

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

**FIRST AMERICAN TITLE INSURANCE
COMPANY**

Santa Ana, California

**AS OF
April 22, 2009**

COMMONWEALTH OF PENNSYLVANIA



**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: June 18, 2009

VERIFICATION

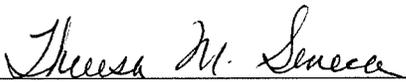
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).



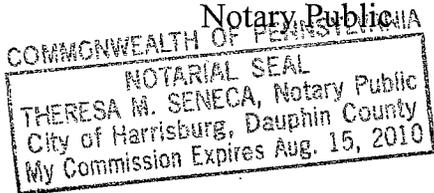
June A. Coleman, Examiner-in-Charge

Sworn to and Subscribed Before me

This *13* Day of *April*, 2009



Notary Public



FIRST AMERICAN TITLE INSURANCE COMPANY

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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 22ND day of July, 2008, in accordance with Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921, P.L. 789, as amended, P.S. § 323.5, I hereby designate Ronald A. Gallagher, Deputy Insurance Commissioner, to consider and review all documents relating to the market conduct examination of any company and person who is the subject of a market conduct examination and to have all powers set forth in said statute including the power to enter an Order based on the review of said documents. This designation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.





Joel S. Ario
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
FIRST AMERICAN TITLE	:	40 P.S. §§ 323.3(a), 477b, 910-25,
INSURANCE COMPANY	:	910-26(a), 910-27, 910-37(a),
620 Freedom Business Center Drive	:	910-37(h), and 1171.4
King of Prussia, PA 19406	:	
	:	Title 31, Pa. Code, Section 126.1
	:	
	:	
Respondent.	:	Docket No. MC09-04-032

CONSENT ORDER

AND NOW, this 18th day of June, 2009, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

1. Respondent hereby admits and acknowledges that it has received proper notice of its rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101, et seq., or other applicable law.

2. Respondent hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order shall have the full force and effect of an order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra, or other applicable law. Without admitting the

allegations of fact and conclusions of law contained herein, Respondent specifically denies that it violated any law or regulation of the Commonwealth.

FINDINGS OF FACT

3. The Insurance Department finds true and correct each of the following Findings of Fact:

- (a) Respondent is First American Title Insurance Company, and maintains its address at 620 Freedom Business Center Drive, King of Prussia, Pennsylvania 19406.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2006 through December 31, 2006.
- (c) On April 22, 2009, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on May 19, 2009.
- (e) The Examination Report notes violations of the following:

- (i) 40 P.S. §323.3(a), which requires every company subject to examination to keep all records and documents relating to its business in such manner as may be required in order that the Department may verify whether the company has complied with the laws of this Commonwealth;

- (ii) 40 P.S. § 477b, which prohibits issuing, selling, or disposing of any policy, contract or certificate until the forms have been submitted to, and formally approved by, the Insurance Commissioner;

- (iii) 40 P.S. § 910-25, which requires every title insurance company authorized to transact business within this Commonwealth to, from time to time, certify to the commissioner the names of all agents appointed by it in this Commonwealth;

- (iv) 40 P.S. § 910-26(a), which requires agents to make application for a certificate of qualification with the Insurance Department for authority to act as a title insurance agent in the manner provided for in the Insurance Department Act. Upon certification, an agent may be appointed by a title insurer with notice of such appointment to the Insurance Department in the manner provided for in the Insurance Department Act;

- (v) 40 P.S. § 910-27, which requires every agent of a title insurance company to keep the books, records, accounts and vouchers pertaining to the business of title insurance, in such manner that the commissioner or his authorized representative may readily ascertain from time to time, whether or not the agent has complied with all of the applicable provisions of this Act;

- (vi) 40 P.S. § 910-37(a), which requires every title insurance company to file with the commissioner every manual of classifications, rules, plans and schedules of fees and every modification of any of the foregoing relating to the rates which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated;

- (vii) 40 P.S. § 910-37(h), which provides that no title insurance company or agent of a title insurance company shall charge any fee for any policy or contract of title insurance except in accordance with filings or rates which are in effect for said title insurance company or such agent of a title insurance company as provided in this article;

- (viii) 40 P.S. § 1171.4, which prohibits any person from engaging in this state in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance pursuant to this act; and

(ix) Title 31, Pa. Code, § 126.1, which states that title insurance companies and agents of title insurance companies, issuing mortgagee's title insurance upon a loan made simultaneously with the purchase of all or a part of the real estate securing the loans, where no owner's title insurance policy has been ordered; shall, prior to the disbursement of the loan funds or the issuance of the mortgagee's title policy, cause the mortgagor to be advised in writing of the fact that a mortgagee's title insurance policy is to be issued, of the fact that the policy does not afford title insurance protection to the owner-mortgagor, and if the owner-mortgagor elects not to purchase owner's title insurance, the title insurance company shall obtain from the mortgagor a statement in writing that the mortgagor has received the notice and that the mortgagor waives the right to purchase owner's title insurance. The form of the written notice and waiver shall be in the prescribed form.

CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Insurance Department makes the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.

(b) Respondent's violations of 40 P.S. § 477(b) are punishable by the following:

- (i) suspension or revocation of the license(s) of Respondent;
- (ii) refusal, for a period not to exceed one year thereafter, to issue a new license to Respondent;
- (iii) imposition of a fine of not more than one thousand dollars (\$1,000.00) for each act in violation of the Act.

(c) Respondent's violations of 40 P.S. §§ 910-25, 910-26(a), 910-27, 910-37(a) and 910-37(h) are punishable by the following, under 40 P.S. §910-48: The commissioner may, if he finds that any person or organization has violated any provision of this article, impose a penalty or not more than \$500 for each violation. If the violation is willful, the commissioner may impose a penalty of not more than \$5,000 for each violation, in addition to any other penalty provided by law;

(d) Respondent's violations of 40 P.S. § 1171.4, are punishable by the following, under 40 P.S. §1171.9:

- (i) cease and desist from engaging in the prohibited activity;
- (ii) suspension or revocation of the license(s) of Respondent.

(e) In addition to any penalties imposed by the Department for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Department may, under 40 Purdon's Statutes, Sections 1171.10 and 1171.11 file an action in which the Commonwealth Court may impose the following civil penalties:

(i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);

(ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondent consents to the following:

(a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.

- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (c) Respondent shall comply with all recommendations contained in the attached Report.
- (d) Respondent shall pay Fifteen Thousand Dollars (\$15,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.
- (e) Payment of this matter shall be made by check payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Fraser, Bureau of Market Conduct, PA Insurance Department, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

6. In the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein, the Department may, in its discretion, pursue any and all legal remedies available, including but not limited to the following: The Insurance Department may enforce the provisions of this Order in the Commonwealth Court of

Pennsylvania or in any other court of law or equity having jurisdiction; or it may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

7. Alternatively, in the event there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

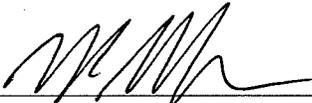
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

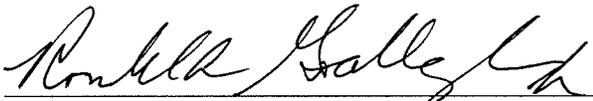
11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law

contained herein, and this Consent Order is not effective until executed by the
Insurance Commissioner or a duly authorized delegee.

BY: FIRST AMERICAN TITLE INSURANCE
COMPANY, Respondent


~~President / Vice President~~ and Secretary


~~Secretary / Treasurer~~ Senior Vice President


COMMONWEALTH OF PENNSYLVANIA
By: Ronald A. Gallagher, Jr.
Deputy Insurance Commissioner

I. INTRODUCTION

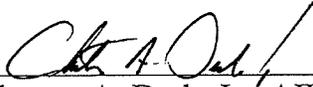
The Market Conduct Examination was conducted on First American Title Insurance Company (“the Company”), in the office of the Pennsylvania Insurance Department, located in Harrisburg, Pennsylvania. In addition, the examination included field visits to the locations of the Company’s title agents. The agent interactions confirmed the findings reflected in the report.

The Pennsylvania Market Conduct Examination Report (“Report”) generally notes only those items to which the Department, after review, takes exception. However, the Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review those areas of concern in order to determine the potential impact upon Company operations or future compliance. A violation is any instance of Company activity that does not comply with an insurance statute or regulation. Violations contained in the Report may result in imposition of penalties.

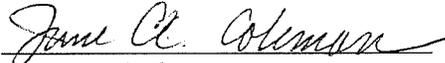
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify potential violations. An exit conference was conducted with Company personnel to discuss the various types of violations identified during the examination and review written summaries provided on the violations found.

The courtesy and cooperation extended by the officers and employees of the Company during the course of the examination is hereby acknowledged.

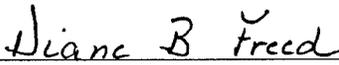
The undersigned participated in this examination and in preparation of this Report.



Chester A. Derk, Jr.
Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief



June A. Coleman
June A. Coleman
Market Conduct Examiner



Diane B. Freed
Diane B. Freed
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on First American Title Insurance Company at the office of the Pennsylvania Insurance Department located in Harrisburg, Pennsylvania. The examination was conducted pursuant to Sections 903 and 904 of the "Insurance Department Act," the Act of May 17, 1921, P.L. 789, No. 185, Art., IX, *as amended* 40 P.S. §§323.3, 323.4 and covered the experience period of January 1, 2006 through December 31, 2006, unless otherwise noted. The purpose of the examination was to determine the Company's compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

- A. Underwriting Practices and Procedures
- B. Rating
- C. Forms
- D. Licensing

III. COMPANY HISTORY AND LICENSING

First American Title Insurance Company was founded in 1889 in Orange County, California. The Company first issued title insurance policies in 1924 under the name Orange County Title Company. Through acquisition and formations of branch offices and operations, the Company has grown from a large regional company to a nationwide company, becoming less dependent on operation revenues from any one state or region. The Company has become one of the two largest title insurers in the country, based on gross premiums.

