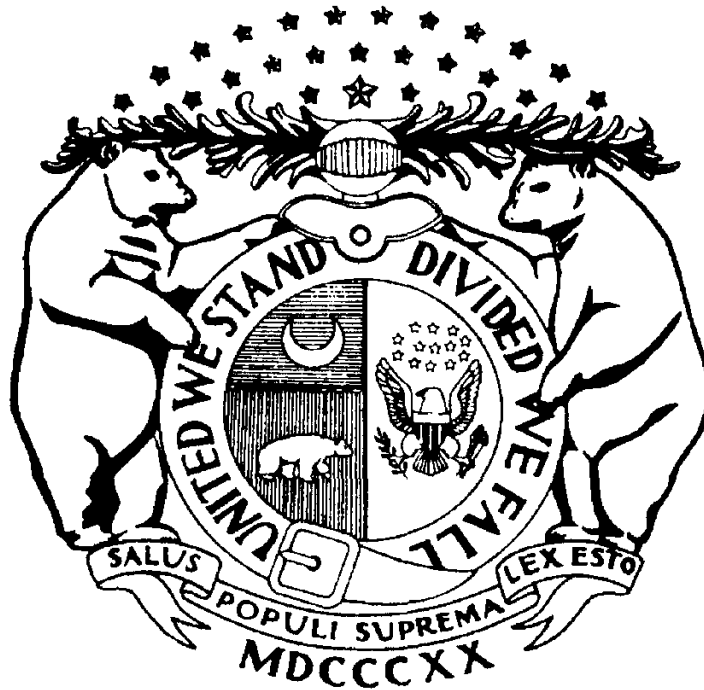


# STATE OF MISSOURI

## DEPARTMENT OF INSURANCE FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Market Conduct Examination Report  
for  
Old Republic National Title Insurance Company  
NAIC # 50520

December 15, 2008



Home Office  
400 Second Avenue South  
Minneapolis, Minnesota, 55401-2499  
Examination Number 0707-10-TLE

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## **FOREWORD**

This market conduct examination report of the Old Republic Title Insurance Company is, overall, a report by exception. Examiners cite errors the Company made; however, failure to comment on specific files, products, or procedures does not constitute approval by the Missouri Department of Insurance, Financial Institutions, and Professional Registration.

Examiners use the following in this report:

“Old Republic,” “Company” and “ORNTIC” to refer to Old Republic National Title Insurance Company

“DIFP” and “Department” to refer to the Department of Insurance, Financial Institutions and Professional Registration

“NAIC” to refer to the National Association of Insurance Commissioners

“RSMo.” to refer to the Revised Statutes of Missouri

“CSR” to refer to the Code of State Regulation

## **SCOPE OF EXAMINATION**

The DIFP has authority to conduct this examination pursuant to, but not limited to, Sections 374.110, 374.190, 374.205, 375.445, 375.938, 375.1009, RSMo, and Chapter 381, RSMo. In addition, Section 447.572, RSMo grants authority to the DIFP to determine compliance with the Uniform Disposition of Unclaimed Property Act (Sections 447.500 et seq., RSMo).

The purpose of this examination is to determine if Old Republic National Title Insurance Company complied with Missouri statutes and DIFP regulations and to consider whether Company operations are consistent with the public interest. The primary period covered by this review is January, 2006, through June 30, 2007; however, examiners include all discovered errors in this report.

This report focuses on general business practices of Old Republic. The DIFP has adopted the NAIC published error tolerance rate guidelines. Examiners apply a 10% percent error tolerance criterion to underwriting and rating practices and a seven percent (7%) tolerance criterion to claims handling practices. Error rates greater than the tolerance suggest a general business practice.

The examination included, but was not limited to, a review of the following lines of business: Sales and Marketing, Underwriting and Rating, Claims Practices, Consumer Complaints, and Unclaimed Property.

According to information provided by ORNTIC, the company was formerly known as Title Insurance Company of Minnesota, founded in 1907. Today it is part of a larger group, Old Republic Title Insurance Group, which provides title insurance and escrow closing services, provides credit reports, IRC 1031 exchanges, real estate appraisals, flood reports, real estate information, national order management, commercial real estate services, relocation services, and default management services. Other insurers in the group include, Old Republic General Title Insurance Corporation, Mississippi Valley Title Insurance Company, and American Guaranty Title Insurance Company.

The Company is licensed by the DIFP under Chapter 381, RSMo, to write title insurance as set forth in its Certificate of Authority.

## **EXECUTIVE SUMMARY**

The examination found the following areas of concern:

- The examiners found 18 instances where individuals contributed to the process of determining insurability but were not licensed as title insurance agents with the DIFP.
- The examiners found 17 producers who failed to update the DIFP within 20 days of any change to the information provided in their producer license application.
- The company used several unfiled forms.
- In 20 files reviewed, the agent or the direct operation failed to record the security instrument within three business days of the transaction.
- In 37 instances, the Company reported an incorrect risk rate on a policy that was not the same one previously filed with the DIFP
- In 24 files, the Company issued policies that did not contain the total amount paid for the issuance of the policy.
- Four files contained unsound underwriting practices.
- The claim files reviewed contained 19 acknowledgement errors, six determination errors, and six investigation errors.
- Six of the claim files reviewed contained general handling errors.

