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FILED 
APR 23 2018
Department of Insurance
State of Idaho

Attorneys for the Department of Insurance

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:

BLAINE COUNTY TITLE, INC.

Idaho Title Agency License No. 477261

Docket No. 18-3480-18

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

The State of Idaho, Department of Insurance (“Department”), having conducted an examination of the affairs, transactions, assets, tract indexes, abstract records, and any other records of BLAINE COUNTY TITLE, INC., to ascertain compliance with title 41, Idaho Code, and related rules, pursuant to Idaho Code §§ 41-2710(7) and 41-219(1) and (5), hereby alleges the following facts that constitute a basis for issuance of an order, pursuant to Idaho Code § 41-227(5)(a), adopting the Report of Exception Examination of Blaine County Title, Inc., for the Period January 1, 2013 to December 31, 2017 (“Report”), as filed.

FINDINGS OF FACT

1. Blaine County Title, Inc., is a title agency licensed by the Department to transact title insurance in Blaine County, Idaho, under Title Agency License No. 477261.

2. The Department completed an examination of Blaine County Title, Inc., pursuant to Idaho Code §§ 41-2710(7) and 41-219(1) and (5) on or about April 6, 2018. The Department's findings are set forth in the Report.

3. Pursuant to Idaho Code § 41-227(4), a copy of the Report was filed with the Department on April 6, 2018, and was transmitted to Blaine County Title, Inc., on the same date. A copy of the Report is attached hereto as Exhibit A.

4. Pursuant to Idaho Code § 41-2710(7), Blaine County Title, Inc., had twenty-eight (28) days from service of the Report within which to review, comment, or request a hearing on the Report.

5. On or about April 6, 2018, the Department received a Waiver from Blaine County Title, Inc., signed by Daryl Fauth, its President. By execution of such Waiver, a copy of which is attached hereto as Exhibit B, Blaine County Title, Inc., consented to the immediate entry of a final order by the Director of the Department ("Director") adopting the Report without any modifications; waived its right to make a written submission or rebuttal to the Report; and waived its right to request a hearing and to seek reconsideration or appeal from the Director's final order.

6. No request for hearing, written submission, or rebuttal with respect to any matter contained in the Report was received by the Department from Blaine County Title, Inc.

CONCLUSIONS OF LAW

7. Idaho Code § 41-227(5)(a) provides that, after expiration of "the period allowed for the receipt of written submissions or rebuttals, the Director shall fully consider and review the report, together with any written submissions or rebuttals and relevant portions of the examiner's work papers" and shall enter an order adopting the report of examination as filed or with modifications or corrections.

8. Having fully considered the Report, the Director concludes that, with regard to the

matters examined and information provided by Blaine County Title, Inc., the comments, findings, and recommendations contained in the Report are appropriate and are incorporated herein as if set forth in full.

9. The Director specifically takes notice of the Examiner's finding that, in February 2013, Blaine County Title, Inc., paid \$299 to a producer of title business as sponsorship for an event (see page 7 of the Report). Such act is a violation of IDAPA 18.01.56.011, which prohibits a title entity from providing things of value to a producer of title business, consumer, or member of the general public, with certain exceptions, none of which apply to the payment at issue. The Director therefore concurs with the Examiner's finding of violation and concludes that the Examiner's recommendations for penalties and corrective actions to be taken by Blaine County Title, Inc., as identified at page 10 of the Report, are appropriate.

ORDER

NOW, THEREFORE, based on the foregoing, IT IS HEREBY ORDERED that the Report of Exception Examination of Blaine County Title, Inc., for the Period January 1, 2013 to December 31, 2017, is hereby ADOPTED as filed, pursuant to Idaho Code § 41-227(5)(a).

IT IS FURTHER ORDERED, pursuant to Idaho Code §§ 41-2710(7) and 41-227(8), that the adopted Report is a public record and shall not be subject to the exemptions from disclosure provided in chapter 1, title 74, Idaho Code.

