

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

MANITO TITLE INSURANCE COMPANY
West Chester, Pennsylvania

**AS OF
April 15, 2009**

COMMONWEALTH OF PENNSYLVANIA



**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: June 2, 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).

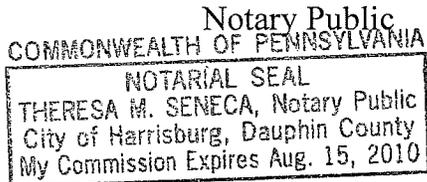
June A. Coleman

June A. Coleman, Examiner-in-Charge

Sworn to and Subscribed Before me

This *13* Day of *April*, 2009

Theresa M. Seneca



MANITO 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

Manito Title Insurance Company

Docket No.
MC09-04-028

Market Conduct Examination as of the
close of business on April 15, 2009

ORDER

A market conduct examination of Manito Title Insurance Company was conducted in accordance with Article IX of the Insurance Department Act, 40 P.S. § 323.1, et seq., for the period January 1, 2006 through December 31, 2006. The Market Conduct Examination Report disclosed exceptions to acceptable company operations and practices. Based on the documentation and information submitted by Respondent, the Department is satisfied that Respondent has taken corrective measures pursuant to the recommendations of the Examination Report.

It is hereby ordered as follows:

1. The attached Examination Report will be adopted and filed as an official record of this Department. All findings and conclusions resulting from the review of the Examination Report and related documents are contained in the attached Examination Report.

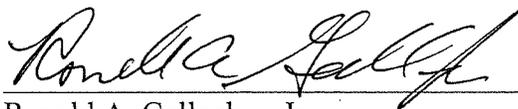
2. Respondent shall comply with Pennsylvania statutes and regulations.

3. Respondent shall comply with all recommendations contained in the attached Report.

4. 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.

The Department, pursuant to Section 905(e)(1) of the Insurance Department Act (40 P.S. § 323.5), will continue to hold the content of the Examination Report as private and confidential information for a period of thirty (30) days from the date of this Order.

BY: Insurance Department of the Commonwealth
of Pennsylvania



(June 2, 2009)

Ronald A. Gallagher, Jr.
Deputy Insurance Commissioner

I. INTRODUCTION

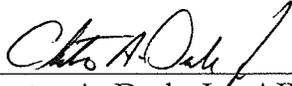
The Market Conduct Examination was conducted on Manito Title Insurance Company (“the Company”), in the office of the Pennsylvania Insurance Department, located in Harrisburg, Pennsylvania.

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.

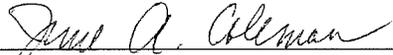
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify potential violations. An exit conference was conducted with Company 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., AIE, HIA
Market Conduct Division Chief



June A. Coleman
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Manito 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:

1. Underwriting Practices and Procedures
2. Rating
3. Forms
4. Licensing

III. COMPANY HISTORY AND LICENSING

Robert J. West started Manito Abstract Company, Inc., a Pennsylvania title agency, in June of 1970. After accumulating sufficient assets Manito Abstract Company, Inc. formed Manito Title Insurance Company. Manito Title Insurance Company was incorporated in Pennsylvania on November 12, 1979 and received a certificate to do business from the Insurance Department for the Commonwealth of Pennsylvania in July of 1980.

LICENSING

Manito Title Insurance Company is licensed to write title insurance in the Commonwealth of Pennsylvania under a Certificate of Authority issued July 1, 1980. The Company currently conducts business only in Pennsylvania.

The Company's total direct premium earned in Pennsylvania was \$ 788,476 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 lender policies and 50 owner policies from the universe of 404 lender policies and 315 owner policies that were issued during the experience period.

The Company has a deviation to the Rate Manual (2005 and 2006) ("Rate Manual") of the Title Insurance Rating Bureau of Pennsylvania ("TIRBOP"). The Company submitted a copy of its rate filing approvals for the deviation filings effective for the experience period. By reviewing the documentation supporting the charges under sections 1100, 1200 and 1300 of the HUD-1 settlement sheet, the Department was able to determine compliance with the Company's filed and approved rating plans. The Company was requested to provide quarterly reports that are required if any additional charges are made under Section 2.3 or Section 2.4 of the General Rules of the Manual of Rates and Forms.

The following findings were made:

A. 7 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 seven (7) violations noted, one (1) violation was the result of the Company charging an incorrect rate according to the Policies and Rates Section in the Rate Manual. This resulted in an overcharge of \$279.14. The remaining six (6) 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 \$350.00 and undercharges of (\$100.00).