## EXAMINATION FINDINGS

### I. Sales and Marketing

#### A. Licensing of Agents and Agencies

Upon review of the following files, it was determined that the following individuals were employed by title agents and contributed to the process of determination of insurability but were not licensed as title insurance agents with the DIFP.

Reference: Sections 381.031.17,.18, .19, 375.012.1 and 375.014.1, RSMo, and 20 CSR 700-1.010(3)(B), and 20 CSR 700-1.020(1) and DIFP bulletin 06-05.

<u>Agent</u>	<u>Agency</u>	<u>File No.</u>
Jeffrey Brasier	Regional Title, Inc.	H6-7049
Sarah Hesketh,	Home Connects	5889777
April Kuritz	Home Connects	5889777
Shaun M. Crawford	Home Connects	5889777
Scott Miller	Chesapeake	5865059
	Appraisal Services	
Lauran Breen	Nationwide	20118413
	Appraisal Services	
Tony Dawson	Nationwide	20118413
	Appraisal Services	
Stacey Randall Pegram	Nationwide	20118413
	Appraisal Services	
J.Puhlman	Nationwide	20118413
	Appraisal Services	
D. Hartman	Nationwide	20118413
	Appraisal Services	
Gary Holliday	Nationwide	20118413
	Appraisal Services	
Janet Bell	Nationwide	20118413
	Appraisal Services	
Bridgette Valentine	Nationwide	20118413
	Appraisal Services	
Lorna Seidel	Nationwide	20118413
	Appraisal Services	
Aaron Huey	Nationwide	20118413
	Appraisal Services	

Upon review of the following agency employees, it was determined that the following individuals were employed by title agents and contributed to the process of determination of insurability but are not licensed as title insurance agents with the DIFP.

Reference: Sections 381.031.17,.18, .19, 375.012.1 and 375.014.1, RSMo, and 20 CSR 700-1.010(3)(B), and 20 CSR 700-1.020(1) and DIFP bulletin 06-05

<u>Name</u>	<u>Agency</u>	<u>Position</u>
Cindy Stewart	The Title Place	Closer
Tina Hazen	The Title Place	Closer
Gail Hayes	Texas County Title	Closer, searcher, title examiner

Title Pros, Inc., a licensed producer, failed to notify the department within 20 working days of the termination of the following insurance producers. The agent has updated the information with the Department since the error was called to their attention.

Reference: Section 375.015.4, and .5, RSMo

<u>Agent</u>	<u>Agency</u>
Aydt, Robert K	Title Pros
Cook, Carolyn D	Title Pros
Cooper, Angela L	Title Pros
Feld, Kerry C	Title Pros
Freker, Amber N	Title Pros
Hudson, Jessica L	Title Pros
Knapstein, Erika M	Title Pros
Kneer, Lisa L	Title Pros
Mann, Jeannine N	Title Pros
Norton, Sarah K	Title Pros
Schell, Gwen	Title Pros
Smith Miller, Tiffany L	Title Pros
Thode, Dawn M	Title Pros
Wachter, Veronica	Title Pros
Williams, Susan J	Title Pros

Title Pros, Inc., and Old Republic of Kansas City, licensed producers, failed to notify the Department within 20 working days after the change of the following information submitted on the producer's application. Title Pros, Inc. failed to notify the Department that the following agents had been hired. The agents have updated the information with the Department since the error was called to their attention.

Reference: Section 375.015.4, and .5, RSMo

<u>Agent</u>	<u>Agency</u>
John Barnes	Title Pros
Cathleen Herhner	Title Pros
Tracy Houck	Title Pros
Connie Irvin	Title Pros
Laurie Lewis	Title Pros
Jenny Mertens	Title Pros
Katie Morningtar	Title Pros
Victoria Robic	Title Pros
Jennifer Schatz	Title Pros
Scott Wilks	Title Pros
Delores Hamilton	OR Kansas City
Amber Morrison	OR Kansas City
Mary Villers	OR Kansas City
Julie England	OR Kansas City
Betty Fivecoat	OR Kansas City
Christina Krouse	OR Kansas City
Kris Rezac	OR Kansas City

Location address provided by the agent, Old Republic of Kansas City, at the time of examination is not the same as the information on file with the DIFP. Old Republic Kansas City, a licensed producer, failed to notify DIFP within 20 working days of the change in information provided on the producer application.

Reference: Section 375.015.4, and .5, RSMo

<u>Office</u>	<u>Provided as a current MO office location</u>	<u>Listed as an office location by DIFP</u>
Main office	200 S. Spring St., Independence MO	4405 Noland Road, Independence, MO
Jackson County office	603 NE Woods Chapel Rd, Lees Summit, MO	5604 N. Antioch, Gladstone, MO
Clay County office	9775 N. Cedar Avenue, Kansas City, MO	458 NE M291 Hwy, Lees Summit, MO
Platte County office	6014 N. Highway 9, Parkville, MO	809 N. 7 Hwy, Blue Springs, MO

## **B. Marketing Practices**

The examiners reviewed advertising brochures provided by the company. The examiners noted no errors in this review.



