

MARKET CONDUCT REPORT ON EXAMINATION

OF

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

AS OF

June 30, 2006

DATE OF REPORT:

October 3, 2008

EXAMINER:

SHAWN JERNIGAN

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, HOWARD MILLS, Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

Shawn Jernigan

as proper person to examine into the affairs of the

Old Republic National Title Insurance Company

and to make a report to me in writing of the condition of the said

Title Insurance Company

with such other information as he shall deem requisite.

*In Witness Whereof, I have hereunto subscribed by the name
and affixed the official Seal of this Department, at the City of
New York,*



this 5th day of August, 2006

A handwritten signature in black ink, appearing to read "Howard Mills".

HOWARD MILLS
Superintendent of Insurance

TABLE OF CONTENTS

<u>ITEM NO.</u>		<u>PAGE NO.</u>
1.	Executive Summary	2
2.	Scope of Examination	2
3.	Underwriting and Rating	2
4.	Escrow Review	7
5.	Expense Review	9
6.	Title Agents	9
7.	Summary of Comments and Recommendations	11



STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NY 10004

October 3, 2008

Honorable Eric R. Dinallo
Superintendent of Insurance
Albany, New York 12257

Sir:

Pursuant to the provisions of the New York Insurance Law and acting in accordance with directions contained in Appointment Number 22534 dated August 5, 2006, and annexed hereto, I have made an examination into the affairs of Old Republic National Title Insurance Company, a for-profit title insurance company licensed in the State of New York pursuant to the provisions of Article 64 of the New York Insurance Law. The aforementioned Company is a wholly-owned subsidiary of Old Republic International Corporation, Inc. ("Home Office"), a publicly traded holding corporation domiciled in Minneapolis, MN. The following report deals with the findings concerning the manner in which the Company conducts its business practices and fulfills its contractual obligations to the policyholders.

Whenever the terms "Old Republic", "the Company", or "ORNTIC" appear herein without qualification, it should be understood to collectively refer to Old Republic National Title Insurance Company. Whenever the terms "Department" or "NYID" appear herein without qualification, it should be understood to collectively refer to the New York Insurance Department.

1. EXECUTIVE SUMMARY

As a result of the completed examination of the Company, the Department has discovered the following:

- The Company has charged rates in excess of the filed rates, in particular, the Company failed to apply appropriate discounts when rating refinance policies.
- The Company used forms that were not approved by the Department.
- The Company failed to comply with Section 1317 of the New York Abandoned Property Law by holding escrow deposits beyond the statutory limit.
- The Company failed to maintain accurate records to track the use of entertainment tickets purchased for business purposes.
- The Company reported certain payments of agency expenses or payments on behalf of their agents as underwriting expenses which were improperly included in the rate making process.

2. SCOPE OF EXAMINATION

A review was made of the manner in which the Company conducts its business and fulfills its contractual obligations to policyholders. Unless stated otherwise, this examination covered the period from January 1, 2005 through June 30, 2006, and was limited to the review of policy rating for policies insuring residential properties located in the State of New York.

3. UNDERWRITING AND RATING

The underwriting and rating section of the examination was conducted at the Company's office located at 100 State St. in Albany, NY.

The Company used the Title Insurance Rate Service Association (TIRSA) manual to rate the title policies issued in New York. The rates filed by TIRSA on behalf of its members were approved by the Department.

The policy samples selected for this review were issued during the period beginning January 1, 2005 and ending June 30, 2006. The Department also reviewed a sample of refinance policies that were issued between July 1, 2006 and October 31, 2006.

Rating Review

Section 6409(b) of the New York Insurance Law (“NYIL”) states that after the filing of rates by a title insurance corporation, no corporation shall deviate from such filed rates. From a population of 30,276 refinanced policies for ORNTIC business written during the period of January 1, 2005 through June 30, 2006, twenty-five policies were selected for review. From our review of these twenty-five selected policies, the Department discovered that ORNTIC failed to charge the correct rate for five policies in violation of Section 6409(b) of the NYIL. Some of the violations found during this review included general calculation errors and an inappropriate charge of a tax search fee for a Zone 2 title policy.

