

DELAWARE DEPARTMENT OF INSURANCE
MARKET CONDUCT EXAMINATION REPORT

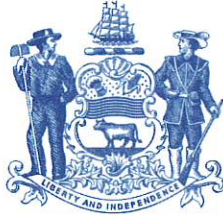
Fidelity National Title Insurance Company
NAIC #51586

601 Riverside Avenue
Jacksonville, FL 32204

As of

December 31, 2017

Trinidad Navarro
Commissioner



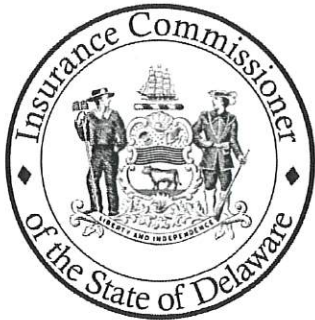
Delaware Department of Insurance

I, Trinidad Navarro, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of December 31, 2017 on

Fidelity National Title Insurance Company

is a true and correct copy of the document filed with this Department.

Attest By: 

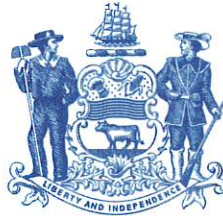


In Witness Whereof, I have hereunto set my hand
and affixed the official seal of this Department at the
City of Dover, this 13 day of May, 2019.



Trinidad Navarro
Insurance Commissioner

Trinidad Navarro
Commissioner



Delaware Department of Insurance

REPORT ON EXAMINATION
OF THE
Fidelity National Title Insurance Company
AS OF
December 31, 2017

The above-captioned Report was completed by examiners of the Delaware Department of Insurance.

Consideration has been duly given to the comments, conclusions and recommendations of the examiners regarding the status of the Company as reflected in the Report.

This Report is hereby accepted, adopted and filed as an official record of this Department.



In Witness Whereof, I have hereunto set my hand
and affixed the official seal of this Department at the
City of Dover, this 13 day of May, 2019.

Handwritten signature of Trinidad Navarro in blue ink.

Trinidad Navarro
Insurance Commissioner

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Honorable Trinidad Navarro
Insurance Commissioner
State of Delaware
841 Silver Lake Boulevard
Dover, Delaware 19904

Dear Commissioner Navarro:

In compliance with the instructions contained in Exam Authority Number 51586-18-702, and pursuant to statutory provisions including 18 *Del. C.* §§ 318 - 322, a market conduct examination has been conducted of the affairs and practices of:

Fidelity National Title Insurance Company - NAIC #51586

The examination was performed as of December 31, 2017.

The examination consisted of an on-site phase which was conducted in Wilmington, Delaware, and an off-site phase which was performed at the offices of the Delaware Department of Insurance, hereinafter referred to as the Department or DDOI, or other suitable locations.

The report of examination herein is respectfully submitted.

EXECUTIVE SUMMARY

The examination of Fidelity National Title Insurance Company, hereinafter referred to as FNTIC or the Company, was announced as part of a series of examinations on companies in the title insurance marketplace in Delaware. The examination focused on the Company's title insurance business in the following areas of operation: Company Operations and Management, Complaint Handling, Marketing and Sales, Producer Licensing, Policyholder Services, Underwriting and Rating, and Claims.

All exceptions noted were in the areas of Underwriting and Rating and Claims.

The following exceptions were noted.

- 1 Exception
18 *Del. Admin. C.* § 902 - 1.2.1.2 – Authority for Regulation; Basis for Regulation
1.2.1 The Following Claim Settlement Practices When Committed or Performed with such Frequency as to Indicate a General Practice are Prohibited:
1.2.1.2 Failing to acknowledge and respond within 15 working days, upon receipt by the insurer, to communications with respect to claims by insureds arising under insurance policies.

The Company failed to acknowledge and respond within 15 days to claim communications.

- 2 Exceptions
18 *Del. C.* § 1703 - License required.
A person shall not transact insurance in this State for any class or classes of insurance unless the person is licensed as an insurance producer, adjuster or appraiser for that line of authority in accordance with this chapter.

The Company accepted business from a producer who was not properly licensed.