B. 4 Violations as a result of not properly disclosing information on the HUD-1 settlement sheets. 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.

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. No violations were noted.

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. No violations were noted.

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 \$12.00 to \$17.24, and document preparation fees from no charge to \$125.00. Wire fees were also noted, ranging from no charge to \$25.00. Other fees noted included conveyance fees, ranging from no charge to \$150.00, and settlement service fees, ranging from no charge to \$395.00.

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 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.
2. 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.

X. COMPANY RESPONSE



**MANITO TITLE
INSURANCE
COMPANY**

Telephone (610) 436-4767
Facsimile (610) 436-6427

May 8, 2009

Chester A. Derk Jr., Market Conduct Division Chief
Commonwealth of Pennsylvania
Insurance Department
Bureau of Enforcement
Market Conduct Division
1227 Strawberry Square
Harrisburg, PA 17120

Re: Report of Examination of Manito Title Insurance Company
Examination Warrant Number: 07-MI9-003

Dear Mr. Derk:

We have reviewed the Report of Examination of Manito Title Insurance Company dated April 15, 2009 and we wish to address various issues raised by the Department in the Report.

The Company is pleased to find that there were no violations noted in the areas of Underwriting Practices and Procedures, Forms or Licensing.

Responses to Rating Issues

The Report has noted seven (7) violations as a result of inappropriate charges on the HUD-1 settlement statement. This resulted in overcharges to five of the purchasers of title insurance policies. These errors should have been detected and refunded as part of our Company premium input process. The Company also acknowledges that there were also undercharges to two purchasers of title insurance policies.

The Report also lists four (4) violations of a part of the Unfair Insurance Practices Act that requires that:

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“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.”

The specific situation that raised these violations was that nothing was filled in on the “Place of Settlement” blank of the HUD-1. The settlement was held in the office of the agent whose name, address, phone number and fax number are clearly stated in the heading of the HUD-1. We are at a loss to see how this omission is a violation of the Act or is in any way unfair or deceptive. We will however, make sure this is properly completed in the future.

Responses to Department Concerns

In Section VIII, the Department notes it’s concerns with various fees that are charged by third parties. We believe that delivery fees and wire fees should be collected by the settlement agent in an amount that is the actual cost to the agent. Overnight delivery fees vary based on a number of variables but can be predetermined and properly charged at their actual cost. One of our agents has an agreement with it’s bank whereby no wire fees are charged.. In that situation no fees are charged to the consumer at settlement. Another agent has wire fees charged by his bank that vary based on monthly activity. Other third party charges such as conveyance fees are paid to the realtor and are many times agreed to by the buyer and the realtor before the title agent even enters the picture.

The Department has noted that the document preparation fees vary from no charge to \$125.00. The preparation of documents such as deeds, mortgage satisfaction pieces and mortgage subordination agreements, for example, are services beyond what is included in the title insurance premium. We agree that document preparation fees should be charged at a reasonable rate, but what is reasonable? The consumer may supply his own documents if he desires and he would not pay the agent anything for document preparation.

We agree that there is general lack of uniformity in the settlement process. Every transaction involving a purchase of a home has its own unique set of circumstances including municipal requirements, lender requirements, issues with title, local custom, the needs of the buyers and sellers, realtor choices on how things are handled, and other matters. Refinances do not have as many moving parts as purchases but they too have circumstances that make uniformity in pricing difficult for the additional settlement agent services and third party services. There are so many variables that affect the third party charges that it is difficult to come up with flat fees that are both fair and uniform.

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Response to Recommendations

The Department has made two recommendations as a result of the Examination. The Company agrees that it will take appropriate measures to ensure that the rating violations listed in the Report do not occur in the future. The overcharges noted in the Report have been refunded to the insureds and proof of such refunds have been provided to the Department.

The Company has already implemented procedures to ensure that proper disclosure of information on the HUD-1 settlement sheet noted in the report will occur in the future.

In closing I would like to assure the Department that the Company will strive to comply with all of the rules, regulations and laws of the Commonwealth of Pennsylvania and the Pennsylvania Insurance Department. The Market Conduct Examination has brought specific problems within our operation to light and also helped us gain a better understanding of the concerns of the Department that we can use as a guide going forward.

We look forward to resolving any remaining issues raised by the examination.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Bruce A. West". The signature is written in a cursive style with a long horizontal stroke at the end.

Bruce A. West
President