IT IS FURTHER ORDERED, pursuant to Idaho Code § 41-227(6)(a), that, within thirty (30) days of the issuance of the adopted Report, Blaine County Title, Inc., shall file with the Department's Examiner Title & Market Insurance Specialist affidavits executed by each of its directors or, if none, its principal officers, stating under oath that they have received a copy of the adopted Report and related orders.

IT IS FURTHER ORDERED that an administrative penalty in the amount of Eight

Hundred Ninety-seven Dollars (\$897.00) is imposed against Blaine County Title, Inc., pursuant to Idaho Code § 41-2708(3) and IDAPA 18.01.56.018.01, for sponsoring an event of a title producer; PROVIDED, HOWEVER, that such penalty is waived in accordance with the Examiner's recommendation, and in the Director's discretion, as this is a first instance of violation noted in examination of Blaine County Title, Inc..

IT IS FURTHER ORDERED that, no later than thirty (30) days from the date of entry of the Final Order adopting the Report, Blaine County Title, Inc., shall provide written evidence to the Department that it has revised its processes and fully implemented procedures to ensure that future donations and sponsorships will be in compliance with Idaho Code § 41-2708(3) and IDAPA 18.01.56.

IT IS FURTHER ORDERED that, waiver of the penalty set forth above notwithstanding, the Department retains the right to impose new penalties based on any future findings of the same violations.

IT IS SO ORDERED.

DATED this 21 day of April, 2018.

STATE OF IDAHO
DEPARTMENT OF INSURANCE



DEAN L. CAMERON
Director

NOTIFICATION OF RIGHTS

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

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal it by filing a petition for judicial review in the district court of the county in which: (1) the hearing was held; or (2) the final agency action was taken; or (3) the aggrieved party resides or operates its principal place of business in Idaho; or (4) the real property or personal property that was the subject of the agency decision is located. An appeal must be filed within twenty-eight (28) days of: (a) the service date of this final order; or (b) an order denying a petition for reconsideration; or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. *See*, Idaho Code § 67-5273. The filing of a petition for judicial review does not itself stay the effectiveness or enforcement of the order under appeal.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 23rd day of April, 2018, I caused a true and correct copy of the foregoing ORDER ADOPTING REPORT OF EXCEPTION EXAMINATION AS OF DECEMBER 31, 2017, to be served upon the following by the designated means:

Blaine County Title, Inc.
Daryl Fauth, President
360 E. Sun Valley Rd.
Ketchum, ID 83340
daryl@blainecountytitle.com

- first class mail
- certified mail
- hand delivery
- email

Nathan Faragher
Chief Examiner, Company Activities Bureau Chief
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
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- email

Judy L. Geier
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043

- first class mail
- certified mail
- hand delivery
- email





REPORT OF EXCEPTION EXAMINATION
For the Period January 1, 2013 to December 31, 2017

Of

Blaine County Title, Inc.
(a title agent corporation - license #477261 – Blaine County)

As of

December 31, 2017

Equal Opportunity Employer



Table of Contents

SALUTATION.....3

FOREWORD.....4

PURPOSE AND SCOPE OF EXAMINATION5

HISTORY AND DESCRIPTION5

PRIOR EXAMINATION5

PRIOR ESCROW AUDIT5

SUMMARY OF FINDINGS AND RECOMMENDATIONS6

I. OPERATIONS AND MANAGEMENT.....6

A. MANAGEMENT, CONTROL AND FINANCIAL INTERESTS6

B. CONTRACTING AUTHORITY.....6

C. SURETY BOND6

D. CLAIMS.....7

II. ADVERTISING AND MARKETING.....7

III. TITLE FILE REVIEW.....8

IV. ESCROW FIDUCIARY ACCOUNTS AND FILE REVIEW8

A. FIDUCIARY ACCOUNTS.....8

B. ESCROW FILE REVIEW8

CONCLUSION.....9

PENALTY, STIPULATIONS AND APPEAL NOTIFICATION10

Boise, Idaho
April 5, 2017

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;

Blaine County Title, Inc.
360 E. Sun Valley Road
Ketchum, Idaho 83340
License #477261– Blaine County

Hereinafter referred to as “Title Agent”.