- 28 Exceptions
18 *Del. C.* § 1715(a) – (b) – Appointments.
(a) An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.
(b) To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the Insurance Commissioner, a notice of appointment within 15 days from the date the agency contract is executed or the first insurance application is submitted. An insurer may also elect to appoint a producer to all or some insurers within the insurer's holding company system or group by the filing of a single appointment request. The group appointment provision of this section is only

applicable upon implementation by this Department of an electronic appointment process.

The Company accepted business from a producer who was not properly appointed.

- 6 Exceptions

18 *Del. C.* § 2517 – Adherence to Filings

No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for the insurer as provided in this chapter or in accordance with § 2505 (exemption from filing) or § 2509 (excess rates) of this title. This section shall not apply to contracts or policies for inland marine risks as to which filings are not required.

The Company issued a contract or policy for which the premium charged was not in accordance with the filed rates.

SCOPE OF EXAMINATION

The Market Conduct Examination was conducted pursuant to the authority granted by 18 *Del. C.* §§ 318 - 322 and covered the experience period of January 1, 2016 through December 31, 2017. The purpose of the examination was to determine compliance by the Company with applicable Delaware laws and regulations.

The examination was a targeted market conduct examination of the Company's title insurance business in the following areas of operation: Company Operations and Management, Complaint Handling, Marketing and Sales, Producer Licensing, Policyholder Services, Underwriting and Rating, and Claims.

METHODOLOGY

This examination was performed in accordance with Market Regulation standards established by the Department and examination procedures suggested by the NAIC. While examiners reported on the errors found in individual files, the examiners also focused on general business practices of the Company.

The Company identified the universe of files for each segment of the review. Based on the universe sizes identified, random sampling was utilized to select the files reviewed for this examination.

Delaware Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. An exception is any instance of Company activity that does not comply with an insurance statute or regulation. Exceptions contained in the Report may result in imposition of penalties. In general, practices,

procedures, or files that were reviewed by Department examiners during the course of an examination may not be referenced in the Report if no improprieties were noted. However, the Examination 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 these areas of concern in order to determine the potential impact upon Company operations or future compliance

Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. As warranted, additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials to discuss the various types of exceptions identified during the examination and to review written summaries of the exceptions found.

COMPANY HISTORY AND PROFILE

Fidelity National Title Insurance Company (FNTIC) was incorporated in Arizona on October 6, 1981 and acquired by Fidelity National Financial, Inc. (FNF) on December 31, 1984 from CIGNA. FNTIC re-domesticated to California on December 31, 1996. FNTIC is a wholly owned subsidiary of Fidelity National Title Group, Inc., which is ultimately owned and controlled by FNF. FNTI re-domesticated from California to Florida effective March 1, 2017.

According to the 2016 and 2017 Annual Statements, FNTIC reported direct premiums reported in the amounts of \$1,845,762,395 and \$1,915,789,876, respectively, for the United States, its territories, and Canada. Direct premiums reported by the Company in 2016 and 2017 for the State of Delaware were \$12,339,707 and \$13,718,706, respectively.

COMPANY OPERATIONS AND MANAGEMENT

The Company provided information related to management and operational procedures for the lines of business conducted in the state of Delaware, with respect to the following categories:

- Corporate Minutes
- Title Plant, TPA, and Third-Party Vendors
- Audited Financial Statements
- Disaster Recovery Plan
- Consumer Privacy
- Company History

The documents were reviewed to determine compliance with Delaware laws and regulations.

No exceptions were noted.

COMPLAINT HANDLING

The Company identified one complaint lodged with the Delaware Department of Justice. There were no complaints lodged with the Delaware Department of Insurance.

The documentation within the complaint file was reviewed to determine compliance with applicable Delaware laws and regulations.

No exceptions were noted.

MARKETING AND SALES

Due to the nature of title insurance business in Delaware, and the fact that Fidelity National Title Insurance Company maintains only one office location in the state, the Company's marketing and sales practices are limited. Representatives of the Company's Delaware Agency Sales team offer marketing flyers to independent third-party agents, many of which are co-branded with the agent's logo.

Additionally, Agency Sales personnel periodically send emails to the Delaware agents using Constant Contact email marketing program. Emails consist of legal bulletins, announcements, memos, and invitations to events, etc.

The Delaware Agency maintains a few social media accounts on the following platforms – Facebook, Twitter, and LinkedIn. These are primarily used to post industry-related articles and local industry updates that agents share on their own social media pages.