## **II. Underwriting and Rating Practices**

In this section of the report, the examiners report their findings of the Company's underwriting and rating practices of title insurance. These practices include the use of policy forms, adherence to underwriting guidelines, and premiums charged. Because of the time and cost involved in reviewing each policy file, the examiners use scientific sampling. The most appropriate statistic to measure the company's compliance is the percent of files in error. Errors can include, but are not limited to, any miscalculation of the premium based on file information, failure to timely record a deed of trust, and failure to otherwise observe Missouri statutes or DIFP regulations.

### **A. Forms and Filings**

The examiners reviewed ORNTIC's policy forms to determine compliance with filing, approval, and content requirements to assure that the contract language is not ambiguous and is adequate to protect those insured.

The following errors were found in this review.

The policies in this file were issued with schedules bearing form number ORT3120. Form ORT3120 has not been filed with the DIFP. The Company indicated that Form ORT3120 is a "Blank" form, and it does not believe blank pages are required to be filed with the DIFP. The Company further indicates that the schedules to be used on the blank form are the same as schedules filed with the DIFP. The Company cannot use forms or schedules which have not been previously filed with the DIFP.

Reference: Section 381.211, RSMo

<u>File</u>	<u>Form</u>
070285-12660	ORT 3120

The commitment form used in the following files include a Schedule B-II that includes pre-printed special exceptions Numbered 1 and 2. These items do not appear as pre-printed special exceptions in any form filed by ORNTIC with the DIFP.

Reference: Section 381.211, RSMo

<u>File</u>	<u>Form</u>
KDR-06-29455	Commitment Schedule B
MK-07-39162	Commitment Schedule B
MK-06-28697	Commitment Schedule B

## B. General Practices Underwriting and Rating

Field Size:	62,991
Sample Size:	104
Type of Sample:	Random
Number of Errors:	59
Error Rate:	56.7%
Within Dept. Guidelines:	No

NOTE: A star (\*) after a policy number denotes that the policy was cited earlier in the general practices underwriting study for a different error, but was only counted once in the number of errors herein.

### a. Failure to Timely Record

The agency acted as settlement agent and failed to record the security instrument for the following transactions within three (3) business days.

Reference: Section 381.412, RSMo.

<u>File No.</u>	<u>Date of Disbursement</u>	<u>Date Recorded</u>	<u>No. Business Days</u>	<u>Agent</u>
07030219	3-21-07	3-30-07	7	OR St. L
06120427	3-28-07	4-6-07	7	OR St. L
07020528	4-4-07	4-10-07	4	OR St. L
06030113	5-22-06	6-2-06	8	OR St. L
07020071	2-22-07	3-1-07	5	OR St. L
06020400	3-6-06	3-23-06	13	OR St. L
06090367	10-18-06	10-24-06	4	OR St. L
06020744	3-16-06	3-22-06	4	OR St. L
06050207	7-6-06	7-13-06	5	OR St. L
06080683	11-22-06	12-05-06	7	OR St. L
07030435	3-29-07	4-4-07	4	OR St. L
06110386	11-30-06	12-7-06	5	OR St. L
07040825	5-10-07	5-21-07	7	OR St. L
TRI060542	6-2-06	6-9-06	5	Title Resources
5889777	10-30-06	11-29-06	19	Home Connect
32696	12-12-05	2-9-06	40	Title Searches
MK-07-39162	4-18-07	4-26-07	6	Title Partners
MK-06-28697	10-25-06	11-1-06	5	Title Pros
KDR-06-29455	10-31-06	11-7-06	5	Title Pros
JA-61478	4-18-07	4-30-07	8	KCT

b. Incorrect Risk Rate

The agent reported an incorrect risk rate on the following 37 policies. The agent is required to use risk rates filed with the DIFP.

Reference: Section 381.181, RSMo, and 20 CSR 500-7.100(3)(B)

<u>File No.</u>	<u>Policy</u>	<u>Amount Listed on Policy</u>	<u>Filed Risk Rate</u>	<u>Agent</u>
06010750	451178	\$21.00	\$52.50	OR St. L
07030219*	2102616	\$85.60	\$54.75	OR St. L
06040759	95337	\$32.40	\$25.65	OR St. L
06120427*	102901	\$56.00	\$35.91	OR St. L
06020321	93198	\$314.00	\$204.67	OR St. L
06030113*	927099	\$47.84	\$111.12	OR St. L
07040825*	Not on Policy	\$213.20	\$137.62	OR St. L
07040825*	Not on Policy	\$2.25	\$3.00	OR St. L
06020400*	SV00091497	\$198.00	\$127.55	OR St. L
07010538	MM00103809	\$21.00	\$48.75	OR St. L
06010179	SV00088658	\$342.50	\$371.30	OR St. L
06010179*	MM00088657	\$2.25	\$3.00	OR St. L
06090367*	Not available	\$101.61	\$167.30	OR St. L
06090367*	MM00098959	\$23.10	\$29.70	OR St. L
L20235	MM6278400	\$88.33	\$125.70	Mid-West
06203067	MM6091660	\$121.52	\$145.20	Cape Girardeau
0716729	SV44721506	\$87.60	\$157.80	Boone Central
PL-55679	SV04673617	\$197.68	\$151.68	KC Title
JA-61478*	MM06435037	\$23.80	\$30.60	KC Title
CA-54955	MM6434305	\$69.91	\$188.50	KC Title
CA-54955*	MM06434472	\$39.95	\$82.50	KC Title
32696*	MM06266448	\$51.30	\$10.05	Title Searches Inc.
52833	SV04711020	\$118.80	\$198.00	Cole County
051436-9436	SV4718982	\$44.88	\$57.84	Tri-County
MK-06-28697*	SV04638042	\$109.00	\$95.70	Title Pros
06050461	SB0046981	\$251.87	\$75.57	OR KC
06050461*	MM00046988	\$7.50	\$3.00	OR KC
06080049	MM00047683	\$150.00	\$45.00	OR KC
06050339	SB0046583	\$400.00	\$135.50	OR KC
06050339*	MM0046583	\$7.50	\$3.00	OR KC