From a population of 67,576 non refinance policies for ORNTIC written during the period of January 1, 2005 through June 30, 2006, 25 policies were selected for review. As a result of this review, the Department discovered that ORNTIC failed to charge the correct rate in violation of Section 6409(b)–NYIL in five of the policies reviewed. Some of the other errors found during this review involved the charging of fees for tax searches, mortgage pay-offs and mortgage recording.

In addition to the policy information described above, the Company maintained another data base for policy and claim information entitled Old Republic Title Residential Informational Services (“ORTRIS”). ORTRIS was described by the Company as an operating division of ORNTIC. From a population of 455 refinance and non refinance policies for ORTRIS during the period of January 1, 2005 through June 30, 2006, the Department reviewed the policy information for twenty policies. The Company failed to charge the correct rate in violation of Section 6409(b) of the NYIL in 11 of the policies reviewed. Almost all of the rating errors found during this review were due to the Company’s failure to apply the proper refinance discounts in the calculation of the premium.

It should be noted that the ORTRIS files did not appear to be coded in such a manner to distinguish non refinance from refinance policies. Therefore, the ORTRIS review included both non refinance and refinance policies

The Department continued its review for ORTRIS policies to the period beginning July 1, 2006 to October 31, 2006. From a population of 18 policies, 10 policies were selected for review. It is noted from our review of these ten policies that eight policies were charged an incorrect rate in violation of Section 6409(b) of the NYIL. Seven of the aforementioned errors were due to the Company’s failure to apply the proper refinance discount. In addition, there were other violations due to the company using a short form policy and inappropriately charging for coverages (environmental and survey endorsements) which appeared to be included as coverage in the short form policy.

Regarding the ORTRIS rating errors and violations, the Company advised that it is the insureds responsibility to request or provide information necessary for the Company to apply the refinance discounts. The Company advised that the following notice is provided to insureds:

“Please note: In order for us to quote a reduced premium rate for the State of New York, we must first be provided evidence of the existing loan policy issued within the past ten years, along with the current unpaid principal balance of the loan now being refinanced.”

The statement used by the Company is contrary to, and more restrictive than the statement required by the TIRSA manual.

It is recommended that the Company remove the wording used in their applications/confirmations and adhere to the notification requirements contained in the TIRSA manual. It is also recommended that the Company prepare a written plan to detect and correct future rating errors and submit such a plan to the Department.

The violations for the rating review are shown in the Summary of Violations.

Coinsurance Manuscript Forms

Section 6409(a) of the NYIL states that no title insurance policy shall be issued or delivered in this state unless a copy of the form has been filed. The Companies failed to comply with this section in all six relevant instances reviewed by their failure to file coinsurance manuscript forms.

It is the ORNTIC’s position that the endorsement used for a co-insurance transaction is a “me too” endorsement and, as such, is not an insurance policy and does not need to be filed with the Department. Nevertheless, it is recommended that the Company file all policy forms with the Department to comply with Section 6409(a) of the NYIL.

Summary of Violations

The following is a breakdown of the violations found at the
Old Republic National Title Insurance Company

Review Period 1/1/2005 – 6/30/2006

<u>Section of Law/Regulation</u>	<u>Type of violation / files reviewed</u>	<u>Policies reviewed</u>	<u>Relevant policies</u>	<u>Policies in violation</u>	<u>Violations</u>
No corporation shall deviate from filed rates. (Section 6409(b) - NYIL)	Failure to charge filed rates; refinance policies	25	25	5	5
No corporation shall deviate from filed rates. (Section 6409(b) - NYIL)	Failure to charge filed rates; policies other than refinance policies	25	25	5	5
No policy shall be issued or delivered unless a copy of the form has been filed. (Section 6409(a) - NYIL)	Failure to use filed forms	6	6	6	6

Number of policies reviewed: 50

Number of policies with rating violations: 10

Insurers shall establish adequate procedures to minimize the occurrence of improperly charged rates and shall in fact pursue such procedures
(Regulation 57-
Section 160.2(g))

An error ratio of 20% would indicate that the Company failed to establish adequate rate verification procedures.

