

No. **2023-8182**

**Official Order
of the
Texas Commissioner of Insurance**

Date: 9/5/2023

Subject Considered:

FNF West Texas Abstract & Title Company, LLC
3700 North Big Spring Street
Midland, Texas 79705-4519

Consent Order
TDI Enforcement File No. 29640

General remarks and official action taken:

This is a consent order with FNF West Texas Abstract & Title Company, LLC (West Texas). The department alleges that West Texas failed to appoint an escrow officer, allowed unlicensed persons to perform the duties of an escrow officer, and wrote policies for counties in which it was not licensed. West Texas agreed to pay an administrative penalty of \$10,000 for these violations.

Waiver

West Texas acknowledges that the Texas Insurance Code and other applicable law provide certain rights. West Texas waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

Findings of Fact

Licensure and Background

1. West Texas holds a title insurance agent license issued by the department in 2015. West Texas has no prior disciplinary history with the department.

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2. On October 19, 2021, the department scheduled a compliance audit of West Texas. The audit was conducted from November 1, 2021, to December 3, 2021, and the below violations were identified.

Unappointed Person Performing the Duties of an Escrow Officer

3. On September 1, 2015, the licensing requirements for escrow officers were amended by H.B. 2491. Escrow officers now individually maintain their licenses, while the title insurance agent or direct operation is responsible for filing an Escrow Officer Appointment form with the department and ensuring the escrow officer is covered by a surety bond or deposit.
4. On August 19, 2020, West Texas hired a new escrow officer. This escrow officer was licensed by the department on May 24, 2006. West Texas added this new escrow officer to its surety bond on August 18, 2020, but did not submit the required Escrow Officer Appointment form to the department.
5. From August 19, 2020, to November 7, 2021, West Texas employed an unappointed escrow officer, in violation of the Texas Insurance Code. During that time, the escrow officer closed at least 329 transactions.
6. On discovering the oversight, West Texas took immediate corrective action and filed the appointment form. The department received the appointment form on November 5, 2021, and it was effective November 8, 2021. This was the first escrow officer hired by West Texas since the statutes were amended in 2015. West Texas has implemented procedures to ensure appointment forms are filed in a timely manner moving forward.

Unlicensed Persons Performing the Duties of an Escrow Officer

7. One of the enumerated responsibilities of an escrow officer is signing escrow checks. The department considers a wire to be the functional equivalent of an escrow check, and therefore, a wire of funds from an escrow account must be authorized by a licensed and appointed escrow officer prior to issuance of the funds. The escrow officer's authorization of the wire may be electronic.¹ Evidence of this authorization, such as a wire transfer authorization form, must be

¹ Commissioner's Bulletin # B-0013-20.

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maintained and made available for review by the department as part of the file's escrow accounting documentation.²

8. The West Texas audit identified 32 outgoing wires from 15 different files, which did not contain evidence of escrow officer authorization prior to issuance of funds from the escrow account. West Texas was ultimately able to prove that 28 of the outgoing wires were authorized by an escrow officer prior to issuance of the funds.
9. The remaining four outbound wires were not authorized by an escrow officer prior to issuance of the funds. All four wires were initiated, approved, and released by three different unlicensed employees of West Texas.
10. West Texas implemented additional controls to ensure an escrow officer always initiates or approves all outgoing wires. Following the audit, West Texas also required all escrow assistants to become licensed escrow officers to prevent these violations from occurring again.

Issuing Policies for Property Located in Counties in Which the Agent is Not Appointed

11. At the time of the audit, West Texas was licensed to do business in Culberson, Martin, and Midland counties. The audit revealed an employee of West Texas countersigned directly issued policies located in counties in which it was not licensed. There were a total of four properties in Coke, Crane, Glasscock, and Reeves counties, respectively, where policies were countersigned by the West Texas employee who was an unauthorized signatory. In each instance title evidence was obtained from and premium was split with a title insurance agent appointed in the applicable county.
12. Following the audit, the necessary authorization form was filed with the department on December 8, 2021, authorizing the employee to countersign directly issued policies in the above listed counties.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, 2501.001 *et seq.*, 2551.001 *et seq.*, 2602.001 *et seq.*,

² Procedural Rule P-32, of the Basic Manual.

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2651.001 *et seq*, 2652.001 *et seq*, 2704.001 *et seq*, and 28 TEX. ADMIN. CODE § 9.1, adopting the *Texas Title Insurance Basic Manual* (Basic Manual).

2. The commissioner has the authority to informally dispose of this matter as set forth in TEX. GOV'T CODE § 2001.056, TEX. INS. CODE §§ 36.104 and 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. West Texas has knowingly and voluntarily waived all procedural rights to which it may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intention to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, rehearing by the commissioner, and judicial review.
4. West Texas permitted an unappointed escrow officer to perform the duties of an escrow officer, in violation of TEX. INS. CODE §§ 2501.003(4), 2652.001, 2652.002, and 2652.1511, and Administrative Rule L-2(III)(A)(2,3) of the Basic Manual.
5. West Texas permitted unlicensed persons to perform the duties of an escrow officer, in violation of TEX. INS. CODE §§ 2501.003(4) and 2652.001, and Administrative Rule L-2(I)(B) of the Basic Manual.
6. West Texas permitted an employee to countersign directly issued policies located in counties in which it was not licensed, in violation of TEX. INS. CODE § 2651.001 and Administrative Rule L-1(I)(A)(1)(b) and Procedural Rule P-31 of the Basic Manual.

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Order

It is ordered that FNF West Texas Abstract & Title Company, LLC pay an administrative penalty of \$10,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which the department will send after entry of this order.

DocuSigned by:

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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

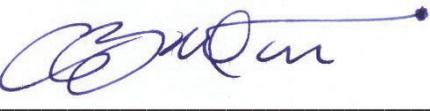


Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division



Stephanie Daniels, Attorney
Enforcement

Approved as to form and content:



Cass Burton
Counsel for Respondent

Affidavit

STATE OF TEXAS §

COUNTY OF MIDLAND §

Before me, the undersigned authority, personally appeared Randall Dean Pittman, who being by me duly sworn, deposed as follows:

"My name is Randall Dean Pittman. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

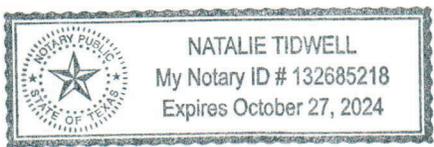
I hold the office of President and am the authorized representative of FNF West Texas Abstract & Title Company, LLC. I am duly authorized by said organization to execute this statement.

FNF West Texas Abstract & Title Company, LLC has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the State of Texas."

Randy D. Pittman
Affiant RANDY D. PITTMAN, PRESIDENT

SWORN TO AND SUBSCRIBED before me on August 15, 2023.

(NOTARY SEAL)



Natalie Tidwell
Signature of Notary Public

Natalie Tidwell
Printed Name of Notary Public