LICENSING

First American Title Insurance Company is currently licensed to write title insurance in the Commonwealth of Pennsylvania under a Certificate of Authority last issued April 1, 2009. The Company is also licensed to write title insurance in the District of Columbia, Guam, Puerto Rico, U.S. Virgin Islands and all states except Iowa, Kansas and New York. It is also licensed in Canada.

The Company's total direct premium earned in Pennsylvania was \$115,033,853 as of its 2007 annual statement.

IV. UNDERWRITING PRACTICES AND PROCEDURES

As part of the examination, the Company was requested to supply manuals, underwriting guides, bulletins, directives or other forms of underwriting procedure communications. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. No violations were noted.

V. RATING

The purpose of the review was to measure compliance with Section 737 of the “Insurance Company Law,” the Act of May 17, 1921, P.L. 682, Art., VII, *as amended* 40 P.S. §910-37, which requires every title insurance company to file with the Insurance Commissioner every manual of classifications, rules, plans, and schedules of fees and every modification of any of the foregoing relating to the rates which it proposes to use in the Commonwealth. In addition, this section of the law prohibits a title insurance company or agent of a title insurance company from charging any fee for any policy or contract of title insurance except in accordance with filings or rates which are in effect for the title insurance company or agent of a title insurance company as provided in this article of the law, or in accordance with subsections (f) and (g) of this section.

To perform this review, the Department selected 50 policies from the universe of 2,362 *Lenders Advantage FACT Master Loan* policies that were issued during the experience period. From the universe of 107 lender policies, 117 owner policies and 260 simultaneous policies that were issued during the experience period by the Company’s *NCS division*, the Department selected 25 lender policies, 25 owner policies and 25 simultaneous policies. From the universe of 699 lender policies and 125 owner policies that were issued during the experience period by the Company’s *Talon Group*, the Department selected 50 lender policies and 25 files owner policies. From the universe of 1,023 lender policies, 407 owner policies and 910 simultaneous policies that were issued during the experience period by the Company’s *Direct division*, the Department selected 50 files lender policies, 50 owner policies and 50 simultaneous policies. From the universe of 18,933 lender policies, 8,890 owner policies and 26,402 simultaneous policies that were issued during the experience period by the Company’s *Agency division*, the Department selected 100 lender policies, 100 owner policies and 100 simultaneous policies.

All rates, forms and rules used by the Company must be filed with and approved by the Pennsylvania Insurance Department. The rates approved for use by First American Title Insurance Company effective August 1, 2005 and May 1, 2006, were published by the Title Insurance Rating Bureau of Pennsylvania (“TIRBOP”) and contain rules governing the writing of title insurance. General Rule 2.7 of the Manual of Title Insurance Rating Bureau (2005 and 2006) (“Rate Manual”) states: “No policy, endorsement or other coverage may be issued which varies the terms, conditions, stipulations or exclusions of a policy unless first approved by the Department.” In addition, the Company was requested to provide quarterly reports that are required if additional charges or special fees are made under Section 2.3 or Section 2.4 of the TIRBOP Manual. The examiners were able to determine compliance with the Company’s filed and approved rating plans by reviewing documentation supporting the charges listed in Sections 1100, 1200 and 1300 of the HUD-1 settlement sheet.

The following findings were made:

A. 2 Violations as a result of the Company not obtaining valid waivers. The violations are of the Unfair Insurance Practices Act, the Act of July 22, 1974, P.L. 589, No. 205, Section 4, as amended 40 P.S. §1171.4 which:

Requires no person shall engage in this state in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance pursuant to this act.

AND the Department’s regulations at 31 Pa. Code §126.1 which:

Requires all title insurance companies and agents of title insurance companies, issuing mortgagee’s title insurance upon a loan made simultaneously with the purchase of all or a part of the real estate securing the loans, where no owner’s title

insurance policy has been ordered; shall, prior to the disbursement of the loan funds or the issuance of the mortgagee's title policy, cause the mortgagor to be advised in writing of the fact that a mortgagee's title insurance policy is to be issued, of the fact that the policy does not afford title insurance protection to the owner-mortgagor, and of the owner-mortgagor's right to obtain title insurance in his own favor; and if the mortgagor elects not to purchase owner's title insurance, the title insurance company shall obtain from the mortgagor a statement in writing that the mortgagor has received the notice and that the mortgagor waives the right to purchase owner's title insurance.

B. 11 Violations as a result of the Company not producing policies and endorsements in order to determine compliance. The violations are of the Insurance Company Law at 40 P.S. §910-27 which:

Requires every agent of a title insurance company shall keep his, her or its books, records, accounts and vouchers pertaining to the business of title insurance, in such manner that the commissioner or his authorized representative may readily ascertain from time to time, whether or not the agent has complied with all of the applicable provisions of this act. Failure to comply with this section shall be a ground for revocation of the agent's license.