The following Report of Exception Examination is respectfully submitted.

FOREWORD

This is an exception examination report of the practices and procedures of Blaine County Title, Inc. an Idaho Title Agent licensed in Blaine County. However, failure to identify or criticize specific products, procedures or files does not constitute approval thereof by the Idaho Department of Insurance (the Department).

The examination was conducted at the Title Agent's office located at 360 E. Sun Valley Road in Ketchum, Idaho and remotely at the offices of the Idaho Department of Insurance located at 700 West State Street in Boise, Idaho. In performing this examination, the examiner(s) reviewed a sample of the Title Agent's procedures, files, and documentation. Some noncompliant practices may not have been discovered during this examination. As such, this report may not fully reflect all the procedures and practices of the Title Agent.

During the examination, the examiner(s) may cite violations made by the Title Agent. Statutory citations are as of the period under examination unless otherwise noted. The goal of the examination team was to produce an examination report that reflects agreement in content with the Title Agent. The report indicates where agreement was not possible.

The final examination report documents consist of the examiners' report, the Title Agent's response if elected, and any administrative actions based on the findings of the Department.

PURPOSE AND SCOPE OF EXAMINATION

The purpose of the examination is to determine compliance with applicable Idaho Statutes and regulations, and rules promulgated by the Department. In addition, examiners may have documented practices and procedures that did not appear to be in the best interest of Idaho insurance consumers.

The period covered by this examination is January 1, 2013 through December 31, 2017. Specific areas examined include operations/management, claims, advertising and marketing, title file review and escrow fiduciary account and file review.

The Department's authority to conduct the examination includes, but is not limited to, Idaho Code § 41-2710(7), which grants authority for regular examinations of a title agent's tract indexes, abstract records, and any other records to ascertain compliance with title 41, Idaho Code, and related rules, to occur 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.

HISTORY AND DESCRIPTION

Blaine County Title, Inc. was incorporated with the Idaho Secretary of State's office on November 19, 1981. They were licensed with the Department on May 4, 1981.

PRIOR EXAMINATION

The examination included a review to determine if exceptions were noted in the November 7, 2013 Report of Examination which covered the period January 1, 2008 to December 31, 2012 and whether those exceptions were addressed. No exceptions were noted. No exceptions were noted as a result of this current portion of the examination.

PRIOR ESCROW AUDIT

The examination included a review to determine if exceptions were noted in the December 22, 2014 and the January 09, 2018 escrow audits completed by Deloitte & Touche LLP which covered the period July 1, 2011 through June 30, 2017 and whether those exceptions were addressed. Thirty five (35) exceptions were noted. We determined that the agent satisfactorily addressed thirty three (33) of them on January 5, 2015. The remaining two (2) exceptions were addressed by the Department in a letter of reprimand dated February 20, 2015. No exceptions were noted as a result of this current portion of the examination.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

I. OPERATIONS AND MANAGEMENT

The examination included a review of the Title Agent's operations and management. The focus of this portion of the examination included a review of the management and control, contracting authority, surety bond, claims, and financial interests of the title entity management and ownership.

A. MANAGEMENT, CONTROL AND FINANCIAL INTERESTS

IDAPA 18.01.39.011, 012 & 013

Daryl J. Fauth is listed as the current Registered Agent and President. Kathy Seal is Vice President, Gary Oyen is Secretary. The Directors are Michael Donovan, William Rutter, Jack Bariteau, Erik Doyle, Speybro LLC, Zach Crist, Danielle Carruth and Roger W. Crist. Stock holders are Gary Oyen, William H. Rutter, Daryl J. Fauth, Michael F. Donovan Living Trust, Roger W. Reggie Crist, Danielle Carruth, Zach Crist, Kathy Seal, SpeyBro LLC, The Doyle Family 1999 Revocable Trust and Jack Bariteau. Business is conducted out of offices in Ketchum and Hailey, Idaho. No exceptions were noted as a result of this portion of the examination.

