ORDER SETTING DEADLINE FOR SUBMISSION OF 2020 AGENT’S/UNDERWRITER’S STATISTICAL REPORTS, ESCROW COMPLIANCE AGREED UPON PROCEDURES, AND ANSWERS TO INTERROGATORIES

THIS MATTER comes before the New Mexico Superintendent of Insurance ("Superintendent") upon the Superintendent’s own motion, pursuant to the statutory mandates of the Title Insurance Law, Sections 59A-30-1, et seq. NMSA 1978. The Superintendent, being fully advised in the premises, hereby issues this Order.

1. Pursuant to Section 59A-30-6(A) NMSA 1978, the Superintendent shall promulgate the premium rates of title insurers and title insurance agents for title insurance policies and the percentage of premium to be retained by title insurers under agency agreements.

2. Pursuant to Section 59A-30-8(A) NMSA 1978, the Superintendent shall commence a hearing during November of each odd numbered calendar year to consider promulgation of premium rates and any other matters related to the regulation of the business of title insurance deemed necessary by the Superintendent.

3. Pursuant to Section 59A-30-7 NMSA 1978, the Superintendent shall promulgate reasonable rules, including rules providing statistical plans, for use thereafter by all title insurers and title insurance agents in the recording and reporting of loss and expense experience, so that the experience of title insurers and title insurance agents may be available to him at least annually in such form and details as may be necessary to aid him in promulgating premium rates.

4. Pursuant to Section 59A-4-3 NMSA 1978, the Superintendent may direct an inquiry to any person subject to supervision under the Insurance Code with respect to any transaction or
matter within the scope of such supervision. Upon receipt of the request, the person shall promptly
furnish to the Superintendent requested information in possession or control of such person.

5. Pursuant to Section 13 of 13.14.2 of the New Mexico Administrative Code
(“NMAC”), each underwriter shall maintain such minimum basic records on each New Mexico
transaction as shall be necessary to accurately report such transactions annually pursuant to the
New Mexico Title Insurance Underwriter’s Experience Report as set forth in 13.14.17 NMAC.

6. Pursuant to Section 13 of 13.14.2. NMAC, each underwriter shall annually fix the
date and location of filing each Company’s/Underwriter’s Experience Report of transactions
during the preceding year and shall notify each company of the same at least sixty (60) days prior
to the filing deadline.

7. Pursuant to Section 14 of 13.14.2 NMAC, each title insurance agent, including
agents who are independent, affiliated, or direct operations of insurers, shall report income and
expenses annually on both county-by-county and summary-of-all-counties bases using the Agent’s

8. Pursuant to Section 14 of 13.14.2 NMAC, the Superintendent shall annually fix the
date and location for filing of each agent’s/underwriter’s statistical report for the calendar year and
shall notify each agent/underwriter of the date at least sixty (60) days prior to the filing deadline;
provided however, that in no event shall an agent/underwriter be required to file its statistical report
prior to May 15th of the year following the end of the calendar year being reported.

9. Pursuant to Section 11 of 13.14.4 NMAC, title insurers and title insurance agents
shall, at their own expense, have an independent certified public accountant perform the
procedures in this section. The accountant shall provide the title insurer or title agent with an
adequate number of reports in sufficient time to allow the insurer or agent to review them and mail
copies with cover letters to the New Mexico Office of Superintendent of Insurance, by certified mail, a copy of the report to each insurer that the agent represents.

10. In addition, and pursuant to the authorities cited in this Order, all title insurance agents must answer Interrogatories and submit their Answers to Interrogatories simultaneously with the submission of the Annual Statistical Reports. OSI will make the Interrogatories available on the official OSI website with instructions and forms.

11. Pursuant to Section 59A-1-18 NMSA 1978, unless the same is defined as a felony under any other law of this state or punishment therefore classifies it otherwise, every violation of the Insurance Code is a petty misdemeanor punishable by a fine not to exceed five hundred dollars ($500). Where other monetary penalty is not expressly provided for, an administrative penalty may be assessed for violations of the Insurance Code. The administrative penalty shall not be over five-thousand dollars ($5,000) for each violation, except that if the violation is found to be willful and intentional, the penalty may be up to ten thousand dollars ($10,000) for each violation. Every administrative penalty shall be imposed by written order of the Superintendent made after hearing, held as provided in Chapter 59A, Article 4 NMSA 1978.

12. Notice is hereby given that all submittals in this Docket must be made to the OSI and not to the New Mexico Public Regulation Commission (PRC). Any reports not submitted to the OSI in accordance with this Order shall be deemed to be incorrect and shall be returned to the submitter, who shall become subject to a penalty of up to five hundred dollars ($500).

13. The New Mexico Office of Superintendent of Insurance will not grant filing extensions.

IT IS THEREFORE ORDERED:

A. All title insurance agents, direct operations, affiliates, and insurers shall ensure that all 2020 Agent’s and Underwriter’s Statistical Reports (compiled from 2019 data in accordance
with the statutes and rules cited in this Order), together with all agents’ Answers to Interrogatories required pursuant to ¶ 10 of this Order, are received in full at OSI by June 1, 2020.

B. All title insurers and title insurance agents shall, at their own expense, ensure that their 2020 escrow compliance Agreed Upon Procedures (compiled from 2019 data in accordance with the statutes and rules cited in this Order), are received in full at OSI by June 1, 2020.

C. Agent’s and Underwriter’s Statistical Reports and Agreed Upon Procedures received at OSI after June 1, 2020 shall be delinquent and shall be subject to penalties of up to five-hundred dollars ($500.00) per day. Additional penalties may be imposed in accordance with ¶¶ 11 and 12 of this Order.

D. Instructions and forms for completing the reports may be obtained at https://www.osi.state.nm.us/index.php/departments/title/.

E. An electronic copy in Excel or Word of each filing made pursuant to this Order shall be sent via electronic mail to: title.insurance@state.nm.us. A portable document format (PDF) will not be accepted and will be deemed incomplete.

F. Staff Counsel shall upload the order on the OSI Title rates and rules Newsletter and ensure the order is sent out to all title licensees on the State Based System.

G. Copies of this Order shall be served on all persons listed on the attached Certificate of Service contacts.

DONE AND ORDERED this 13th day of March, 2020.

NM SUPERINTENDENT OF INSURANCE

RUSSELL TOAL
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing order was sent via electronic mail to the individuals listed below on this 13th day of March, 2020

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