<u>File No.</u>	<u>Policy</u>	<u>Amount Listed on Policy</u>	<u>Filed Risk Rate</u>	<u>Agent</u>
05110458	SB00043874	\$351.00	\$58.75	OR KC
05110458*	LTSF00042072	\$7.50	\$3.00	OR KC
06080259	MM00047087	410.90	152.46	OR KC
06110251	LTSF00049528	\$335.20	\$100.74	OR KC
06110401	LTSF00050420	\$323.56	\$96.58	OR KC
07040486	LTSF00051728	\$192.50	\$57.75	OR KC
07010199	LTSF00050806	\$162.50	\$48.75	OR KC

In the following files, the agency agreement between the underwriter and the agent, Title Pros, specifies that the agency is to pay the company 15% of the total amount of its charges for each policy issued. The agency's total charges for issuance of the policy include, but are not the same as, the risk rate filed with the Director. The risk rate filed with the Director is to include any commission paid to the agent for the issuance of the policy. The underwriter must charge the risk rate filed with the DIFP. In these instances, the amount charged as the risk rate was not the same as that filed with the DIFP.

Reference: Section 381.181, RSMo, and 20 CSR 500-7.100

<u>File No</u>	<u>Amount Remitted to Company</u>	<u>Premium calculated with Filed Risk Rate</u>
MK0628697	14.25	3.00
KD0629455	14.25	3.00
MK0739162	91.20	

c. Total Charges

No policy, standard form endorsement, or simultaneous instrument which provides title insurance coverage shall be issued unless it contains the total amount paid for the issuance of the policy and the risk rate. Charges include, but are not limited to, fees for document preparation, fees for the handling of escrows, settlements or closing. In the following 24 files, the agency's charges listed on the policy were different from the correct charges as defined by statute.

Reference: Sections 381.181, 381.031.4 &14, RSMo, and 20 CSR 500-7.100(3)(B), 20 CSR 500-7.100(1)(B)

<u>File No.</u>	<u>Policy</u>	<u>Total Charges on Policy</u>	<u>Correct Total Charges</u>	<u>Agent</u>
5889777*	MPMM06499791	\$330.70	\$420.70	Home Connects
5865059	MPMM08084	Not Shown	\$389.50	Chesapeake
20118413	MPMM08098692	Not Shown	\$419.50	Nationwide
CL-64631*	MPMM06625396	\$500.00	\$225.00	KC Title
32696*	OPSV04293418	\$150.00	\$125.00	Title Searches
	MPMM06266448	\$150.00	\$25.00	
CA54955*	MPMM6434305	\$470.00	\$215.00	KC Title
JA61478*	MPMM6435036	\$470.00	\$215.00	KC Title
	MPMM06435037	\$125.00	\$0	
PL55679*	OPSV04673617	\$591.00	\$441.00	KC Title
	MPMM06419184	\$470.00	\$215.00	
PL46789	OPSV04569300	\$495.00	\$345.00	KC Title
CA45114	MPMM06240606	\$460.00	\$205.00	KC Title
	OPSV04537971			
CL60135	OPSV04675898	\$495.00	\$345.00	KC Title
	MPMM06434697	\$470.00	\$215.00	
CL53981	OPSV04673770	\$831.00	\$681.00	KC Title
	MPMM06419231			
CL55164	MPMM06418851	\$470.00	\$215.00	KC Title
	OPSV04632546			
CL45275	OPSV04537619	\$539.00	\$389.00	KC Title
	MPMM06240788	\$460.00	\$205.00	
CL49903	OPSV04592166	\$777.00	\$447.00	KC Title
	MPMM06324345	\$310.00	\$205.00	
JA55433	OPSV04673579	\$735.00	\$405.00	KC Title
	MPMM06418830	\$470.00	\$215.00	
JA59031	MPMM06624791	\$470.00	\$215.00	KC Title
	OPSV04755921			
JA59837	OPSV04675714	\$615.00	\$465.00	KC Title
	MPMM06434379	\$470.00	\$215.00	
KC50758	OPSV04630691	\$495.00	\$345.00	KC Title
	MPMM06360333	\$470.00	\$215.00	
JA62938	OPSV04756165	\$681.00	\$531.00	KC Title
IN44716	OPSV04537589	\$609.00	\$459.00	KC Title
IN50722	OPSV04630766	\$651.00	\$501.00	KC Title
	MPMM06360466	\$460.00	\$205.00	
IN51906	MPMM06417660	\$470.00	\$215.00	KC Title
IN53817	OPSV04632461	\$555.00	\$405.00	KC Title
	MPMM06418451	\$470.00	\$215.00	

d. Improper fees

In the following file, the agent, who is not an attorney, charged a fee for deed preparation. Only attorneys may charge fees for deed preparation in Missouri.

