

**BEFORE THE INSURANCE COMMISSIONER
FOR THE STATE OF ARKANSAS**

IN THE MATTER OF:

FIRST AMERICAN TITLE INSURANCE COMPANY

)
) **AID NO.: 2010- 091**
)

CONSENT ORDER

WHEREAS, the Arkansas Insurance Department (“Department”) and First American Title Insurance Company (“First American”), NAIC #50814 (“Respondent”) hereby enters into this Consent Order subject to the review and approval of the Commissioner of the Department:

GENERAL STIPULATIONS

1. It is expressly understood that this Consent Order is subject to the Commissioner’s acceptance and has no force or effect until such acceptance is evidenced by the entry of the Commissioner.
2. This Consent Order is executed by the Respondent with no admission of fact or law for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Consent Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Consent Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of this matter or any administrative proceedings nor shall this Consent Order be deemed an admission of fact or law on the part of the Respondent in that event.
3. Respondent fully understands that this Consent Order will in no way preclude additional proceedings by the Commissioner against Respondent for acts or omissions unknown to the Commissioner that are not specifically addressed in this Consent Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed.
4. After consultation with legal counsel, the Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Consent Order, the stipulations and imposition of

discipline contained herein, and the consideration and entry of said Consent Order by the Commissioner.

FINDINGS OF FACT

5. The Commissioner has jurisdiction over the party and the subject matter pursuant to Ark. Code Ann. § 23-61-103.

6. National Lenders Advantage (“NLA”) is a division of Respondent.

7. Respondent is a title insurance company that holds a Certificate of Authority to do business in the State of Arkansas with an administrative address at 1 First American Way, Santa Ana, California 92707-5913.

8. Respondent has held a Certificate of Authority to do business in the State of Arkansas since September 20, 1977.

9. Respondent willingly entered into a Consent Order with the Department on February 19, 2010. Violations included, but were not limited to, NLA engaging in the direct writing of title insurance to the end consumer violating Ark. Code Ann. § 23-103-403(a).

10. On or about June 14, 2010 Jim Pender self reported that his agency, First National Title Company (“First National”), an agency appointed by Respondent, and NLA did not communicate properly on all files resulting in NLA continuing to issue title insurance commitments and policies directly and in violation of Ark. Code. Ann. § 23-103-403(a) despite NLA entering into a contract with First National to remedy the violations of Arkansas Insurance Code as outlined in the February 19, 2010 Consent Order.

11. In seventy (70) Arkansas counties First National did not cause title searches to be done for NLA transactions. Rather, NLA ordered the title searches without the requisite review by First National in violation of Ark. Code Ann. § 23-103-408(a) and (c) respectively.

12. From a random sampling of title searches submitted by Respondent it was discovered in the title searches done by entities other than First National that not all matters of record were properly searched in violation of Ark. Code Ann. § 23-103-408(b).

13. Upon further investigation it was discovered that not all forms used by NLA to issue title insurance commitments were forms filed with or approved by the Department pursuant to Ark. Code. Ann. § 23-79-109(b)(1).

14. Respondent did not timely file its rates for Closing Protection Letters with the Department in violation of Ark. Code Ann. § 23-103-405(c)(4).

CONCLUSIONS OF LAW

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

16. Ark. Code Ann. § 23-103-403 requires that only a properly licensed and appointed title insurance agency shall issue title insurance policies, reports, or otherwise transact the business of title insurance.

17. Ark. Code Ann. § 23-103-408(a) and (c) requires that a title insurance report or policy shall not be issued unless the title insurance agency or title insurance agent has caused to be made a search of the title and that the title insurance policy shall not be issued until the title insurer or title insurance agent has caused to be made a determination of insurability of title in accordance with the title insurer's underwriting practices.

18. Ark. Code Ann. § 23-103-408(b) requires that a minimum search shall include a review of all matters affecting the title to the property or interest to be insured for a continuous period of not less than the immediately preceding thirty (30) years.

19. Ark. Code Ann. § 23-79-109(b)(1) requires that forms be filed with and approved by the Commissioner not less than thirty (30) days in advance of any delivery.

20. Ark. Code Ann. § 23-103-405(c)(4) requires that the amount charged by a title insurer for closing protection coverage shall be filed with the Commissioner at least twenty (20) days before the first use of closing protection coverage in the market.

