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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

IDAHO DEPARTMENT OF INSURANCE,

Complainant,

vs.

FIRST AMERICAN TITLE COMPANY dba
First American Title and Escrow Company,
Idaho Title Agency License No. 323555,

Respondent.

Docket No. 18-3284-17

**STIPULATION FOR ENTRY OF
FINAL ORDER and FINAL
ORDER**

STIPULATION FOR ENTRY OF FINAL ORDER

The parties herein, namely the Idaho Department of Insurance (“**Department**”) and First American Title Company dba First American Title and Escrow Company (“**First American**”), do hereby enter into this Stipulation for Entry of Final Order to resolve certain matters at issue between them and do hereby agree and stipulate as follows:

1. Jurisdiction is founded in the Idaho Insurance Code, Idaho Code §§ 41-101 *et seq.*, including Idaho Code § 41-210, which authorizes the Department’s Director (“**Director**”) to

enforce the provisions of title 41, Idaho Code, including those that relate to First American's activities as a title agency.

2. Jurisdiction is further founded in Idaho Code § 41-213, which authorizes the Department to institute such proceedings as deemed necessary for the enforcement of any provision of the Idaho Insurance Code or rule promulgated thereunder, including but not limited to suspension or revocation of insurance licenses and the imposition of administrative penalties.

3. First American is an Idaho corporation and, at all times relevant hereto, was licensed by the Department to transact title insurance in Ada County, Idaho, under Title Agency License No. 323555. Such license was originally issued on August 17, 2009, and is due to expire on January 1, 2018.

4. On December 7, 2016, First American hosted a happy hour meeting at a restaurant in Boise, Idaho, which event was attended by five (5) employees each from Evergreen Home Mortgage and Keller Williams Real Estate as guests of First American.

5. First American's business records reflect that the restaurant bill for the meeting was paid by First American and that the amount expended by First American, not including gratuity provided to restaurant staff, was approximately \$8.70 per attendee.

6. Department Rule 56, *Permitted Business Entertainment*, codified at Idaho Administrative Procedure Act ("IDAPA") 18.01.56, provides in relevant part that "[a] title entity may entertain no more than four (4) persons who are employed by or agents of any single producer of title business in a single day." IDAPA 18.01.56.015.01.

7. IDAPA 18.01.56.010.03 defines "producer of title business" to include:

any person engaged in this state in the trade, business, occupation or profession of:

- a. Buying or selling interest in real property; or
- b. Making loans secured by interest in real property; and

c. Shall include but not be limited to real estate agents, real estate brokers, mortgage brokers, lending or financial institutions, builders, attorneys, developers, subdividers, auctioneers engaged in the sale of real property, consumers, and the employees, agents, representatives, or solicitors of any of the foregoing.

8. Evergreen Home Mortgage and Keller Williams Real Estate are producers of title business within the meaning of IDAPA 18.01.56.015.01.

9. First American violated Department Rule 56 by entertaining more than four (4) persons employed by or agents of a single producer of title business in a single day when it entertained five (5) persons each from two separate producers of title business in a single day at its December 7, 2016, meeting described above.

10. IDAPA 18.01.56.018 sets forth penalties for violation of Department Rule 56 and provides:

018. PENALTY.

This Section shall emphasize and restate the general penalties authorized pursuant to Title 41, Idaho Code, (the Idaho Insurance Code) for violations of the anti-rebate and anti-illegal inducement laws.

01. Section 41-2708(3), Idaho Code. Section 41-2708(3) provides that each person and entity giving or receiving a rebate, illegal inducement, or a reduction in rate shall be liable for three (3) times the amount of such rebate, illegal inducement, or reduced rate. In addition to this penalty, a title entity may also be subject to an administrative penalty as outlined below.

02. Section 41-327, Idaho Code. Section 41-327 provides that the Director may impose an administrative penalty not to exceed five thousand dollars (\$5,000) and/or suspend or revoke an insurer's certificate of authority if the Director finds, after a hearing thereon, that the insurer has either violated or failed to comply with the Insurance Code.

03. Section 41-1016, Idaho Code. Section 41-1016 provides that the Director may impose an administrative penalty not to exceed one thousand dollars (\$1,000) and/or suspend or revoke an agent's license if the Director finds, after a hearing thereon, that the agent has either violated or failed to comply with the Insurance Code.

