

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

In Re:	:	Pursuant to Sections 1401, 1402, and
	:	1403 of the Insurance Holding
Application of First American Title	:	Companies Act, Article XIV of the
Insurance Company in Support of the	:	Insurance Company Law of 1921,
Request for Approval to Acquire Control	:	Act of May 17, 1921, P.L. 682,
of all the Issued and Outstanding Capital	:	<u>as amended</u> , 40 P.S. §§991.1401,
Stock of Penn Attorneys Title Insurance	:	991.1402, and 991.1403
Company	:	
	:	
	:	Order No. ID-RC-03-27

DECISION AND ORDER

AND NOW, on this \_\_26th\_\_\_\_ day of June, 2003, M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania (“Commissioner”), hereby makes the following Decision and Order:

Pursuant to the Insurance Company Law and the Insurance Holding Companies Act and in consideration of the documents, presentations, and reports received, as well as other inquiries and studies as permitted by law, the Commissioner hereby makes the following findings of fact:

FINDINGS OF FACT

Identity of Parties

1. Penn Attorneys Title Insurance Company (“Penn Attorneys”) is a domestic stock title insurance company organized pursuant to the laws of the Commonwealth of Pennsylvania with its principal place of business located in Erie, Pennsylvania.
2. First American Title Insurance Company (“First American”) is an admitted foreign stock title insurance company organized pursuant to the laws of the State of California with its principal place of business located in Santa Ana, California.
3. The First American Corporation is a general business corporation organized pursuant to the laws of the State of California with its principal place of business

located in Santa Ana, California. First American is a wholly owned subsidiary of The First American Corporation.

4. The First American Corporation is a publicly traded company on the New York Stock Exchange. No person is an ultimate controlling person of The First American Corporation.

#### Acquisition Filing

5. The Insurance Holding Companies Act, Article XIV of the Insurance Company Law of 1921, Act of May 17, 1992, P.L. 682, as amended, 40 P.S. §§991.1401 et seq. (“Insurance Holding Companies Act”), provides that any transaction involving control of a domestic insurer must be filed with the Commissioner for approval or disapproval.
6. On April 8, 2003, the Insurance Department of the Commonwealth of Pennsylvania (“Department”) received an initial application (which together with all material received subsequently is collectively referenced as “Application”) from First American for approval to acquire control of Penn Attorneys.
7. The Application was filed pursuant to Section 1402 of the Insurance Holding Companies Act.

#### Department Procedures

8. On April 25, 2003, the Department published notice in the *Pennsylvania Bulletin* that the Application was submitted by First American and such notice invited interested persons to submit comments to the Department regarding the Application for a thirty-day period, ending May 25, 2003.
9. The Department received no comments regarding the Application during the thirty-day comment period.

#### Description of the Proposed Acquisition

10. As described in the Application, on March 10, 2003, First American and Penn Attorney’s entered into a Agreement and Plan of Merger (“Agreement”) whereby First American would acquire control of Penn Attorneys by way of merger.
11. As described in the Application, First American would incorporate in Pennsylvania a wholly owned subsidiary, which would merge with and into Penn Attorneys. Penn Attorneys would be the surviving entity.
12. As described in the Application and pursuant to the Agreement, the consideration to be paid to the current stockholders of Penn Attorneys (“Merger Consideration”) would be approximately \$9,153,737.

13. Merger Consideration will be subject to adjustment.
14. As described in the Application, Merger Consideration would be paid in cash from the existing corporate resources of First American and no part of the Merger Consideration would be obtained from borrowed funds.

#### Standards for Review

15. Section 1402(f)(1) of the Insurance Holding Companies Act establishes the standards for approval of an application for a change in control of a domestic insurer.
16. The application for a change in control must be approved unless the Commissioner finds any one of certain enumerated conditions to be present.

#### Licensing Requirements

17. When analyzing an application for change in control under Section 1402 of the Insurance Holding Companies Act, the Commissioner reviews the requirements for continued licensure of the domestic insurer being acquired.
18. In accordance with Section 705 of the Insurance Company Law (40 P.S. §910-5), Penn Attorneys is required to maintain paid up capital stock of \$500,000 to maintain licensure.
19. In accordance with Section 705 of the Insurance Company Law (40 P.S. §910-5), Penn Attorneys is required to maintain paid up surplus of \$250,000 to maintain licensure.
20. Upon completion of the transaction, Penn Attorneys will have paid up capital in an amount that will satisfy the statutory minimum required of a title insurance company licensed to write in Pennsylvania.
21. Upon completion of the transaction, Penn Attorneys will have paid up surplus in an amount that will satisfy the statutory minimum required of a title insurance company licensed to write in Pennsylvania.