21. The Department, based on the Findings of Fact, above, concludes that certain of the title insurance commitments and policies were issued by NLA directly instead of through an appointed resident title insurance agency, in violation of Ark. Code. Ann. § 23-103-403.

22. The Department, based on the Findings of Fact, above, concludes that certain of the title commitments and policies issued by NLA were not based on searches conducted by Jim Pender or any other licensed resident title agency or agent nor searches caused to be made by a licensed resident title insurance agency or agent nor reviewed by a licensed resident title insurance agency or agent for insurability, in violation of Ark. Code Ann. § 23-103-408(a) and (c).

23. The Department, based on the Findings of Fact, above, concludes that certain of the title commitments and policies issued by NLA were based on searches that did not include a review of all matters affecting the title to the property or interest to be insured, in violation of Ark. Code Ann. § 23-103-408(b).

24. The Department, based on the Findings of Fact, above, concludes that Respondent did not properly file a commitment form prior to its use, in violation of Ark. Code Ann. § 23-79-109(b)(1).

25. The Department, based on the Findings of Fact, above, concludes that Respondent did not properly file the amount charged by First American for closing protection coverage at least twenty (20) days before its first use, in violation of Ark. Code Ann. § 23-103-405(c)(4).

ORDER

NOW THEREFORE, on the basis of the foregoing and the waiver of the Respondent of its rights to a hearing and appeal under the Arkansas Uniform Administrative Procedures Act, Ark. Code Ann. §§ 25-15-201, *et seq.*, and the admission by the Respondent of the jurisdiction of the Commissioner, the Commissioner finds that the Respondent has jointly consented to the entry of this Order and that the following Order is appropriate and in the public interest.

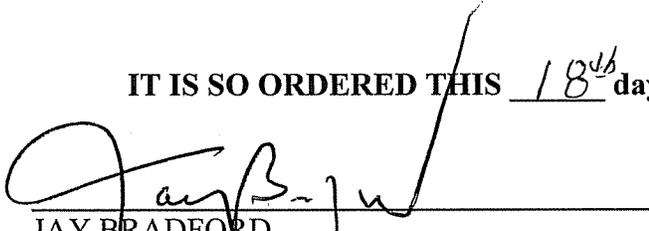
IT IS HEREBY ORDERED that:

First American Title Insurance Company shall pay within thirty (30) days of the date of this Order a monetary administrative penalty in the amount of One Hundred Thousand Dollars (\$100,000) and shall take all steps necessary to ensure that it remains in continued compliance with any portions of this Order. Within six (6) months after the entry date of said Order, the Commissioner will conduct a follow-up investigation of Respondent and its NLA division to determine compliance with this Order. If the Commissioner determines that Respondent has failed to comply with this Order, the Commissioner may impose on the Company all or a portion of an additional One Hundred Fifty Thousand Dollar (\$150,000) penalty and demand that the Company show cause why the Commissioner should not suspend the Company's Certificate of Authority; otherwise Respondent shall be deemed to be in compliance with this Order.

This Consent Order is in the public interest, is in the best interests of the parties hereto, and represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. Respondent makes no admission of law or fact as set forth above. By

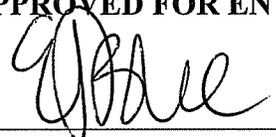
signature affixed below, Respondent affirmatively states that they have freely agreed to the entry of this Consent Order, that they have been advised that they may consult legal counsel in this matter and have had the opportunity to consult with legal counsel should they have desired to do so, that they waive their rights to a hearing on the matters underlying this Consent Order, and that no threats or promises of any kind have been made by the Commissioner, the Department or any agent or representative thereof. The parties, by signing this Consent Order, affirmatively state their agreement to be bound by the terms of this Consent Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement set forth in this Consent Order, are binding upon them.

IT IS SO ORDERED THIS 18th day of November, 2010.

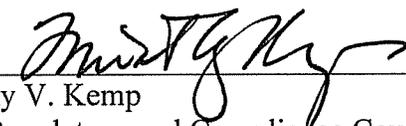


JAY BRADFORD
INSURANCE COMMISSIONER
STATE OF ARKANSAS

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