Reference: Sections 484.010 and 484.020, RSMo. See also, *Eisel v. Midwest Bankcentre*, 230 S.W.3d 335, (Mo. 2007)

<u>File No</u>	<u>Agent</u>
20118413*	Nationwide Appraisal Services

e. Miscellaneous

Evidence provided to the examiners was insufficient to determine whether the Company performed an appropriate search of title and insurability of title in accordance with sound underwriting practices prior to issuing the policy.

Reference: Sections 381.071.1(1), and (2), RSMo

<u>File No.</u>	<u>Agent</u>
5575033	ATM-Residential Essentials

The agent failed to make an affidavit specifying the evidence used for examination of title in the following file. In addition, the company had not posted an affidavit filed with the DIFP specifying the evidence used for examination in instances where the method employed is always the same.

Reference: 20 CSR 500-7.200

<u>File No.</u>	<u>Agent</u>
32696*	Title Searches, Inc.

The agent searched the title in the following file to a date in 1977. It appears that all of the recorded conveyances up to the insured transaction recorded in 2006 were by quit claim deed or a trustee's deed in foreclosure. A search need not go back to the warranty deed to be consistent with sound underwriting. However, property with multiple quit claim deeds and foreclosures raises red flags that should be addressed.

The individual whose title was foreclosed in 2005 had been married in 1997. There is no indication of divorce in the file. The 2001 mortgage that was foreclosed in 2005 apparently was not executed by a spouse. The agent did not search for judgments or miscellaneous matters under the name of the foreclosed prior owner or his former spouse.

The examination of title was not adequate to establish marketability of title. The examination was not in accordance with sound underwriting practices. The examination was not sufficient to assure that all recorded and known matters affecting title would be reported in the owner's policy of title insurance.

Reference: Sections 381.071.1(2), and 2, RSMo

<u>File No.</u>	<u>Agent</u>
32696*	Title Searches, Inc.

The policy includes exceptions in addition to the standard exceptions which are not appropriate in a policy already containing all the company's standard exceptions, in that they create ambiguities in the coverage offered by the policy.

Reference: Sections 381.071.1(2), RSMo

<u>File No.</u>	<u>Agent</u>
H6-70049	Regional Title

In the following file, the agent omitted an open mortgage from a revised version of the commitment to insure, on the basis of a credit report showing a zero balance for the loan. Information from a credit report is not a sound basis for omission of a recorded encumbrance on the title.

Reference: Section 381.071.1(2), RSMo

<u>File No.</u>	<u>Agent</u>
5865059*	Chesapeake

### **C. Practices Not in the Best Interest of the Consumer**

#### **a. Underwriting and Rating**

The following practices are considered not in the best interest of the consumer. They may not rise to the level of unsound underwriting. However, they may be harmful to the insured and expose the company to potential claims.

The errors are as follows.

Schedule B-I of the following policy includes an exception for community property, dower, courtesy, survivorship, or homestead rights "of any spouse of the parties herein." Missouri is not a community property state and, dower and courtesy have not existed in Missouri since 1956. The vested owner is a tenancy by the entirety, of which both

members are named as grantors in and executed the deed of trust. In the context of the policy the phrase "parties herein" as used in the exception is confusing. The exception is not appropriate.

Schedule B-I of the policy contains the following exception: "This policy specifically excepts any loss or damage the insured may sustain arising from the type of tenancy as stated herein, or as said tenancy may actually be stated in the public records." A loss might arise by reason of an incorrect interpretation of the effects of a particular tenancy but would not arise from the "type" of tenancy. This exception is confusing, is not based on the state of the title itself, and is not specific to the transaction.

It is not in the best interest of consumers to include exceptions in the policy that are not clear and specific.

<u>File No.</u>	<u>Policy No.</u>	<u>Agent</u>
20118413*	MM08098692	Nationwide

The search of title in this file was extended to the time of the seller's acquisition of title in 1952. The Company made use of a commitment to insure issued in a "sister" file for additional information and copied several exceptions from that commitment. The exceptions copied include three sewer easements and a restriction document. One of the sewer easements reported is within the period of the chain of title used in this examination but does not appear within the chain. The property described in the "sister" file is located on the opposite side of the street from the subject property. There is no basis in this file for a conclusion that any of the reported easements in the "sister" file affect the subject property, nor that the excepted restrictions are applicable to this particular lot. The examiner is aware that many properties in this subdivision are encumbered by easements for sewers but the examination in this file was not sufficient to identify which, if any, such easements affect this property. It is not in the best interest of the consumer to fail to conduct a search of title sufficient to assure that all matters recorded and affecting title were reported.

<u>File No.</u>	<u>Agent</u>
07030435*	OR St. L

The following file contains a deed with an inaccurate legal description. It is not in the best interest of consumers to adopt a land description that creates confusion as to the boundaries of the land described.