AND the Insurance Department Act at 40 P.S. §323.3(a) which:

Requires every company or person subject to examination in accordance with this act must keep all books, records, accounts, papers documents and any or all computer or other recordings relating to its property, assets, business and affairs in such

manner and for such time periods as the Department, in its discretion, may require in order that its authorized representatives may readily ascertain whether the company or person has complied with the laws of this Commonwealth.

C. 38 Violations as a result of the Company's failure to provide documentation to support charges on the HUD settlement sheet. The violations are of the Insurance Company Law at 40 P.S. §910-27 which:

Requires every agent of a title insurance company shall keep his, her or its books, records, accounts and vouchers pertaining to the business of title insurance, in such manner that the commissioner or his authorized representative may readily ascertain from time to time, whether or not the agent has complied with all of the applicable provisions of this act. Failure to comply with this section shall be a ground for revocation of the agent's license.

AND the Insurance Company Law at 40 P.S. §910-37(h) which:

Requires that beginning ninety days after the effective date of this amendment, no title insurance company or agent of a title insurance company shall charge any fee for any policy or contract of title insurance except in accordance with filings or rates which are in effect for said title insurance company or such agent of a title insurance company as provided in this article, or in accordance with subsections (f) and (g) of this section.

AND the Insurance Department Act at 40 P.S. §323.3(a) which:

Requires every company or person subject to examination in accordance with this act must keep all books, records, accounts, papers documents and any or all computer or other recordings

relating to its property, assets, business and affairs in such manner and for such time periods as the Department, in its discretion, may require in order that its authorized representatives may readily ascertain whether the company or person has complied with the laws of this Commonwealth.

Of the 38 violations noted, 28 violations were the result of the Company not providing documentation to support the charges and/or pass through charges under Sections 1100 and 1200 of the HUD-1 sheet according to Section 2.1 and Section 3.4 in the Rate Manual. This resulted in overcharges of \$998.00. The remaining ten (10) violations were the result of the Company not providing documentation to support the charges and/or pass through charges under Section 1300 of the HUD-1 sheet according to Section 2.1 and Section 3.4 in the Rate Manual. This resulted in an overcharge of \$403.50.

D. 37 Violations as the result of the Company not filing with the Department policies issued in excess of the filed rate of \$30,000,000 as required. The violations are of the Insurance Company Law at 40 P.S. §910-37(a) which:

Requires every title insurance company to file with the commissioner every manual of classifications, rules, plans, and schedules of fees and every modification of any of the foregoing relating to the rates which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated.

E. 135 Violations as a result of the Company making inappropriate charges on the HUD settlement sheet. These are violations of the Insurance Company Law at 40 P.S. §910-37(h) which:

Requires that beginning ninety days after the effective date of this amendment, no title insurance company or agent of a title insurance company shall charge any fee for any policy or contract of title insurance except in accordance with filings or rates which are in effect for said title insurance company or such agent of a title insurance company as provided in this article, or in accordance with subsections (f) and (g) of this section.

Of the 135 violations noted, 63 violations were the result of the Company charging incorrect rates according to the Policies and Rates Section in the Rate Manual. This resulted in overcharges of \$8,799.18 and undercharges of (\$4,896.76). Thirty-eight (38) violations were the result of the Company charging incorrect amounts for endorsements according to the Endorsements and Rates Section in the Rate Manual. This resulted in overcharges of \$3,291.60 and undercharges of (\$745.49). Thirty (30) violations were the result of the Company charging inappropriate charges and/or pass through charges under Sections 1100 and 1200 of the HUD-1 sheet according to Section 2.1 and Section 3.4 in the Rate Manual. This resulted in overcharges of \$1,826.00. The remaining four (4) violations were the result of the Company charging inappropriate charges and/or pass through charges under the section 1300 of the HUD-1 sheet according to Section 2.1 and

Section 3.4 in the Rate Manual. This resulted in overcharges of \$287.00.

F. 146 Violations as a result of charging excess settlement and/or closing fees and not properly disclosing information on the HUD-1 settlement sheets. These are violations of the Unfair Insurance Practices Act at 40 P.S. §1171.4 which:

Requires no person shall engage in this state in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance pursuant to this act. Of the 146 violations noted, 122 violations were the result of the Company charging excess settlement or closing cost fees without demonstrating that advance written notices were given to the applicants. The remaining 24 violations were the result of the Company not disclosing information on the HUD-1 settlement sheets.

G. 1 Violation as a result of the Company not providing a HUD-1 settlement sheet. This is a violation of the Unfair Insurance Practices Act at 40 P.S. §1171.4 which:

Requires no person shall engage in this state in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance pursuant to this act.