B. CONTRACTING AUTHORITY

Idaho Code § 41-2710(2)

The Title Agent has underwriting agreements with Old Republic National Title Insurance Company (ORNT) and Stewart Title Guaranty Company (STGC). The underwriting contract with ORNT requires a high liability approval for risks in excess of \$1,000,000.00 with a \$5,000.00 deductible required for claims. The underwriting contract with STGC requires a high liability approval for risks in excess of \$2,000,000.00 with a \$5,000.00 deductible required for claims. No exceptions were noted as a result of this portion of the examination.

C. SURETY BOND

Idaho Code §§ 41-2710(6), 2711

IDAPA 18.01.25.011.08 & 09

The Department has on file surety bond #70573632 in the amount of \$50,000.00 issued by Western Surety Company on behalf of the Title Agent. The examination confirmed this bond to be currently active. No exceptions were noted as a result of this portion of the examination.

D. CLAIMS

Idaho Code § 41-2708(1) & (2)

The Title Agent reported that there were two (2) claims during the examination period. The claims appears to be oversights on the part of employees of the Title Agent and were remedied prior to our examination. Additionally, we did not find material issues with the title plant during the examination. No exceptions were noted as a result of this portion of the examination.

II. ADVERTISING AND MARKETING

Idaho Code § 41-2708(3) & (4)

IDAPA 18.01.39.014 & 18.01.56

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

During the examination the following exception regarding providing a thing of value to a producer of title business was noted:

In February 2013, the agent paid \$299.00 to a producer of title business as a sponsorship for an event.

IDAPA 18.01.56.011 (Exhibit 1.2) states: "A title entity shall not sponsor, subsidize, supply prizes or labor, or otherwise provide things of value for promotional activities of producers of title business." The Title Agent was in violation of IDAPA 18.01.56.011 (Exhibit 1.2) by sponsoring an event of a producer of title business.

Recommendations

It is recommended that the Title Agent submit to the Department in writing what proposed procedures the Title Agent will implement to ensure that future donations and sponsorships subject to IDAPA 18.01.56 will be compliant.

Pursuant to IDAPA 18.01.56.015.01, this should be considered a violation and an administrative penalty in the amount of \$897.00 is appropriate. However, as this is the first instance of this violation noted in an examination, it is the recommendation of this examiner that the administrative penalty be waived.

III. TITLE FILE REVIEW

Idaho Code §§ 41-2702, 2708 & 2709

IDAPA 18.01.25 & 18.01.56.017 & Exhibit 1(9)

The Title Agent's Title Department is managed by Terry Washburn and is comprised of herself and Daryl Fauth. The title plant is posted and maintained by the Title Agent in Ketchum, 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, cancellation fees, and unique kind or class of risk. No exceptions were noted as a result of this portion of the examination.

IV. ESCROW FIDUCIARY ACCOUNTS AND FILE REVIEW

The Title Agent's Escrow Department is managed by Daryl Fauth and Kathy Seal and is comprised of one (1) escrow officer. No exceptions were noted as a result of this portion of the examination.

A. FIDUCIARY ACCOUNTS

IDAPA 18.01.25.011.04, 05 & 10

The examination included a review of the fiduciary account utilized during the examination period. The account was reviewed for correct labeling, separation from operating funds, reconciliation, and negative balances. The fiduciary account for this office is balanced on a daily basis and reconciled on a monthly basis by Daryl Fauth and Stewart Financial Services. No exceptions were noted as a result of this portion of the examination.

B. ESCROW FILE REVIEW

Idaho Code § 41-2705(3)

IDAPA 18.01.25.011 & 12, 18.01.56.017

The examination included a review of the escrow files opened during the examination period. A sample of the escrow files were reviewed within the parameters of our examination for adequate written instructions, conformity to the written instructions by the Title Agent, rates charged as filed, signed settlement statements, receipt and disbursement ledgers, evidence of receipts and disbursements made, file overdrafts, and business interests of the escrow officers. No exceptions were noted as a result of this portion of the examination.

