992, the business and corporation were purchased by Daniel M. Johnson and Joyce Johnson. In April 2017, an assumed business name of Lewis County Title was registered with the Idaho Secretary of State. In January of 2019, the business and corporation were subsequently purchased by the current owners, Polley I. McLeod and Justin R. McLeod. They conduct business in Lewis County out of offices in Nezperce, Idaho.

PRIOR EXAMINATION

Our examination included a review to determine if exceptions were noted and addressed in the preceding report of exception examination dated October 16, 2018, which covered the period of January 1, 2013 through December 31, 2017. No exceptions were noted in that examination.

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 April 3, 2023, the Idaho Secretary of State shows the Agent is in active-good standing and lists Polley McLeod as the Registered Agent and President, and Justin McLeod as Secretary. No exceptions were noted as a result of this portion of the examination.

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

The Agent has an underwriting contract with First American Title Insurance Company. The current underwriting contract requires high liability approval for risks in excess of \$2,000,000.00 and is subject to a \$2,500.00 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 between the Agent and Washington Federal Savings Bank, approved by the Director, for deposit under section 41-804, Idaho Code, in the amount of a \$10,000.00 through the Director and held subject to the same condition as a surety bond. We confirmed during the examination that this account 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 no claims filed within the examination period. 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 Polley McLeod and is comprised of two (2) Title Officers and one (1) Title Assistant. The title plant is owned, posted, and maintained by the Agent in Nezperce, 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 and comprised of one (1) Escrow Officer, Polley McLeod.

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 Polley McLeod, President and Manager at the Agent.

- A total of six (6) exceptions were noted as a result of this portion of the examination and are as follows:

Violation of IDAPA 18.05.01.021.05 The Disbursements from Checks or Vouchers, did not Show Each Item, only the Total of all Items.		
File Number	Closing Date	Violation of IDAPA 18.05.01.021.05 Failure to Show Each Item Disbursed
15956	February 10, 2022	Yes
15986	February 18, 2022	Yes
16102	September 23, 2022	Yes
16112	September 22, 2022	Yes
16115	July 15, 2022	Yes
16155	September 23, 2022	Yes

IDAPA 18.05.01.021.05 states in relevant part: “**Escrow Accounting Procedures.** An escrow agent will maintain on a current basis (a) an escrow ledger with a separate numbered sheet for each escrow agreement and (b) an escrow liability control account. Disbursements will be posted from checks or other vouchers and each item, not the total of items, will be entered. Escrow liability control account will balance with the escrow ledger at all times and will equal the balance of funds in the trust accounts for escrows at the bank.”

Violation: The Agent, on six (6) occasions, was in violation of IDAPA 18.05.01.021.05 for failing to show each item disbursed from checks or vouchers.

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.

- A total of six (6) exceptions were noted as a result of this portion of the examination and are as follows:

Violation of IDAPA 18.05.01.021.06 Escrow Records did not Maintain Evidence of all Funds Received or Disbursed, and/or Failed to List all Items in the Final Escrow Ledger Sheet.		
File Number	Closing Date	Violation of IDAPA 18.05.01.021.06 Failure to Maintain Escrow Records
15956	February 10, 2022	Yes
15986	February 18, 2022	Yes
16102	September 23, 2022	Yes
16112	September 22, 2022	Yes
16115	July 15, 2022	Yes
16155	September 23, 2022	Yes

IDAPA 18.05.01.021.06 states in relevant part: “**Escrow Records.** Each escrow agent will maintain in each escrow transaction:

- a. Evidence of all funds received including copies of all instruments, which will include pre-numbered cash receipts, copies of cashier's checks, wire transfer confirmations or evidence of unconditional payment of checks, as applicable;
- b. Complete evidence of all funds disbursed which will include check stubs or check copies, and wire instructions for all disbursements as applicable; and
- c. A final ledger sheet for each escrow transaction listing all items received and disbursed. All records will be available for audit, inspection and examination by the Director upon demand, and all records will be preserved for not less than six (6) years from the closing date of the escrow.”

Violation: The Agent, on six (6) occasions, was in violation of IDAPA 18.05.01.021.06 for not maintaining evidence of all funds received or disbursed, and/or for failing to list all items received or disbursed in the final escrow ledger sheet.

Recommendations: It is recommended the Agent submit to the Department in writing what proposed procedures will be implemented to ensure future Escrow Accounting Procedures and Escrow Records are compliant with IDAPA 18.05.01.021.05 and IDAPA 18.05.01.021.06, respectively.

It is recommended that the Agent adopt revised accounting procedures to include a monthly three-way reconciliation of every escrow trust account.