The following is a breakdown of the violations found at the
Old Republic Title Residential Informational Services

Review Period 1/1/2005 – 6/30/2006

<u>Section of Law/Regulation</u>	<u>Type of violation / files reviewed</u>	<u>Policies reviewed</u>	<u>Relevant policies</u>	<u>Policies in violation</u>	<u>Violations</u>
No corporation shall deviate from filed rates. (Section 6409(b) - NYIL)	Failure to charge filed rates Refinance and all other policies	20	20	11	11 10-refi disc not given (\$273-\$709) 1- overcharge

Number of policies reviewed: 20

Number of policies with rating violations: 11

Insurers shall establish adequate procedures to minimize the occurrence of improperly charged rates and shall in fact pursue such procedures
(Regulation 57-Section 160.2(g))

An error ratio of 55% would indicate that the Company failed to establish adequate rate verification procedures.

The following is a breakdown of the violations found at the
Old Republic Title Residential Informational Services

Review Period 7/1/2006 – 10/31/2006

<u>Section of Law/Regulation</u>	<u>Type of violation / files reviewed</u>	<u>Policies reviewed</u>	<u>Relevant policies</u>	<u>Policies in violation</u>	<u>Violations</u>
No corporation shall deviate from filed rates. (Section 6409(b) - NYIL)	Failure to charge filed rates, refinance policies	10	10	8	8 5-refi disc not given 1-short form error 2-both Dollar difference refinance \$172-\$1033

Number of policies reviewed: 10

Number of policies with rating violations: 8

Insurers shall establish adequate procedures to minimize the occurrence of improperly charged rates and shall in fact pursue such procedures
(Regulation 57-
Section 160.2(g))

An error ratio of 80% would indicate that the Company failed to establish adequate rate verification procedures.

4. ESCROW REVIEW

A review was made of the manner in which the Company handles its escrow accounts. The Department requested ORNTIC to provide a reconciliation of the amounts held by the Company in escrow as of December 31, 2006 to the amount stated in schedule E (Segregated Funds Held for Others) of ORNTIC's filed 2006 Annual Statement. The Company provided such a reconciliation which included information for thirty-seven separate accounts located in Upstate New York. All but one of the aforementioned thirty-seven accounts could be directly attributed to a specific depositor. The balance for the account which could not be attributed to one specific depositor was approximately 60% of the escrow amount. Any interest accrued from this account was kept by the Company, while interest accrued in the

other thirty-six accounts was given to the depositor when the account was closed.

The Department requested additional depositor information for the accounts within its largest escrow account. Information provided by the Company indicated that there were approximately eighty-seven separate depositors within this one account. Section 1317 of the Abandoned Property Law of New York provides that unless written communication is received from the depositor or person entitled thereto, as of December 31st for the three years after date of deposit, said deposit shall be paid and delivered to the New York State Comptroller. Accordingly, the Department reviewed the account records for eight of the eighty-seven accounts and determined that the Company did not comply with Section 1317 of the Abandoned Property Law in all eight instances.

It should be noted that during examiner review of the aforementioned eighty-seven, the Company provided information that at least five of eighty-seven depositors were the escrow accounts from closed agents. Closed agents are agents that either went out of business, reorganized, or were cancelled by the Company. The total number of escrow accounts turned over to the Company from the closed agents ranged from just a few to in excess of one hundred for one particular closed agent.

The Department reviewed files from five closed agents. As a result of this review, it was discovered that these five files did not have deposit agreements or other vital information sufficient to determine the age of the escrow account. Accordingly, the Department was unable to determine compliance with Section 1317 of the Abandoned Property Law for these files.

The Company agreed that they were in violation of Section 1317 of the Abandoned Property Law in some instances. However, the Company did question the feasibility of complying with such law in cases in where escrows are held for up to ten years for satisfaction of judgments.