AND the Insurance Department Act at 40 P.S. §323.3(a):

Requires every company or person subject to examination in accordance with this act must keep all books, records, accounts, papers documents and any or all computer or other recordings relating to its property, assets, business and affairs in such

manner and for such time periods as the Department, in its discretion, may require in order that its authorized representatives may readily ascertain whether the company or person has complied with the laws of this Commonwealth.

VI. FORMS

All files were reviewed to verify the use of Department approved forms in compliance with the Insurance Company Law at 40 P.S. §477b, Approval of Policies, Contracts, etc., Prohibiting the Use Thereof Unless Approved. During the experience period of the examination, the Insurance Company Law provided that it shall be unlawful for any insurance company to issue, sell, or dispose of any policy contract or certificate covering fire, marine, title and all forms of casualty insurance or use applications, riders, or endorsements in connection therewith, until the forms have been submitted to and formally approved by the Insurance Commissioner.

The following findings were made:

- A. *928 Violations as a result of using obsolete forms or forms which were not filed and approved for use by the Company. The violations are of the Insurance Company Law at 40 P.S. §477b which:*

Requires that before any insurance company doing business in the Commonwealth to issue, sell, contract all forms of casualty insurance, or use applications, riders, or endorsements, in connection therewith, file forms of the same for approval by the Insurance Commissioner.

Of the 928 violations noted, 926 violations were the result of the Company using forms that were not filed and approved for use by First American Title Insurance Company. The remaining two (2) violations were the result of the Company using forms that were obsolete.

VII. LICENSING

In order to determine compliance with the licensing requirements of the Insurance Company Law at 40 P.S. §§910-24 - 910-31, the Company was asked to provide a list of active agents during the experience period. In addition, the Company was asked to submit a list of all agents whose contracts or agency agreements were canceled during the experience period. The Company's policy files were also reviewed for the purpose of identifying agents.

The following findings were made:

- A. 31 Violations as a result of the Company's failure to certify a list of its appointed agents. These are violations of the Insurance Company Law at 40 P.S. §910-25 which:*

Requires every title insurance company to certify to the commissioner the names of all agents appointed by it in this Commonwealth.

The following agents were found to be writing policies without having an appointment. The Company failed to file a notice of appointment and submit appointment fees to the Department.

Agent

Villanova Abstract Company-PA

AAP Abstract Co, LLC-PA

Mutual Abstract Company – ASMPA

Blakinger, Byler & Thomas PC – ASMPA

Lebanon Land Transfer Co, Inc – ASMPA

Olde City Abstract, Inc – ASMPA

Viking Settlement Services, LLC – WPA

Robert Chalphin Associates, Inc – ASMPA

Germantown Title Company – ASMPA

American Liberty Abstract, LP – EPA

Southampton Abstract, Inc – EPA
Matrix Property Settlements, LLC – WPA
Allstate Abstract, Inc – ASMPA
Heeter, Terry R.– WPA
Tri-County Abstract Services – ASMPA
Chase Abstract Company. – ASMPA
Haller, Leon P. – ASMPA
United Realty Abstract, Inc. – ASMPA
Advantage Settlement and Abstract Company, LLP.
Ringler, Kathleen F: Designated Licensee of Abstract 2000 Inc
Mutual Abstract Co & Associates Abstract,
LLC
Santangelo, Anthony C: Designated Licensee of Germantown Title
Co
Mihalcin, Geraldine Anne: Designated Licensee of Open Door
Settlements
Murphy, Margaret D: Designated Licensee of CU Abstract
Harbison, Lawrence: Designated Licensee of 1 Realty Resource Corp
Ermilio, Frank P Jr : Designated Licensee of Olde City Abstract Inc
Daniels, Morris G: Designated Licensee of American Liberty
Abstract
Barker, Jennifer H: Designated Licensee of Springfield Abstract Inc.
Piperato, Joseph James III : Designated Licensee of Home Source
Abstract
Elko, Don J: Designated Licensee of Covenant Abstract Inc
Creswell, Susan L: Designated Licensee of Priority One Abstract Inc
Geraghty, Dorothy M: Designated Licensee of USA Land Transfer
Inc

B. 7 Violations as a result of the Company failing to obtain certificates of qualification for seven (7) agents. The violations are of the Insurance Company Law at 40 P.S. §910-26(a) which:

Requires agents to make application for a certificate of qualification with the Insurance Department for authority to act as a title insurance agent in the manner provided for in Section 603 of the act of May 17, 1921 (P. L. 789, No. 285)

The following agents were found to be writing policies but were not found in the Insurance Department records as holding a valid certificate of qualification in the Commonwealth of Pennsylvania.

Agent

PennTitle, Inc. - PA (Doing Business as The Western Group Settle)

Suburban Philadelphia Abstract, Inc. – EPA

Priority Abstract One, Inc. – ASMPA

Springfield Abstract, Inc. – EPA

USA Land Transfer Services, LLC – EPA

Princeton Assurance Corp. – ASMPA

Verbrugghe, Raymond R: Designated Licensee for Suburban
Philadelphia Abstract Inc

VIII. DEPARTMENT CONCERNS

The Department notes concerns involving business practices related to closing and/or settlement costs which practices may not be within the Company's direct control or direction. Accordingly, such practices are not designated herein as title violations by the Company, as within the Department's regulatory authority. These concerns were brought to the attention of the Company for their review and response.