<u>File No.</u>	<u>Agent</u>
CA-45114*	KC Title



In the following transaction, the purchaser was identified as TXX PoXXX or his assigns. The purchase price specified by the contract was \$525,000.00. Title at closing was conveyed to GXXXX BXXX and Cxxxxxx Bxxxxx, husband and wife, as to an undivided ½ interest, and TXX PoXXX and Lxxx PoXXX, husband and wife as to an undivided ½ interest. The agent accepted escrow deposits for the transaction in the amount of \$5,000.00 drawn on an account of PoXXX Excavating. This company was established as a Missouri limited liability company about one month after the closing of this transaction. The agent accepted additional escrow deposits in the amount of \$122,464.50 drawn from an account of an asphalt corporation. The interests of these entities are not accounted for or specified in the title or the escrow transaction. Additionally, these interests are not accounted for in the policy of title insurance. It is not in the best interest of consumers to fail to account for the interests of parties participating in an escrow transaction.

File No.                      Agent  
 0702085-12660\*      Tri-county

b.      Failure to Issue Policy in a Timely Manner

This practice is considered not in the best interest of the consumer. This is not a violation of any statute or regulation. However, the delay may not be in the best interest of consumers. The underwriter is not aware of reportable premium until the policy is issued and may be unable to promptly pay premium taxes when due. The Company has not fully complied with record maintenance obligations until the policy has been issued. In addition, the insured does not receive notice of how to file a claim or the address and phone number of the underwriter until the policy is issued.

Note: SB 66, Section 381.038.3, RSMo (eff. 1/1/08) and 20 CSR 500-7.090 (eff. 1/28/08) requires insurers to issue their policy within 45 days after completion of all requirements of the commitment for insurance.

<u>File No.</u>	<u>Policy Number</u>	<u>Date co. had enough info. to Issue</u>	<u>Date Issued</u>	<u>No. of Days to Issue</u>	<u>Agency</u>
ST. L-060407598	OPSV00095337 MPMM00095337	5-9-06	9-22-06	136	OR St. L
STC-06020321	OPSV00093198 MPMM00093197	03-01-06	07-01-06	122	OR St. L
JEF-06030113-T	MPMM00092709	6-2-06	4-1-07	303	OR St. L
L-20235	MPMM6278400	03-27-06	07-31-06	126	Mid-West
06-599	OPSV665120 MPMM6495229	7-17-06	01-02-07	169	Mo Central

<u>File No.</u>	<u>Policy Number</u>	<u>Date co. had enough info. to Issue</u>	<u>Date Issued</u>	<u>No. of Days to Issue</u>	<u>Agency</u>
06-814	OPSV4665087 MPMM6495169	10-11-06	1-2-07	83	Mo Central
0706-800	OPSV4637472	8-31-06	02-01-07	154	County Wide Abstract
103397	OPSV4471518 MPMM6207887	08-03-06	12-06-06	125	Hillsboro Title
060757388	OPSV4471425 MPMM6207744	06-28-06	10-12-06	106	Hillsboro Title
ST. L-06110386-8	OPSV00100221 MPMM00100220	12-07-06	02-07-07	62	OR St. L
06090367	MM00098959	10-14-06	01-08-07	76	OR St. L
06020400	OPSV00091497 MPMM00091496	03-23-06	06-07-06	76	OR St. L
06040405	OPSV00095172 MPMM00095171	05-11-06	09-21-06	133	OR St. L
CL-55164	OPSV04632546 MPMM06418851	10-13-06	01-02-07	81	KC Title
CL-53981	OPSV04673770 MPMM06419231	11-08-06	01-15-07	68	KC Title
CA-45114	OPSV04537971 MPMM06240606	3-3-06	01-30-07	333	KC Title
JA-55433	OPSV04673579 MPMM06418830	10-10-06	01-02-07	84	KC Title
KC-50758	OPSV04630691 MPMM06360333	06-21-06	08-22-06	62	KC Title
PL-55679	OPSV04673617 MPMM06419184	10-30-06	01-02-07	64	KC Title
MK-06-28697	OPSV04638042 MPLTSF01293269	11-1-06	02-05-07	96	Title Pros
051436-9436	OPSV4718982 MPMM06375263	03-13-06	01-09-07	302	OR St. L
20118413	MPMM08098692	6-19-06	02-01-07	227	Nationwide
52833	OPSV04711020 MPLTSF01025798	11-1-06	02-05-07	96	Cole County
06020744	OPSV00092702 MPMM00092701	03-22-06	06-27-07	97	OR St. L
06050339	OPSB00046582 MM00046583	5-30-06	8-4-06	66	OR KC

### III. Claims Practices

In this section, examiners review the claims practices of the Company to determine the efficiency of handling, accuracy of payment, adherence to contract provisions, and compliance with Missouri statutes and department regulations. A claim file, as a sampling unit, is an individual demand for payment or action under an insurance contract for benefits that may or may not be payable. The most appropriate statistic to measure compliance with the law is the percent of files in error. An error can include, but is not limited to, any unreasonable delay in the acknowledgment, investigation, payment, or denial of a claim. Errors also include the failure to calculate benefits correctly or to comply with Missouri laws regarding claim settlement practices.

ORNTIC provided their claim data in the three categories, active, closed without payment, and closed with payment. Separate samples were reviewed for each category.