### Competitive Impact

22. The acquisition of control of Penn Attorneys is subject to review and analysis under Section 1403 of the Insurance Holding Companies Act to determine whether the effect of the acquisition of control would be to substantially lessen competition or tend to create a monopoly in the Commonwealth.
23. The acquisition of control of the Penn Attorneys will not lessen competition or tend to create a monopoly in the Commonwealth because the market share of First American, as stated in the Application, does not exceed the market share levels established in Section 1403.

### Financial Condition of First American

24. When analyzing an application for an acquisition of control under Section 1402 of the Insurance Holding Companies Act, the Department reviews the financial condition of the acquiring persons.
25. First American reported December 31, 2002, SAP account balances of:

Assets:	\$ 1,363,478,343
Liabilities:	\$ 712,221,942
Shareholder's Equity:	\$ 651,256,401
26. The financial condition of First American would not pose any impediments to the change in control nor jeopardize the financial condition of Penn Attorneys.

### Plans for the Acquired Insurer

27. When analyzing an application for an acquisition of control under Section 1402 of the Insurance Holding Companies Act, the Department reviews the plans or proposals that the acquiring party has for the insurer.
28. As provided in the Application, First American has disclosed that it intends to maintain the current business activities of Penn Attorneys.

### Management

29. When analyzing an application for an acquisition of control under Section 1402 of the Insurance Holding Companies Act, the Department reviews the competence, experience, and integrity of the persons who will control the operations of the acquired insurer.

30. Biographical affidavits for all directors and executive officers of First American were provided as part of the Application and the Department reviewed all affidavits that were submitted.
31. The Department is satisfied that the persons who would control the operations of Penn Attorneys have such competence, experience, and integrity that the interests of policyholders and the public would not be jeopardized.
32. If any of the above Findings of Fact are determined to be Conclusions of Law, they shall be incorporated in the Conclusions of Law as if fully set forth therein.

## CONCLUSIONS OF LAW

1. Under Section 1402 of the Insurance Holding Companies Act, the Commissioner has jurisdiction to review and approve the change in control of Penn Attorneys.
2. Under Section 1402 of the Insurance Holding Companies Act, the Commissioner must approve an application for a change in control unless the Department has found that:
  - a) The insurer will not be able to satisfy the requirements for the issuance of a license to operate the line or lines of business for which it is presently licensed;
  - b) The change in control will substantially lessen competition in insurance in this Commonwealth or tend to create a monopoly therein;
  - c) The financial condition of the acquiring company is such as might jeopardize the financial stability of the insurer or prejudice the interests of its policyholders;
  - d) Any plans to liquidate the insurer, sell its assets, or consolidate or merge it with any person, or to make material changes in its business or corporate structure or management are unfair and unreasonable to policyholders of the insurer and not in the public interest;
  - e) The competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders and the general public to permit the acquisition of control;
  - f) The acquisition is likely to be hazardous or prejudicial to the insurance buying public; or,
  - g) The acquisition of control is not in compliance with the laws of this Commonwealth, including Article VIII-A, Insurance Company Mutual-to-Stock Conversion Act.
3. Under Section 1402 of the Insurance Holding Companies Act, the Commissioner has not found that any of the above conditions are present with respect to the change in control of Penn Attorneys.
4. If any of the above Conclusions of Law are determined to be Findings of Fact, they shall be incorporated in the Findings of Fact as if fully set forth therein.

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Company	:	
	:	
	:	Order No. ID-RC-03-27

ORDER

Upon consideration of the foregoing, the Insurance Commissioner of the Commonwealth of Pennsylvania hereby makes the following Order:

The acquisition of control by First American Title Insurance Company of all the issued and outstanding shares of common stock of Penn Attorneys Title Insurance Company is hereby approved, subject to this Order and the following condition:

First American Title Insurance Company shall make copies of the closing documents available to the Insurance Department within five (5) days of consummation of the subject transaction.

This Order is effective immediately and valid for one year, provided no material changes are made to the transaction prior to consummation.

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M. DIANE KOKEN  
Insurance Commissioner  
Commonwealth of Pennsylvania