

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE

SUPERINTENDENT OF INSURANCE

Russell Toal



DEPUTY SUPERINTENDENT

Robert E. Doucette, Jr.

2019 Interrogatories

If 2018 Interrogatories were filed and no changes have occurred since the 2018 report, check the box below, complete the attestation on the last page, and submit. If changes have occurred since the 2018 report, provide responses only to those interrogatories related to the changes, complete the attestation on the last page, and submit.

No changes since 2018 report.

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1. Does the company have a written policy to ensure properly maintained licenses for the company and applicable personnel? Yes ___ No ___
 2. Are all required licenses valid and current? Yes ___ No ___
 3. Is the company's escrow Officer(s) a licensed title insurance agent pursuant to 13.14.2.10 NMAC? Yes ___ No ___
 4. Does the company maintain a cash surety bond to protect against escrow losses? Yes ___ No ___
 - a. Company: _____
 - b. Amount: _____
 5. Does company have written procedures for hiring and training (including policies to mitigate the risk of hiring unethical employees)? Yes ___ No ___
 6. Are five-year background checks conducted upon hiring? Yes ___ No ___
 7. Does the company provide training to employees on management of escrow funds? Yes ___ No ___
 8. Does the company maintain appropriate professional liability insurance (please provide a copy of the policy)? Yes ___ No ___
 9. Does the company maintain an employee manual that includes definitive information on employee positions and duties? Yes ___ No ___
 10. Does the company maintain an operations guide containing detailed operating procedures of the company? Yes ___ No ___
 11. Does the operations guide include written procedures related to title policy production, delivery, reporting and premium remittance? Yes ___ No ___
 12. Does the operations guide include written procedures for resolving consumer complaints? Yes ___ No ___
 13. Does the company have a written privacy and information security program to protect Non-public Personal Information as required by local, state, and federal laws? Yes ___ No ___
 14. Does the company's management review their security programs at least annually? Yes ___ No ___
 15. Does the company use encryption or a secure delivery method for protected information? Yes ___ No ___
 16. Has the company experienced any attempted or actual breach of protected information in the last two year? Yes ___ No ___
 17. Has the company in the last two years experienced any financial loss due to a breach of internal controls over electronic protected information? Yes ___ No ___ Please explain any losses experienced:

18. Is policy issuance current? Yes ___ No ___

19. Date of closing and guaranty file number of most recently issued policy: _____

20. Does the company have written procedures to help ensure customers are charged correct title insurance premiums and other rates for services provided by the company? Yes ___ No ___

21. Does the company maintain written procedures regarding escrow accounting cash controls and deposit policies: written procedures including, but not limited to, accepting payments, cash accounting, handling and safeguarding, separation of duties: written procedures regarding dual controls and security? Yes ___ No ___

22. Does the company maintain a current copy of 13.14.4 NMAC Escrow Services Procedures and Internal Controls? Yes ___ No ___

23. Who is responsible for assuring that the company is in compliance with the minimum requirements for escrow accounting and internal control? Name: _____ Title _____

24. Have minimum escrow requirements for providing services, including accounting procedures and internal controls as set forth in 13.14.4 NMAC sections 8 through 16 been met for the most recent year? Yes ___ No ___
Describe any deviations from required minimum procedures.

25. Does the company have a written policy to ensure that escrow funds are maintained in accordance Section 58-28-4 or 59A-12-22 NMSA 1978 and are not comingled with the company's operating account(s) or an employee or manager's personal account? Yes ___ No ___

26. Does the company deposit the underwriters' portion of premiums collected in an account separate from its operating account? Yes ___ No ___

27. Are copies of all disbursement checks, front and back, available for the last 15 years? Yes ___ No ___

28. Are bank statements, escrow checks and account-related documentation clearly labeled by the bank as belonging to an escrow or trust account? Yes ___ No ___

29. Are escrow accounts maintained at a federally insured financial institution? Yes ___ No ___

30. Is a separate accounting ledger maintained for each escrow file? Yes ___ No ___

31. Is the escrow accounting system manual or electronic? Manual ___ Electronic ___

32. If an electronic system is being used, please provide the name of the software and the software vendor. _____

33. Does the company disburse only available and collected funds for the specific escrow file being debited? Yes ___ No ___

34. Are blank checks ever pre-signed? Yes ___ No ___

35. Are checks required to have two signatures? Yes ___ No ___

36. Are checks pre-numbered? Yes ___ No ___

37. Is every check signed by at least one escrow officer? Yes ___ No ___

38. Are checks used in numerical sequence? Yes ___ No ___

39. Are checks sufficiently safeguarded to prevent unauthorized access or theft? Yes ___ No ___

40. Describe check stock safeguarding procedures.

41. Are voided checks mutilated to prevent subsequent reissue (signature block removed or otherwise rendered ineffective)? Yes ___ No ___

42. Describe check mutilation process.

45. If check signatory stamps are used, does the company have a policy to ensure only authorized parties have access to these stamps? Yes ___ No ___

46. Does the company have a written policy defining levels of authority for authorizing bank transactions?
Yes ___ No ___

47. How often is the above policy reviewed for update? Monthly ___ Semi-annual ___ Annual ___ Other (please describe below) _____

48. Does the company have a written policy to ensure that terminated employees are immediately deleted as listed signatories on all bank accounts? Yes ___ No ___

49. Which employees can initiate outgoing wire transfers?

50. Does the company have written policies and internal controls to prevent unauthorized outgoing escrow wire transfers? Yes ___ No ___

51. Do outgoing wire transfers require management approval? Yes ___ No ___

52. Is bank confirmation of incoming wire transfers required prior to disbursement of funds? Yes ___ No ___

53. Describe the company's policy for confirming the identity and source of wire transfer instructions received electronically?