#### A. Claim Time Studies

In determining efficiency, examiners look at the duration of time the Company used to acknowledge the receipt of the claim, the time for investigation of the claim, and the time to make payment or provide a written denial. DIFP regulations define the reasonable duration of time for claim handling as follows: (1) payment or denial of claim within 15 working days after the Company completes investigation; and (2) settlement of the claim within 30 days of the receipt of all necessary documentation to determine liability. When the Company fails to meet these standards, examiners criticize files for noncompliance with Missouri laws or regulations.

##### 1. Active

Field Size:	139
Sample Size:	50
Type of Sample:	Systematic

The following are the results of the time studies.

#### Acknowledgement Time-Active

Number of Errors:	10
Error Rate:	20%
Within Dept. Guidelines:	No

The examiners noted the following errors in this review.

The Company failed to acknowledge the following claims within 10 working days of notification of the claim. The claim is received when the agent is notified.

Reference: 20 CSR 100-1.010(1)(G), and 20 CSR 100-1.030 (1)

<u>Claim</u>	Received Notice of <u>Claim</u>	Date <u>Acknowledged</u>	<u>Days</u>
93919	1-17-05	2-4-05	12
104137	4-24-06	None	
110077	12-14-06	1-5-07	15
113903	4-25-07	5-23-07	19
114834	6-8-07	None	
105143	6-8-06	6-26-06	12
77389	1-20-04	2-6-04	13
105594	6-15-06	7-17-06	21
113458	11-16-04	5-9-07	877

The Company failed to respond within 10 working days to several communications from the claimant which suggested a response was expected. The insured's representative sent e-mail requests for updates of the status of the claim on 7-24-07, 8-6-07, 8-17-07 and 8-24-07. None of these requests for an update were responded to within 10 business days.

Reference: Section 375.1007(2), RSMo, and 20 CSR 100-1.030(2)

Claim  
114426

**Determination Time-Active**

Number of Errors: 2  
 Error Rate: 4%  
 Within Dept. Guidelines Yes

The examiners noted the following errors in this review.

The Company failed to accept or deny the following claims within 15 days after all forms necessary to establish the nature and extent of the claim. The Company's agent had all the documents necessary to establish the nature and extent of the claims on the day the claims were received but failed to do so.

Reference: 20 CSR 100-1.040, and 20 CSR 100-1.050(1)(A)

<u>Claim</u>	All Docs <u>Received</u>	<u>Date Accepted</u>	Calendar <u>Days</u>
114834	6-8-07	Not Accepted	
105143	6-21-06	9-25-06	59

**Investigation Time-Active**

Number of Errors: 6  
Error Rate: 12%  
Within Dept. Guidelines No

The examiners noted the following errors in this review.

The Company failed to complete the following investigations within 30 days of the initial notification of the claim. There is no indication that the investigations could not be completed in 30 days.

Reference: Section 375.1007(3), RSMo, and 20 CSR 100-1.040

<u>Claim</u>	<u>Claim Received</u>	<u>Investigation Complete</u>	<u>Days</u>
105594	6-15-06	No	
113458	11-16-04	5-9-07	861
114426	6-11-07	No	
109031	11-21-06	No	

The company failed to inform the insured within 45 days of receipt of the initial claim of the cause of any delay in its investigation of the following claims.

References: Section 375.1007(4), RSMo, and 20 CSR 100-1.050(1)(C)

<u>Claim</u>	<u>Claim Received</u>	<u>Missed 45 day letters</u>
114426*	6-11-07	7-26-07 9-9-07 10-24-07
111830	2-26-07	4-12-07 5-27-07 6-12-07
107529	9-15-06	8-30-06 10-15-06 11-30-06 1-15-07 3-2-07 4-17-07 6-2-07
109031*	11-21-06	11-21-06 1-5-07 2-19-07 4-5-07 5-20-07 7-4-07 8-18-07 10-2-07 11-16-07 12-31-07

## 2. Closed Without Payment

Field Size: 164  
Sample Size: 50  
Type of Sample: Systematic

The following are the results of the time studies.

### Acknowledgement Time-Closed Without Payment

Number of Errors: 3  
Error Rate: 6%  
Within Dept. Guidelines Yes

The examiners noted the following errors in this review.

The Company failed to acknowledge the following claims within 10 working days of notification of the claim. The claim is received when the agent is notified.

Reference: 20 CSR 100-1.010(1)(G), and 20 CSR 100-1.030 (1)

<u>Claim</u>	Received Notice of <u>Claim</u>	Date <u>Accepted</u>	<u>Days</u>
101477	1-19-06	2-8-06	14
10254	3-6-06	4-5-06	22

The Company failed to respond within 10 working days to two communications from the claimant which suggested a response was expected.

Reference: Section 375.1007(2), RSMo, and 20 CSR 100-1.030(2)

Claim  
108089

**Determination Time-Closed Without Payment**

Number of Errors: 3  
Error Rate: 6%  
Within Dept. Guidelines Yes

The examiners noted the following errors in this review.

The Company failed to pay or deny the following claims within 15 days after all forms necessary to establish the nature and extent of the claim. The Company's agent had all the documents necessary to establish the nature and extent of each claim on the day the claim was received but failed to do so.

