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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:

PAYETTE COUNTY TITLE & ESCROW,
LLC [Payette County]

Idaho Title Agency License No. 334033

Docket No. 18-3695-19

**ORDER ADOPTING REPORT
OF EXCEPTION EXAMINATION
AS OF DECEMBER 31, 2018**

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 PAYETTE COUNTY TITLE & ESCROW, LLC (“Payette County Title”) 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 for the Period January 1, 2014 to December 31, 2018 of Payette County Title & Escrow, LLC as of December 31, 2018 (“Report”), as filed.

FINDINGS OF FACT

1. Payette County Title is a title agency licensed by the Department to transact title insurance in Payette County, Idaho, under Title Agency License No. 334033.

2. The Department completed an examination of Payette County Title pursuant to Idaho Code §§ 41-2710(7) and 41-219(1) and (5) on or about August 15, 2019. 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 August 15, 2019, and was transmitted to Payette County Title on the same date. A copy of the Report is attached hereto as Exhibit A.

4. Pursuant to Idaho Code § 41-2710(7), Payette County Title had twenty-eight (28) days from service of the Report within which to review, comment, or request a hearing on the Report. No such comment or request was received by the Department from Payette County Title.

CONCLUSIONS OF LAW

5. Idaho Code § 41-227(5) 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, rejecting the report and reopening the examination, or calling for an investigatory hearing.

6. Having fully considered the Report, the Director concludes that, with regard to the matters examined and information provided by Payette County Title, the comments, findings, and recommendations contained in the Report, including the Examiner's determination of violations or noncompliance by Payette County Title and corrective actions to be taken identified at page 10

of the Report, Exhibit A, are appropriate and are incorporated herein as if set forth in full.

ORDER

NOW, THEREFORE, based on the foregoing, IT IS HEREBY ORDERED that the Report of Exception Examination for the Period January 1, 2014 to December 31, 2018 of Payette County Title & Escrow, LLC as of December 31, 2018, 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, Payette County Title 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, due to Payette County Title's violation of IDAPA 18.05.02.011.02¹ by failing on one (1) occasion to disclose its business interest in an escrow transaction and to provide the required statement, Payette County Title shall provide written evidence to the Department that it has revised its processes and fully implemented procedures to ensure that it discloses its business interest in an escrow transaction, if any, and provides the additional statement in the escrow instructions, in compliance with IDAPA 18.05.02.011.02.

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¹ IDAPA 18.01.25.011.02, as cited in the Report, was re-designated as IDAPA 18.05.02.011.02, effective July 1, 2019.

IT IS SO ORDERED.

DATED and EFFECTIVE this 17th day of September, 2019.

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 fourteen (14) days of the service date of this order. The agency will dispose of the motion for reconsideration within twenty-one (21) days of its receipt, or the motion 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 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 twenty-eight (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 twenty-one (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 18th day of September, 2019, I caused a true and correct copy of the foregoing ORDER ADOPTING REPORT OF EXCEPTION EXAMINATION AS OF DECEMBER 31, 2018, to be served upon the following by the designated means:

Payette County Title & Escrow, LLC
560 S. 16th Street, Ste. A
Payette, ID 83661-3356
jscrivner@payettecte.com

- first class mail
- certified mail
- email

Edith L. Pacillo
Lead Deputy Attorney General
Idaho Department of Insurance
P.O. Box 83720
Boise, ID 83720-0043
edith.pacillo@doi.idaho.gov

- first class mail
- certified mail
- email


Pamela Murray



REPORT OF EXCEPTION EXAMINATION
For the Period January 1, 2014 to December 31, 2018

Of

PAYETTE COUNTY TITLE & ESCROW, LLC.
(A title agent corporation - license #334033 – Payette County)

As of

December 31, 2018

Equal Opportunity Employer



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Boise, Idaho
August 15, 2019

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;

Payette County Title & Escrow, LLC.
560 S. 16th Street, Suite A
Payette, Idaho 83661
License #334033 – Payette County

Hereinafter referred to as the “Agent”.

The following Report of Exception Examination is respectfully submitted.

FOREWORD

This is an exception examination report of the practices and procedures of Payette County Title & Escrow, LLC., an Idaho Title Agent licensed in Payette 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 Agent's company offices at 560 S. 16th Street, Suite A in Payette, Idaho and at the offices of 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. As such, this report may not fully reflect all of the procedures and practices of the Agent.

During the examination, the examiner(s) may cite violations made by the 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 agent. The report indicates where agreement was not possible.

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

PURPOSE AND SCOPE OF EXAMINATION

The purpose of this examination is to determine compliance with applicable Idaho Statutes, Idaho Department of Insurance regulations, 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, 2014 through December 31, 2018. Specific areas examined include operations/management, claims, advertising and marketing, title file review and escrow fiduciary account and file review.