53. Is senior management authorization required prior to disbursements from inactive or dormant accounts?

Yes ___ No ___

54. Does the company use zero pay with banking institution? Yes ___ No ___

55. Does the company have a process for follow up on outstanding checks and a procedure for escheatment of unclaimed property in accordance with Uniform Unclaimed Property act and other applicable state regulations?

Yes ___ No ___

56. Pursuant to 13.14.4.14 NMAC, are bank overdrafts cleared immediately? Yes ___ No ___

57. Pursuant to 13.14.4.14 NMAC, are there amounts held in escrow more than five years old? Yes ___ No ___

If yes, please provide the total amount of funds held in escrow over five years and the date(s) on which NM Taxation and Revenue was notified. If notification has not been made please provide an explanation as to why funds have not been reported/remitted to NM Taxation and Revenue.

58. Pursuant to 13.14.4.10 NMAC, are all escrow receivables reimbursements made immediately after detection?

Yes ___ No ___

59. Has any judgement, civil action, or disciplinary action been taken against the agency? Yes ___ No ___

If yes, please provide the date the superintendent was notified Pursuant to 13.14.4.12 NMAC. If notification was not made, please provide an explanation of the action taken and the reason notification was not made.

60. Are all escrow bank accounts reconciled monthly using a “three-way reconciliation”? Yes ___ No ___

61. Do three-way reconciliations performed include a summary page with book balance, outstanding deposits list, deposits in transit, open escrow file listing or trial balance and outstanding disbursements list, all as of the reconciliation date? Yes ___ No ___

62. Do all amounts equal between the book balance and trial balance? Yes ___ No ___

63. Are reconciliations completed monthly and within 10 business days of the closing date of the bank statement?

Yes ___ No ___

64. Are reconciliations approved by management or a supervisor? Yes ___ No ___

65. Who prepares monthly escrow account reconciliations?

66. Who is responsible to review and approve monthly escrow account reconciliations?

67. Who is responsible for researching reconciling differences and correcting problems?

68. Does the company perform a daily reconciliation of escrow receipts and disbursements? Yes ___ No ___

69. Who performs daily reconciliations? _____

70. Are daily reconciliations of receipts and disbursements and monthly three-way reconciliations prepared independently by someone not associated with the receipt and disbursement function? Yes ___ No ___

71. Are reconciliations, bank statements and supporting documentation available to underwriters, regulators and other applicable parties electronically? Yes ___ No ___

72. Is a monthly escrow trial balance prepared for each escrow bank account? Yes ___ No ___

73. Is cash money received for escrow? Yes ___ No ___

74. If the answer to 73 is yes, how is the cash money received? _____

75. Pursuant to 13.14.4.11 NMAC, was the company's annual agreed-upon procedures engagement performed by an independent certified public accountant (as defined by AICPA Code of Professional Conduct and Statements on Standards for Attestation Engagements)? Yes ___ No ___

76. Did you provide a complete and accurate list of all open and closed escrow and operating accounts to the accountant who performed your most recent annual agreed-upon procedures engagement? Yes ___ No ___

77. Please provide the number of currently invested escrow accounts. _____

78. Did the accountant performing your agreed-upon procedures engagement request a listing of all authorized signers/wire initiators and approvers on the accounts and compare the list to the authorized signers/wire initiators and approvers on record with the bank(s)? Yes ___ No ___

79. Did the accountant verify the validity of adjustments on monthly three-way escrow bank reconciliation that were needed to bring the account in balance during the agreed-upon procedures engagement? Yes ___ No ___

80. Does the company have a written policy defining requirements for timely and accurate remittance of underwriters' portions of premium? Yes ___ No ___

81. Do the company's underwriters conduct periodic audits of the agency? Yes ___ No ___

82. What was the date of the most recent underwriter audit? _____

83. Has the company been terminated by any underwriter for failure to timely remit an underwriter's portion of premium or for any other reason? Yes ___ No ___

84. Has the company received a written notice or warning from any of its underwriters within the last calendar year? Yes ___ No ___

85. If the answer to question 83 or 84 above is Yes, please name the underwriter(s).

86. What is your business mix?

Realtor _____ %

Lender _____ %

Attorney _____ %

Builder _____ %

AFB _____ % Affiliated Business Arrangement

MSA _____ % Marketing Service Agreement

Undirected Business _____ %

ATTESTATION:

I, _____, the _____ (position/title)

of _____ (name of Company), being duly sworn, hereby states that all of the information and responses provided on the 2019 Interrogatories of this named Company for the year ended December 31, 2019 are true and accurate to the best of my information, knowledge and belief.

Signature