It is recommended that the Agent submit to the Department a copy of its underwriter escrow audit report no later than thirty (30) days following its future completion.

It is recommended that the Agent undergo, by the Department, a targeted escrow audit comprised of no less than five (5) randomly selected escrow files in calendar year 2025, for the period to begin no earlier than thirty (30) days following the final order adopting this Report through December 31, 2024.

These actions should be considered violations of IDAPA 18.05.01.021.05 and 18.05.01.021.06, and administration penalties are appropriate pursuant to the provisions of sections 41-117, 41-1016, and 41-2710(4), Idaho Code. However, because the Agent is under new management, as of January 2019, and this is their first examination, it is recommended that no administrative penalties be imposed at this time, with the stipulation and understanding that the Department retains the right to impose new penalties based on any future findings of these same violations.

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 below in parenthesis.

1) (Section IV., Escrow Fiduciary Accounts and File Review, pages 8-10)

It is recommended the Agent submit to the Department in writing what proposed procedures will be implemented to ensure future Escrow Accounting Procedures and Escrow Records are compliant with IDAPA 18.05.01.021.05 and IDAPA 18.05.01.021.06, respectively.

It is recommended that the Agent adopt revised accounting procedures to include a monthly three-way reconciliation of every escrow trust account.

It is recommended that the Agent submit to the Department a copy of its underwriter escrow audit report no later than thirty (30) days following its future completion.

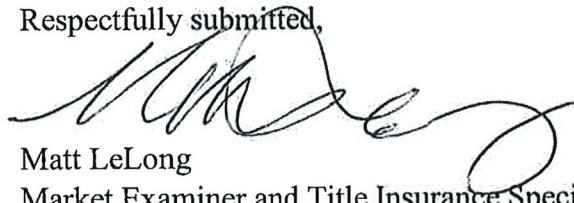
It is recommended that the Agent undergo, by the Department, a targeted escrow audit comprised of no less than five (5) randomly selected escrow files in calendar year 2025, for the period to begin no earlier than thirty (30) days following the final order adopting this Report through December 31, 2024.

These actions should be considered violations and administrative penalties are appropriate pursuant to Idaho Code §§ 41-117, 41-1016, 41-2710(4), IDAPA 18.05.01.021.05, and 18.05.01.021.06. However, because the Agent is under new management, as of January 2019, and this is their first examination, it is recommended that no administrative penalties be imposed at this time, with the stipulation and understanding that the Department retains the right to impose new penalties based on any future findings of these same violations.

AFFIDAVIT OF EXAMINER

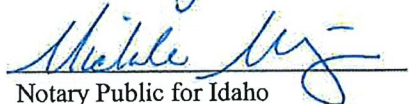
I certify and attest that I have examined the Agent's tract indexes, abstract records, as well as other records, and the operation of the Agent's business and other matters relevant to the affairs of the Agent. I further certify that I have no relationship, other than in my capacity as examiner and/or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

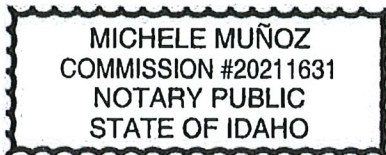
SUBSCRIBED AND SWORN to before me this 15 day of August, 2023.



Notary Public for Idaho

Residing at: Boise

Commission Expires: 03-30-2027.



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 six (6) occasions; 1) failed to conform to Escrow Accounting Procedures prescribed in IDAPA 18.05.01.021.05 by not showing each item disbursed from checks or vouchers, only showing the total of all items; and 2) failed to conform to Escrow Records prescribed in IDAPA 18.05.01.021.06 by not maintaining evidence of all funds received or disbursed, and/or failure to list all items received or disbursed in the final escrow ledger sheet.

No later than thirty (30) days from the date the Final Order is adopted the Agent is required to submit to the Department in writing what proposed procedures will be implemented to ensure future Escrow Accounting Procedures and Escrow Records are compliant with IDAPA 18.05.01.021.05 and IDAPA 18.05.01.021.06.

The Agent will undergo, by the Department, a targeted escrow audit comprised of no less than five (5) randomly selected escrow files in calendar year 2025, for the period to begin no earlier than thirty (30) days following the final order adopting this Report through December 31, 2024.

The Agent will submit to the Department a copy of its underwriter escrow audit report no later than thirty (30) days following its future completion.

These actions are considered violations and administrative penalties are appropriate pursuant to Idaho Code §§ 41-117, 41-1016, 41-2710(4), IDAPA 18.05.01.021.05, and 18.05.01.021.06, while imposing a monetary penalty for the above violations would be appropriate, such penalty is deferred subject to the understanding that the Department retains the right to impose and enforce the deferred penalties should there be a finding of future violations of these rules.