11. In consideration of the above, the Department and First American agree that, pursuant to the Department's penalty authority found in IDAPA 18.01.56.018.01 and Idaho Code §§ 41-2708(3) and 41-1016, First American shall pay to the Department an administrative penalty in the total amount of **Three Hundred Dollars (\$300.00)**, within ten (10) days of issuance of the Final Order approving this Stipulation, calculated as follows:

- (a) Three (3) times the funds expended by First American on an employee or agent of Evergreen Home Mortgage in excess of the allowed attendees: $\$8.70 \times 3 = \26.10 ; and
- (b) Three (3) times the funds expended by First American on an employee or agent of Keller Williams Real Estate in excess of the allowed attendees: $\$8.70 \times 3 = \26.10 ; and
- (c) An additional penalty, pursuant to IDAPA 18.01.56.018.01.03 and Idaho Code § 41-1016(1), in the amount of \$247.80.

12. First American acknowledges that it has had the opportunity to consult with counsel concerning this Stipulation.

13. First American waives its right to notice and hearing at which it may be represented by counsel, present evidence and examine witnesses. First American waives its right to submit this matter for review by a court of competent jurisdiction.

14. The parties agree that the terms of this Stipulation are appropriate and proper under the circumstances referenced herein, and that they have entered into this Stipulation knowingly, voluntarily and with full knowledge of any rights they may be waiving thereby.

15. The parties hereby waive the right to seek reconsideration and judicial review of this Stipulation or the violations referenced herein.

16. This Stipulation is subject to approval by the Director or the Director's designee, and shall become effective and binding upon the Department and First American upon such approval. Should the Director decline to approve this Stipulation, the Department and First

American shall retain all of their rights, claims and/or defenses, and any factual and/or legal admissions made by First American herein shall be withdrawn.

17. This Stipulation for Entry of Final Order and Final Order embodies the entire agreement between the Department and First American, and there are no agreements, understandings, representations or warranties that are not expressly set forth herein.

AGREED THIS 28 day of March, 2017.

FIRST AMERICAN TITLE COMPANY
dba First American Title and Escrow Company

By: Matthew Sager
Its: Sr. Operations Counsel

STATE OF ARIZONA)
) ss.
County of MARICOPA)

On this 28th day of March, 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared MATTHEW SAGER, known or identified to me (or proved to me on the oath of), to be the president, or vice-president, or secretary or assistant secretary, of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation and acknowledged to me that such corporation executed the same.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.



Tracey Bayne
Notary Public in and for the
State of ARIZONA
Residing at MARICOPA
My commission expires: 3/4/2020

11/11/2019
11/11/2019
11/11/2019

11/11/2019
11/11/2019
11/11/2019



AGREED THIS 30th day of March, 2017.

STATE OF IDAHO
DEPARTMENT OF INSURANCE

By: Hermelina B. Abejar
HERMOLIVA ABEJAR
Chief Deputy Examiner

Approved as to Form: .

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By: Judy L. Geier
JUDY L. GEIER,
Deputy Attorney General
Attorney for the Idaho Department of Insurance

FINAL ORDER

IT IS HEREBY ORDERED,

1. That all the provisions stated the preceding Stipulation for Entry of Final Order (the "Stipulation") are approved and adopted in full as if set forth herein notwithstanding any excerpction of said terms stated in this Final Order.
2. That, pursuant to the Department's penalty authority found in IDAPA 18.01.56.018.01 and Idaho Code §§ 41-2708(3) and 41-1016, First American shall pay to the Department an administrative penalty in the total amount of **Three Hundred Dollars (\$300.00)**, within ten (10) days of issuance of this Final Order.

DATED this 5 day of April, 2017.

STATE OF IDAHO
DEPARTMENT OF INSURANCE


DEAN L. CAMERON
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of April, 2017, I caused a true and correct copy of the foregoing fully-executed STIPULATION FOR ENTRY OF FINAL ORDER and FINAL ORDER to be served upon the following by the designated means:

Matthew B. Sager
Senior Operations Counsel
First American Title Company
9000 East Pima Center Parkway
Scottsdale, AZ 85258

- ☒ first class mail
- ☐ certified mail
- ☐ hand delivery
- ☐ via facsimile
- ☐ via 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
- ☐ via facsimile
- ☐ via email


Pamela Murray