CONCLUSION

I certify and attest that I have examined the Title Agent's tract indexes, abstract records, as well as other records, and the operation of the Title Agent's business and other matters relevant to the affairs of the Title Agent. I further certify that I have no relationship, other than in my capacity as examiner and/or regulator, with the Title Agent or its employees and that no conflict of interest exists that would prevent me from conducting the examination. I acknowledge the assistance and cooperation of the Title Agent's employees during the examination. Based on my examination, I prepared this Examiner's Report of Exceptions (the "Report") in accordance with Idaho Code § 41-2710(7). I confirm that the findings, conclusions, and recommendations contained in this Report are my own.

Respectfully submitted,



James Scanlon

Examiner Title and Market Insurance Specialist

PENALTY, STIPULATIONS AND APPEAL NOTIFICATION

This matter comes before the Idaho Department of Insurance (“Department”) as a result of this Report of Exception Examination (“Examination”). The Department has fully considered and reviewed this examination and the recommendations of the Examiner.

The Department makes the following findings of fact and imposes penalties and stipulations:

- 1. The Title Agent, on one (1) occasion, donated to a producer of title business to sponsor an event. This action constitutes a violation of IDAPA 18.01.56.011 (Exhibit 1.2)

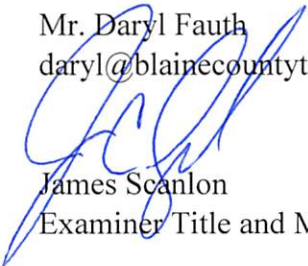
No later than thirty (30) days from the date the Final Order is adopted, the Title Agent shall provide written evidence to the Department that it has revised its processes and fully implemented procedures to ensure that future donations and sponsorship subject to IDAPA 18.01.56 will be compliant.

The Department shall assess a penalty in the amount of \$897.00 in accordance with IDAPA 18.01.56.018.01. As this is the first instance of this violation noted in an examination, the Department waives this penalty with the stipulation and understanding that the Department retains the right to impose new penalties based on any future findings of these same violations.

Pursuant to Idaho Code § 41-2710(7), you have twenty eight (28) days to review, comment and request a hearing regarding these findings. Unless a hearing is requested in accordance with Idaho Code §§ 41-227(5) and (6), 41-232(2)(b), or elsewhere in the Idaho Code within the twenty eight (28) day review period, the Director will issue an order adopting the report and it shall be deemed available to the public.

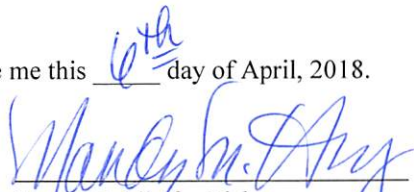
I certify that on this 6th day of April 2018, I submitted a final copy of this Report to the Director of the Idaho Department of Insurance and served a final copy of the same by Electronic Mail to:

Mr. Daryl Fauth
daryl@blainecountytitle.com


James Scanlon
Examiner Title and Market Insurance Specialist

SUBSCRIBED AND SWORN to before me this 6th day of April, 2018.




Notary Public for Idaho
Residing at: Boise, Idaho
Commission Expires: 4/24/18

State of Idaho
DEPARTMENT OF INSURANCE

C. L. "BUTCH" OTTER
Governor

700 West State Street, 3rd Floor
P.O. Box 83720
Boise, Idaho 83720M0043
Phone (208)334-4250
FAX# (208)334-4398

DEAN L. CAMERON
Director

WAIVER

In the matter of the Report of Examinations as of December 31, 2017, of:

Blaine County Title, Inc.
360 E. Sun Valley Road
Ketchum, Idaho 83340
License #477261 – Blaine County

By executing this Waiver, the Agent hereby acknowledges receipt of the above-described examination report, verified as of the 6th day of April 2018, and by this Waiver hereby consents to the immediate entry of a final order by the Director of the Department of insurance adopting said report without any modifications.

By executing this Waiver, the Company also hereby waives:

1. its right to examine the report for up to thirty (28) days as provided in Idaho Code section 41-2710(7),
2. its right to make additional written submissions or rebuttals to the 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 6 day of April, 2018

BLAINE COUNTY TITLE, INC.

Daryl Farku
Name (print)
[Signature]
Name (signature)
President
Title