The Delaware Agency staff holds monthly webinars on different underwriting or industry-related topics, which are offered to all agents. The staff also hosts live seminars once or twice per year. Since most of the agents in Delaware are Delaware licensed attorneys, the live seminars often provide Continuing Legal Education credits for the attorneys.

The advertising materials provided by the Company were reviewed to determine compliance with 18 *Del. C.* § 2304 - Unfair methods of competition and unfair or deceptive acts or practices defined.

No exceptions were noted.

PRODUCER LICENSING

For examination purposes, producer licensing and appointment was reviewed in conjunction with Underwriting and Rating.

Licensing and appointment exceptions are addressed in the Underwriting and Rating Section.

POLICYHOLDER SERVICES

As a Delaware title insurer conducting business in an attorney state, the Company does not generally deal directly with the consumer. If, in the rare case, a consumer calls to inquire about service or rates, the local office or operation directs the individual according to their inquiry

No exceptions were noted.

UNDERWRITING AND RATING

The Company identified a universe of 18,902 policies issued as new during the experience period. A random sample of 116 files was requested, received, and reviewed. The files were reviewed to determine compliance with applicable Delaware laws and regulations.

The following exceptions were noted:

2 Exceptions - 18 Del. C. § 1703 License required.

The Company accepted business from a producer who was not properly licensed.

Recommendation: It is recommended the Company revise its procedures to ensure producers are properly licensed in compliance with 18 Del. C. § 1703.

28 Exceptions - 18 Del. C. § 1715 - Appointments.

The Company accepted business from a producer who was not properly appointed by the Company.

Recommendation: It is recommended the Company revise its procedures to ensure producers are properly appointed in compliance with 18 Del. C. § 1715.

6 Exceptions - 18 Del. C. § 2517 - Adherence to filings.

The Company charged a premium that was inconsistent with filed rates in effect at the time of policy issuance.

The six exceptions included five instances involving a total undercharge of \$59.09 and one instances involving a total overcharge of \$15.60. The Company requested that the agent refund the \$15.60 overcharge to the proper party. In one instance involving an undercharge, the Company acknowledged that a five percent date down rate was omitted as part of the Company's original Delaware UCC rate filing. The Company stated that it was in the process of getting this formulated as a rate rule to be filed in the state of Delaware.

Recommendation: It is recommended the Company revise its procedures to ensure premiums charged are consistent with filed rates in compliance with 18 *Del. C.* § 2517.

CLAIMS

The Company identified a universe of 116 Open/Denied Claims, 12 Paid Claims, and 73 Closed Without Pay Claims. The Paid Claims and Closed without Pay Claims universes were both reflected in the Open/Denied Claims universe due to category overlap. Due to the small universe, all 116 of the files were requested, received, and reviewed. The file documentation was reviewed to determine compliance with applicable Delaware laws and regulations.

The following exception was noted:

1 Exception – 18 *Del. Admin. C.* § 902 – 1.2.1.2 - Authority for Regulation; Basis for Regulation.

The Company failed to acknowledge and respond to claim communications within 15 working days.

Recommendation: It is recommended the Company revise its procedures to ensure a response is issued within 15 working days to claim communications in compliance with 18 *Del. Admin. C.* § 902 – 1.2.1.2.

CONCLUSION

The recommendations made below identify corrective measures the Department finds necessary as a result of the exceptions noted in the Report. Location in the Report is referenced in parenthesis.

1. It is recommended the Company revise its procedures to ensure a response is issued within 15 working days to claim communications in compliance with 18 *Del. Admin. C.* § 902 – 1.2.1.2 - Authority for Regulation; Basis for Regulation. (Claims).
2. It is recommended the Company revise its procedures to ensure producers are properly licensed in compliance with 18 *Del. C.* § 1703. (Underwriting and Rating).
3. It is recommended the Company revise its procedures to ensure producers are properly appointed in compliance with 18 *Del. C.* § 1715. (Underwriting and Rating).
4. It is recommended the Company revise its procedures to ensure premiums charged are consistent with filed rates in compliance with 18 *Del. C.* § 2517. (Underwriting and Rating).

The examination was conducted by Joseph Krug, Steve Misenheimer, and Linda Armstrong.

The report of examination herein is respectfully submitted.



Linda Armstrong, JD, MCM
Examiner-in-Charge
Market Conduct
Delaware Department of Insurance