Related to the appropriateness of closing and/or settlement costs, the Company noted that it does not receive compensation or payment for anything other than the actual title insurance. As a general rule, the Company does not request or require documentation to support charges listed on HUD settlement sheets as a precondition to issuing a policy, because the charges do not constitute insurance premium. Another frequently noted concern was that, in many cases, the title or settlement agent was unable or unwilling to produce to the Company, documentation to support charges made. As such, in many cases, the third party charges could not be supported by documentation.

Some of the more frequently noted concerns involved charges for delivery fees, which ranged from \$11.00 to \$130.00, and recording service fees which ranged from no charge to \$55.00. Numerous charges were also noted for email and document preparation, ranging from \$25.00 to \$500.00, settlement/closing fees from no charge to \$1,100.00, and wire fees ranging from \$5.00 to \$90.00. Other fees noted included attorney fees from no charge to \$800.00, conveyance fees, ranging from no charge to \$295.00, notary fees from no charge to \$250.00, broker fees from no charge to \$500.00, and technology service fees from no charge to \$35.00.

These concerns were not uniform or consistent, in that they were not identified in every file reviewed. Also, there was wide disparity in the number of concerns involving fees and the corresponding charges made, supporting the fact there is a general lack of uniformity in the settlement process. One conclusion may be that this puts the consumer at a disadvantage, resulting in potentially higher costs.

IX. RECOMMENDATIONS

The recommendations made below identify corrective measures the Department finds necessary as a result of the number of some violations, or the nature and severity of other statutory or regulatory violations, noted in the Report.

1. The Company must review the Unfair Insurance Practices Act specifically 40 P.S. §1171.4 and the Department's regulations at 31 Pa. Code §126.1 with its agents to ensure that the owner-mortgagor is advised in writing of the right to obtain title insurance in his own favor. This is to ensure that violations noted in the Report do not occur in the future.
2. The Company must reinforce internal controls to ensure that all records and documents are maintained in accordance with the Insurance Department Act and the Insurance Company Law so that violations noted in the Report do not occur in the future.
3. The Company must make quarterly filings with the Department for additional charges in especially difficult title matters, special fees for affirmative risks coverages and policies issued in excess of the filed rate as required. This is to ensure that violations noted under the Insurance Company Law at 40 P.S. §910-37(a) do not occur in the future.
4. The Company must review the Insurance Company Law at 40 P.S. §910-37(h) and must take appropriate measures to ensure the rating violations listed in the Report do not occur in the future. The overcharges noted in the Rating Section of this Report must be refunded to the insureds and proof of such refunds must be provided to the Insurance Department within 30 days of the Report issue date.

5. The Company must implement procedures with its agents to ensure that each agent provides the consumer, in advance of the day of closing, a written notice that an additional expense may be incurred when scheduling a closing out-of-office or after-hours. This is to ensure that violations of the Unfair Insurance Practices Act at 40 P.S. §1171.4 noted in the Report do not occur in the future.
6. The Company must implement procedures to ensure that the violations of the Unfair Insurance Practices Act at 40 P.S. §1171.4, regarding the proper disclosure of information on the HUD-1 settlement sheet noted in the Report, do not occur in the future.
7. The Company must review the Insurance Company Law at 40 P.S. §477b to ensure that violations regarding filing forms for approval by the Insurance Commissioner, as noted in the Report, do not occur in the future.
8. The Company must reinforce internal controls to ensure that all records and documents are maintained in accordance with the Insurance Department Act and the Unfair Insurance Practices Act so that violations noted in the Report do not occur in the future.
9. The Company must ensure that all agents are properly licensed, as required by the Insurance Company Law at 40 P.S. §910-26(a) prior to accepting business from an agent.
10. The Company must ensure that all agents are properly appointed, as required by the Insurance Company Law at 40 P.S. §910-25 prior to accepting business from an agent.

X. COMPANY RESPONSE



*First American
Title Insurance Company*

May 22, 2009

Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief
Pennsylvania Insurance Department
1227 Strawberry Square
Harrisburg, PA 17120

RE: First American Title Insurance Company
Market Conduct Examination
Warrant Number 07-M19-008

Dear Mr. Derk:

Thank you for your Final Report of April 22, 2009. First American Title Insurance Company ("First American" or our "Company") shares the same beliefs as the Department in that market conduct examinations serve a useful purpose in identifying and explaining issues and concerns in our industry to our employees, offices, agents, consumers and even the Department. First American appreciates the Department's willingness to discuss all facets of the exam, and the open communication between the Department and our Company helped our staff more fully understand the Department's concerns on behalf of the Pennsylvania consumer.