It is recommended that the Company submit a written plan describing the corrective measures to bring it into compliance with the requirements of Section 1317 of the New York Abandoned Property Law. The Company is also to outline its position for those instances where it may not be able to comply with such law.

ORNTIC advised that it is common practice for Downstate agents of the Company to take and hold escrows for numerous types of liens and encumbrances. As a result, the Company can not determine the total amounts held by such agents nor can the Company verify whether these agents are in compliance with Section 1317 of the Abandoned Property Law. It is the Department's recommendation that the Company review the escrow accounts of the Downstate agents of the Company on an annual basis to verify that such agents are complying with Section 1317 of the Abandoned Property Law.

5. EXPENSE REVIEW

Advertising/Promotional Expenses

A review of the Company's Advertising and Promotional expenses revealed instances in which the Company paid expenses on behalf of some of its agents, such as:

- The Company paid \$3,000 of a \$12,021 bill of a particular agent's E & O insurance.
- The review revealed one instance in which the agent's bill of \$2,866.12 for promotional products was paid directly by the Company.
- The review also revealed one instance in which the Company shared the cost of a computer software upgrade for a particular agent. The company reimbursed this agent \$2,000 against a total bill of \$4,142.88.

It is the Department's recommendation that the Company not include agency expenses, such as the expenses listed above, paid by the Company on behalf of agents in its rate making process by reporting such expenses as underwriting expenses.

Travel/Entertainment Expenses

A review of the Company's Travel and Entertainment expenses revealed that ORNTIC does not maintain records to support the Company's use of sporting and entertainment tickets for business purposes. The Department recommends that the Company maintain a ticket log to track the use of all Company purchased sporting and entertainment tickets for business purpose.

6. TITLE AGENTS

Twenty-five agency files were selected for review to determine if remittances were consistent with the agreed upon percentages stated in the contracts. Many of the contracts contained an 85%-15% split where the agent is to retain 85% of the premium and remit the 15% balance to ORNTIC. However, our review revealed that in several cases the actual settlement amounts differed from the applicable contract provisions. In some cases, the Company was able to provide updated versions of the agency contract.

The Department reviewed agency transactions for twenty-five agents and found that two of these agents had transactions which deviated from the percentage stated in their agency underwriting agreements. Regarding one of these agents, the errors were detected by the Company and corrected prior to the time of this investigation and a cancelled check verifying the correction was found in the file. In regard to the other instance, this particular agent was being cancelled by the Company and the parties to

the agreement had agreed to a 70%-30% split of premiums. However, the Company was not able to provide an amended agreement reflecting this change.

It is recommended that ORNTIC institute a policy whereby all agency agreements are reviewed on an annual basis to confirm that the terms of the agreement are updated to reflect any changes agreed upon by ORNTIC and the respective agent.

7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Underwriting and Ratings</u>	
I. It is recommended that the Company remove the wording used in their applications/confirmations and adhere to the notification requirements contained in the TIRSA manual.	4
II. It is recommended that the Company prepare a written plan to detect and correct future rating errors and submit such a plan to the Department.	
B. <u>Escrow Review</u>	
I. It is recommended that the Company submit a written plan describing the corrective measures to bring it into compliance with the requirements of Section 1317 of the New York Abandoned Property Law. The Company is also to outline its position for those instances where it may not be able to comply with such law.	8
II. It is the Department's recommendation that the Company review the escrow accounts of the Downstate agents of the Company on an annual basis to verify that such agents are complying with Section 1317 of the Abandoned Property Law.	8
C. <u>Expense Review</u>	
I. It is the Department's recommendation that the Company not include agency expenses, paid by the Company on behalf of agents in its rate making process by reporting such expenses as underwriting expenses.	9
II. The Department recommends that the Company maintain a ticket log to track the use of all Company purchased sporting and entertainment tickets for business purpose.	9
D. <u>Title Agents</u>	
It is recommended that ORNTIC institute a policy whereby all agency agreements are reviewed on an annual basis to confirm that the terms of the agreement are updated to reflect any changes agreed upon by ORNTIC and the respective agent.	10