

BEFORE THE INSURANCE COMMISSIONER  
FOR THE STATE OF ARKANSAS

IN THE MATTER OF  
FIRST AMERICAN TITLE INSURANCE COMPANY

A.I.D. NO. 2010- 026

CONSENT ORDER

On this day Jay Bradford, Arkansas Insurance Commissioner ("Commissioner"), and First American Title Insurance Company ("First American"), NAIC #50814, have reached an agreement to resolve, without resort to an adjudicatory proceeding, First American's alleged failure to comply with the requirements of the Arkansas Insurance Code as set forth herein. In this regard, the Commissioner and First American agree as follows:

FINDINGS OF FACT

1. The Insurance Commissioner has jurisdiction over the parties and subject matter herein.
2. First American is a title insurance company that holds a Certificate of Authority to do business in the State of Arkansas. First American's address is 1 First American Way, Santa Ana, California 92707-5913.
3. First American has held a Certificate of Authority to do business in the State of Arkansas since September 20, 1977.
4. The Arkansas Insurance Department ("Department") acquired regulatory authority over title insurance agents on January 1, 2008 by Act 684 of 2007. On July 31, 2009 Act 684 was amended by Act 1190 of 2009. That

statutory change prohibited a holder of a title insurance certificate of authority from engaging in the direct writing of title insurance to the end consumer.

5. On or about September 10, 2009, the Department discovered a title insurance report issued by First American in violation of Ark. Code Ann. § 23-103-413 which requires the following information to be incorporated onto the first page of a title insurance report, "Please read the exceptions and the terms shown or referred to herein carefully. The exceptions are meant to provide you with notice of matters that are not covered under the terms of the title insurance policy and should be carefully considered. This report is a written representation as to the condition of title for purposes of providing title insurance and lists all liens, defects, and encumbrances filed of record within the last thirty (30) years that have not been released of record or that are not statutorily expired. No title insurance agent or any other person other than a licensed Arkansas attorney may provide legal advice concerning the status of title to the property described in the title commitment" and Rule 87, Section 10 which requires the title insurance report to be countersigned by a licensed title insurance agent with the license number of the title insurance agent along with the agent's printed name appearing beneath the signature.

6. Investigation by the Department revealed that the report was issued from the office of First American, 2605 Enterprise Road East, Suite 200, Clearwater, FL 33759 which is a violation of Ark. Code Ann. § 23-103-403(a).

7. On October 6, 2009, the Department found that the authorized signatory used by First American was that of an Arkansas licensed title insurance

agent who had terminated the use of his signature in this capacity making its subsequent use a violation of Ark. Code Ann. § 23-103-403(b) and Ark. Code Ann. § 23-103-407(a)(1).

8. On December 5, 2009, the Department received a business run from First American showing 1,052 title insurance commitments and/or title insurance policies were issued by First American since July 31, 2009, in violation of Ark. Code Ann. § 23-103-403(a).

#### CONCLUSIONS OF LAW

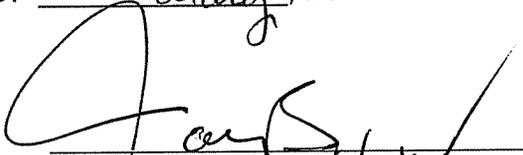
1. That the Commissioner has jurisdiction over the parties and over the subject matter herein pursuant to Ark. Code Ann. § 23-61-103.

2. That the Commissioner finds that First American has violated Ark. Code Ann. § 23-103-413, Ark. Code Ann. § 23-103-403, Ark. Code Ann. § 23-103-407 and Rule 87, Section 10. Under Ark. Code Ann. § 23-103-416, the Commissioner in his discretion may impose upon the insurer an administrative penalty in the amount of up to one thousand dollars (\$1,000) per violation or up to five thousand dollars (\$5,000) per violation if willful misconduct on the part of the insurer is found.

3. That First American has been made aware of its right to a hearing and has voluntarily and intelligently waived said right and without any admission of wrongdoing consents to the entry of this Consent Order.

THEREFORE, in consideration of these Findings of Fact and Conclusions of Law, it is hereby ORDERED AND AGREED that pursuant to Ark. Code Ann. § 23-103-416, First American Title Insurance Company consents to this action and shall pay an administrative penalty of \$50,000. The administrative penalty shall be paid within 30 days from the entry of this Order.

IT IS SO ORDERED THIS 19<sup>th</sup> DAY OF February, 2010.

  
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JAY BRADFORD  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS

  
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TIMOTHY V. KEMP  
CHIEF REGULATORY AND  
COMPLIANCE COUNSEL  
FIRST AMERICAN TITLE INSURANCE COMPANY