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

HISTORY AND DESCRIPTION

Payette County Title & Escrow, LLC. was organized with the Idaho Secretary of State's office on March 23, 2009 by Robert Goodwin. They were licensed with the Department and began operations on December 15, 2009.

PRIOR EXAMINATION

Our examination included a review to determine if exceptions were noted and addressed in the prior June 12, 2014 examination. No exceptions were noted in that examination. No exceptions were noted as a result of this portion of the examination.

PRIOR ESCROW AUDITS

Our examination included a review to determine if exceptions were noted and addressed in the January 7, 2019 escrow audit completed by Mr. Paul C. Hammann with First American Title Insurance Company. No exceptions were noted in that audit. No exceptions were noted as a result of this portion of the examination.

SUMMARY OF 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 18.01.39.011, 012 & 013**

As of April 23, 2019, the Idaho Secretary of State lists Robert Goodwin as Principal Member and registered agent. No exceptions were noted as a result of this portion of the examination.

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

This agent has underwriting contracts with First American Title Insurance Company ("FATICO") and Westcor Land Title Insurance Company ("Westcor"). The underwriting contracts require a high liability approval of \$1,000,000.00 with FATICO and \$350,000 with Westcor. Both contracts require a \$2,500 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 18.01.25.011.08 & 09**

The Idaho Department of Insurance has on file surety bond #70825436 in the amount of \$30,000.00 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 no claims during 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 18.01.39.014 & 18.01.56

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, 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. No exceptions were noted as a result of this portion of the examination.

III. TITLE FILE REVIEW

Idaho Code §§ 41-2702, 2708 & 2709

IDAPA 18.01.25 & 18.01.56.017 & Exhibit 1(9)

The title department is managed by Joel Scrivner and is comprised of him and one (1) Title Officer. This location owns its title plant. 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 Joel Scrivner and is comprised of one (1) Escrow Officer.

A. FIDUCIARY ACCOUNTS

IDAPA 18.01.25.011.04, 05 & 10

This 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 accounts are balanced on a daily basis and reconciled on a monthly basis by Tina Bolin. Monthly reconciliations are reviewed by Joel Scrivner. 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

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 escrow officers.

During our examination we noted an exception in file #17-3837 regarding the disclosure of a business interest in the escrow transaction by an escrow agent.

IDAPA 18.01.25.011.02 states that “If an escrow agent has a business interest in the escrow transaction other than as escrow agent, the relationship or interest must be disclosed in the written escrow instructions. After noting such interest, an additional statement shall appear as follows: “We call this interest to your attention for disclosure purposes. This interest will not, in our opinion, prevent us from being a fair and impartial escrow agent in this transaction, but you are, nevertheless, free to request the transaction be closed by some other escrow agent.”” The Title Agent, acting as an escrow agent, was in violation of IDAPA 18.01.25.011.02 by not disclosing their business interest in the escrow transaction and failing to provide the additional statement in the closing instructions.

Recommendation

It is recommended that the Title Agent submit to the Department in writing what proposed procedures the Title Agent will implement to ensure that the escrow agent business interest disclosure and additional statement will appear in the written escrow instructions in the future. No administrative fines or penalties are recommended at this time as this is the first instance of this violation noted in an 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, MCM
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, any written submissions and rebuttals provided by the Title 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 Title Agent, on one (1) occasion, failed to disclose their business interest in the escrow transaction and to provide the additional statement in the closing instructions. This failure constitutes a violation of IDAPA 18.01.25.011.02.

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 the disclosure of their business interest in an escrow transaction as well as the required additional statement is provided in the escrow instructions and are compliant with IDAPA 18.01.25.011.02.

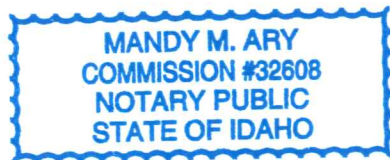
Pursuant to Idaho Code § 41-2710(7), you have twenty eight (28) days to review, comment and request a hearing regarding these findings. Unless a hearing is requested in accordance with Idaho Code §§ 41-227(5) and (6), 41-232(2)(b), or elsewhere in the Idaho Code within the twenty eight (28) day review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

I certify that on this 15th day of August 2019, 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. Joel Scrivner
jscrivner@payettecte.com

Jim Scanlon, MCM
Examiner Title & Market Insurance Specialist
Idaho Department of Insurance

SUBSCRIBED AND SWORN to before me this 15th day of August, 2019.



Mandy M. Ary
Notary Public for Idaho
Residing at: 26754, Idaho
Commission Expires: 7/24/24