

LAWRENCE G. WASDEN
Attorney General

EDITH L. PACILLO, ISB No. 5430
Lead Deputy Attorney General
State of Idaho
Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, Idaho 83720-0043
Telephone: (208) 334-4204
Facsimile: (208) 334-4298
edith.pacillo@doi.idaho.gov

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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:

LEMHI TITLE COMPANY

Idaho Title Agency License No. 5671

Docket No. 18-3705-19

**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 LEMHI TITLE COMPANY 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 Lemhi Title Company as of December 31, 2018 (“Report”), as filed.

FINDINGS OF FACT

1. Lemhi Title Company is a title agency licensed by the Department to transact title

insurance in Lemhi County, Idaho, under Title Agency License No. 5671.

2. The Department completed an examination of Lemhi Title Company pursuant to Idaho Code §§ 41-2710(7) and 41-219(1) and (5) on or about August 28, 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 September 3, 2019, and was transmitted to Lemhi Title Company on the same date. A copy of the Report is attached hereto as Exhibit A.

4. Pursuant to Idaho Code § 41-2710(7), Lemhi Title Company 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 Lemhi Title Company.

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 Lemhi Title Company, the comments, findings, and recommendations contained in the Report, including the Examiner's determination of violations or noncompliance by Lemhi Title Company 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 Lemhi Title Company 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, Lemhi Title Company 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 Lemhi Title Company's violations of Idaho Code § 41-2702 by issuing a title policies that were not properly countersigned, Lemhi Title Company shall provide written evidence to the Department that it has revised its processes and fully implemented procedures to ensure that future title policies will be properly countersigned and compliant with Idaho Code § 41-2702.

IT IS SO ORDERED.

DATED and EFFECTIVE this 4 day of October, 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 7th day of October, 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:

Lemhi Title Company
401 Main Street, Suite 2
Salmon, ID 83467-4218
chaceslavin@gmail.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

LEMHI TITLE COMPANY
(A title agent corporation - license #5671 – Lemhi County)

As of

December 31, 2018

Equal Opportunity Employer



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Boise, Idaho
August 27, 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;

Lemhi Title Company
401 Main Street, Ste. #2
Salmon, Idaho 83467
License #5671 – Lemhi 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 Lemhi Title Company, an Idaho Title Agent licensed in Lemhi 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 401 Main Street, Ste. #2 Salmon, Idaho 83467 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

Lemhi Title and Abstract Company was organized with the Idaho Secretary of State's office on February 19, 1907 by Thomas Kane, Louis F. Ramey, P.J. Dempsey, W.C. Smith and G.B. Quarles. The business was incorporated on June 5, 1973 by Bonnie Robie. Erin G. Robie and James C. Herndon. The current owner, M. Chace Slavin purchased the business in November of 2007. The name of the company was changed to current on November 10, 2014. The company was required to and became licensed with the Department on December 01, 1973.

PRIOR EXAMINATION

Our examination included a review to determine if exceptions were noted and addressed in the prior July 16, 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 December 18, 2018 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 18.05.02.006, 007 & 008**

As of April 25, 2018, the Idaho Secretary of State lists Milton Slavin as President and Mary E. Penner as Secretary. The current registered agent is Milton Slavin. 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. The underwriting contract requires a high liability approval of \$1,000,000.00 with 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 18.05.02.011.07 & 08**

The Idaho Department of Insurance has on file surety bond #15106703 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 one (1) claim during the examination period. The claim concerned an easement dispute. No exceptions were noted as a result of this portion of the examination.

II. ADVERTISING AND MARKETING

Idaho Code § 41-2708(3) & (4)

IDAPA 18.05.03

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 18.05.02 & 18.05.03 Exhibit 1(9)

The title department is managed and operated by John Carson. 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.

During our examination we noted that in all title files sampled, copies of the title policies were not countersigned by the title agent.

Idaho Code § 41-2702 states that a title insurer shall not issue a policy of title insurance or guaranteed certificate of title or other guaranty of title covering any property located within Idaho unless countersigned by a person, partnership, corporation or agency owning and maintaining a complete set of tract indexes or abstract records of the county in which such property is located. The agent was in violation of Idaho Code § 41-2702 by not properly countersigning the title policies.

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 future title policies issued will be properly countersigned. No administrative fines or penalties are recommended at this time as this is the first instance of this violation noted in an examination.

IV. ESCROW FIDUCIARY ACCOUNTS AND FILE REVIEW

The Title Agent's Escrow Department is managed and operated by Beth Penner.

A. FIDUCIARY ACCOUNTS IDAPA 18.05.02.011.04, 05 & 09

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 Beth Penner. Monthly reconciliations are reviewed by M. Chace Slavin. No exceptions were noted as a result of this portion of the examination.

B. ESCROW FILE REVIEW Idaho Code § 41-2705(3) IDAPA 18.05.02.011 & 12

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.

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 twelve (12) occasions, issued a title policy which was not properly countersign. These actions constitute violations of Idaho Code § 41-2702.

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 title policies will be properly countersigned and compliant with Idaho Code § 41-2702. The Department has decided not to impose any penalties or fines at this time.

I certify that on this 3rd day of September 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:

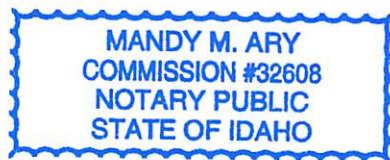
M. Chace Slavin
chaceslavin@gmail.com

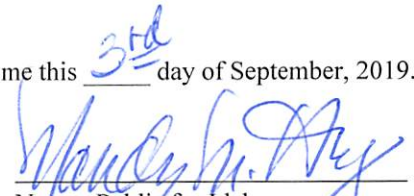
Beth Penner
beth@lemtitle.com



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

SUBSCRIBED AND SWORN to before me this 3rd day of September, 2019.




Notary Public for Idaho
Residing at: Boise, ID
Commission Expires: 7/24/24