By way of background, in January of 2007, the Department announced its market conduct examination for the period of January 1, 2006 through December 31, 2006. First American provided spreadsheets displaying all policies issued by First American in Pennsylvania during that time period, which include policies issued by both our offices and our agents (collectively referred to as "Title Offices"). From the report, the Department selected a series of transactions it would analyze for the examination. The Department studied 650 of the 60,245 transactions reported by First American. The Department reviewed in particular all rates, forms and rules used by First American, all charges made under Sections 2.3 or 2.4 of the Title Insurance Rating Bureau of Pennsylvania ("TIRBOP") Manual of Rates and Forms ("Rate Manual"), and all charges made by our Title Offices in Sections 1100, 1200 and 1300 of the HUD Settlement Statements ("HUDs").

This letter is intended to respond to the matters raised in the Report issued by the Department on April 22, 2009. We have responded to the sections in the order in which they were presented in the Department's Report.

Company History and Licensing; Underwriting Practices & Procedures

First American strives for excellence in all aspects of its services and products. Our Company is proud that the Department noted full compliance for Company History and Licensing, as well as Underwriting Practices and Procedures. First American will continue to pursue full compliance in these and all areas of its business.

Rating

Of the 650 First American transactions that the Department studied, it brought to our attention certain rating violations. Our Company has reviewed each transaction where the Department noted violations and our specific responses follow below.

A. Owner's Waiver of Title Insurance

Insurance law requires that notice of an owner's right to title insurance be provided to a buyer of real estate prior to disbursement of funds or issuance of a loan policy in all transactions where a sale of real estate occurs and mortgage title insurance is being issued, and the buyer refuses owner's coverage. The Department noted only two (2) violations of this regulation. First American will reinforce this requirement with its Title Offices.

B. Production of Policies & Endorsements in Order to Determine Compliance

The Department selected 650 transaction files under 40 P.S. § 910-27 and 40 P.S. § 323.3(a) from First American's report to the Department in the beginning stages of the examination. First American was 99.8% successful in providing documentation required by the Department. Our Company will continue to remind all Title Offices that they must maintain copies of all documentation relating to the issuance of title insurance.

C. Documentation to Support Charges on HUD

Insurance law requires that all Title Offices keep records and items pertaining to the business of title insurance and that they may not charge any fees except in accordance with the rates filed by the insurer. The vast majority of Title Offices are faithfully keeping records supporting the fees charged in their transactions. First American was 95% successful in providing documentation sufficient in the eyes of Department. Through this market conduct examination, our Company has a better understanding of what the Department requires with respect to supporting documentation. First American will continue to strive for full compliance in maintaining sufficient documentation.

D. Policies Issued in Excess of \$30 Million Without Filing With Department

First American is a member of TIRBOP, and therefore has filed rates up to \$30 million. The rates are negotiable for liabilities higher than \$30 million, but must be filed quarterly with the Department. Our Company acknowledges that it inadvertently failed to file some of these reports, but has instituted procedures to ensure that these reports will be filed timely.

E. Inappropriate Charges on HUD

Pennsylvania law requires that all Title Offices must abide by the charges filed by the insurer and approved by the Department. As stated above, First American adheres to the TIRBOP Rate Manual. First American was 91% successful in applying the correct rates and 95% successful in applying the correct endorsement charges. We were also 95.5% successful in charging appropriate charges and pass through fees in Sections 1100, 1200 and 1300 of the HUD.

Currently, our public website www.firstamne.com, which is available to Title Offices, consumers, the Department and the general public, contains a current version of the Rate Manual in searchable pdf format. It also contains all of our Company's Rate Manual Memoranda which address all changes to the Rate Manual over the years. It features an easy to use rate calculator that lists the requirements for application of each rate. Our Company spends a great deal of time at all of our periodic continuing education and other seminars enforcing the need for application of appropriate rates. Finally, we employ a technology trainer who visits Title Offices and trains them on how to apply the rates using various title softwares.

First American will continue to strive for 100% compliance in application of appropriate rates, endorsement fees and charges.

F. Excess Settlement Fees Without Proper Disclosure on HUD

Under 40 P.S. § 1171.4, Title Offices may not charge out of office or after hours settlement fees without providing advance written notice to the title applicant of the ability to avoid this charge when closing is held within normal business hours in the office. First American requires that all Title Offices provide the statutory notice on every transaction where they may or will have an out of office or after hours closing. The public website mentioned above (www.firstamne.com) contains our Company's Rate Manual Memorandum which expresses this requirement, and contains the Department's Important Notice of 1999 instituting this necessity. First American will continue its communications with its Title Offices, and is currently in the process of imposing a procedure to ensure full compliance with this requirement.

Forms

The Department reviewed all selected files to confirm that all forms being used were filed with and approved by the Department as required under 40 P.S. § 477b. All except two (2) violations of this section arose from a single Title Office that inadvertently used an unfiled ALTA policy form. The correction has been made, and this Title Office is now issuing the appropriate filed form. First American is confident that the problem will not occur again.

Licensing

The Department studied the licensing of all reported agents during the experience period as required by 40 P.S. §§ 910-24 – 910-31. Prior to the inception of the market conduct examination, First American had implemented procedures to ensure that no agents have the ability to write policies for the Company without both a proper appointment and a current license. We believe that these procedures will negate any future deficiencies.

Department Concerns

After providing specific findings under the market conduct exam, the Department relayed its concerns regarding overall business practices in its Report. First American takes very seriously this section of the Report and, if we have not already done so, will implement procedures or take other appropriate action to address any concerns the Department raised.

First, the Department noted concern relating to the charges for closing or settlement fees. Insurance law requires that Title Offices provide written notice to title insurance applicants prior to closing indicating that additional closing costs will be incurred if the customer chooses to close outside of the Title Office or beyond normal business hours. First American is committed to making sure that the consumer receives this notice so that the consumer has enough information in advance of closing to avoid the additional expense that would be incurred by the Title Office to accommodate consumer schedules and locations. Procedures are being implemented to address this concern.

The Department also noted its concern that First American does not require documentation proving charges that it does not receive or share with Title Offices. Our Company will communicate to its Title Offices that it is imperative that they maintain documentation supporting every charge made on every HUD. First American is confident that its Title Offices will work for full compliance with document retention requirements.

The Department expressed its concern over additional fees charged in some of the transactions it reviewed. Section 2.1 of the Rate Manual allows fees for document preparation, government recording charges, overnight delivery fees, bank wire transfer fees, and electronic delivery (email) fees to reimburse the Title Office for expenses incurred for additional services provided to the consumer.

The Department expressed its concern that the Section 2.1 charges are not uniform or consistent in every reviewed file. Title Offices make Section 2.1 charges only where the service was actually rendered to the consumer. Where the service was not provided, the fee should not be charged. Because these are not across the board or mandatory charges, consumers can consider these fees when selecting a settlement service provider. The nature of these fees provides competition among Title Offices to provide the lowest closing costs possible for services rendered to the consumer. The competition allows the consumer to choose the lowest price for additional services, and facilitates the free market system.

Recommendations

The Department identified a list of corrective measures it finds necessary as a result of the findings in this examination.

1) First American will review 40 P.S. § 1171.4 and 31 Pa. Code § 126.1 with its Title Offices regarding waivers of owner's coverage, and we are confident that our procedures will ensure fulfillment of this obligation.

2) First American will ensure the proper retention of records and documents by continuing to communicate this requirement to its Title Offices.

3) Our Company will make quarterly filings with the Department for additional charges in especially difficult title matters, special fees for affirmative risks coverages and policies issued in excess of the filed rate, and is confident that the procedure being that has been implemented will ensure compliance with this requirement.

4) First American has reviewed 40 P.S. § 910-37(h) and assures the Department that rating violations as specifically set forth herein will not occur in the future. All overcharges listed in the Rating Section of this Report have been or will be refunded to the respective consumers. Proof of such refunds will be provided to the Department for review within thirty (30) days of the Report issue date.

5) First American is in the process of implementing a new procedure relating to the issuance of advance written notice of closing charges as required by 40 P.S. § 1171.4.

6) First American will communicate to Title Offices the obligation to comply with 40 P.S. § 1171.4 relating to proper disclosures on the HUD. HUD preparation training is and will continue to be available to Title Offices.

7) Our Company has reviewed 40 P.S. § 477b regarding filing forms with the Department and has corrected the matter relating to the issuance of an inappropriate form.

8) First American is confident that full compliance with record retention regulations will be achieved.

9) Our Company has instituted appropriate practices to ensure that all agents are properly licensed as required by 40 P.S. § 910-26(a).

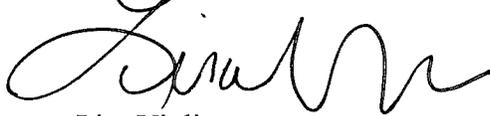
10) First American has instituted appropriate practices to ensure that all agents be properly appointed, as required by 40 P.S. § 910-25.

Conclusion

First American has always prided itself on its service to agents, clients and, most importantly, consumers. This market conduct examination was both a positive and introspective experience that has helped our Company reevaluate internal controls. The consumer is best served when there is strict compliance with all regulatory rules and procedures. We continue to implement or enforce internal controls to ensure that compliance with the law is a first priority among managers, staff and all Title Offices. Our Company is committed to ensuring that the consumer is given the appropriate disclosures, proper filed rates and forms, and the fairest costs allowable, together with the excellent services provided by our Title Offices. The consumer will remain our Company's first priority.

Thank you for allowing our Company to respond to this Report, and we appreciate the Department's openness and willingness to communicate about its concerns throughout the course of the examination.

Very truly yours,



Lisa Violi
Counsel



Kristina Burns
Vice President &
Pennsylvania State Manager