Reference: 20 CSR 100-1.040, and 20 CSR 100-1.050(1)(A)

<u>Claim</u>	All Docs <u>Received</u>	Date Accepted or <u>Denied</u>
113244	5-18-0	Not accepted or denied
110992	3-2-07	Not accepted or denied
108089	5-13-05	Not accepted or denied

**Investigation Time-Closed Without Payment**

Number of Errors: 0  
Error Rate: 0%  
Within Dept. Guidelines Yes

The examiners noted no errors in this review.

**3. Closed With Payment**

Field Size: 101  
Sample Size: 50  
Type of Sample: Systematic

The following are the results of the time studies.

**Acknowledgement Time-Closed With Payment**

Number of Errors: 6  
Error Rate: 12%  
Within Dept. Guidelines No

The examiners noted the following errors in this review.

The Company failed to acknowledge the following claims within 10 working days of notification of the claim. The claim is received when the agent is notified.

Reference: 20 CSR 100-1.010(1)(G), and 20 CSR 100-1.030 (1)

<u>Claim</u>	Received Notice of <u>Claim</u>	Date <u>Accepted</u>	<u>Days</u>
90630	11-1-04	1-28-05	57
90497	12-9-04	1-27-05	26
97600	6-7-05	9-15-05	70
104878	5-23-06	6-13-06	14
104856	5-9-06	6-13-06	24
95935	5-9-05	8-1-05	58



**Determination Time-Closed With Payment**

Number of Errors: 1  
Error Rate: 2%  
Within Dept. Guidelines Yes

The examiners noted the following error in this review.

The Company failed to accept or deny the following claim within 15 days after receipt of all forms necessary to establish the nature and extent of the claim. The Company had all the documents necessary to establish the nature and extent of the claim on the day the claim was received.

Reference: Section 375.1007(2), RSMo, and 20 CSR 100-1.040, and 20 CSR 100-1.050(1)(A)

<u>Claim</u>	<u>All Docs Received</u>	<u>Date Accepted</u>	<u>Days</u>
104856	6-5-06	8-1-06	35

**Investigation Time-Closed With Payment**

Number of Errors: 0  
Error Rate: 0%  
Within Dept. Guidelines yes

The examiners noted no errors in this review.

**B. General handling practices**

In addition to the Claims Time Studies, examiners reviewed the Company's claims handling processes to determine adherence to unfair claims statutes and regulations and to contract provisions.

**1. Active**

Field Size: 139  
Sample Size: 50  
Type of Sample: Systematic  
Number of Errors: 6  
Error Rate: 12%  
Within Dept Guidelines: No

NOTE: A star (\*) after a policy number denotes this policy was cited earlier in the same error ratio for a different error, but was only counted once in the number of errors.

In the following files, the Company failed to maintain its books, records, documents and other business records in a manner so that the examiner could readily ascertain claims handling practices as applied in this file.

Reference: 20 CSR 300-2.200(2), and (3)(B)

Claim Number

113643  
103055  
111788

The company failed to adopt and implement reasonable standards for the settlement of the following claim. Having accepted the claim, the Company has the option to establish the title insured in order to prevent or reduce loss, or the Company may settle the claim as otherwise permitted by the terms of the policy. In this case, the Company took no action.

Reference: Section 375.1007(3), RSMo

Claim Number

114426

The agent failed to fully advise the insurer of the status of the title insured which caused the insurer to fail to fully disclose to a first party claimant all of the coverage offered by the policy under which the claim was presented.

Reference: Section 375.1007(1), RSMo, and 20 CSR 100-1.020(1)

Claim Number

106477  
100803

The Company failed to initially settle the following claim on the basis that responsibility for payment should be assumed by others.

Reference: 375.1007(4), RSMo, and 20 CSR 100-1.050(1)(D)

Claim Number

100803\*

## 2. Closed Without Payment

Field Size:	164
Sample Size:	50
Type of Sample:	Systematic
Number of Errors:	2
Error Rate:	4%
Within Dept Guidelines:	Yes

NOTE: A star (\*) after a policy number denotes this policy was cited earlier in the same error ratio for a different error, but was only counted once in the number of errors.

The following errors were found in this review.

The following claim file failed to contain sufficient notes and work papers in sufficient detail that pertinent claim dates could be reconstructed. ORNTIC received a fax dated 10-5-05 indicating a loan payment had been overlooked. There is no indication the claim was investigated or acknowledged until a letter dated 12-13-05 demanded the seller to pay the balance of the loan. It is also unclear if the file has been closed without payment, or if it has been reopened. There is no clear date that the Company accepted or denied the claim and no record of correspondence between the insured and Old Republic.

Reference: 20 CSR 300-2.100 and 20 CSR 300-2.200(2)

Claim Number  
100124

In the following claim file, the Company failed to notify the claimant of the denial in writing and failed to specify the policy provision under which the claim was denied.

Reference: Section 375.1007(4), and (7), RSMo, and 20 CSR 100-1.050(1)(A)

Claim Number  
108089

In the following claim, the insurer denied coverage because the policy did not provide coverage for survey matters, when in fact it did. The claim was very likely covered by the policy. The assertion by the insurer that the policy did not provide coverage for survey matters is a failure by the insurer to fully disclose to the insured all pertinent benefits, coverage or other provisions of the insurance policy.

Reference: Section 375.1007 (1), RSMo, and 20 CSR 100 - 1.020 (1)

Claim Number  
108089\*

The Company failed to settle the following claim on the basis that responsibility for payment should be assumed by others.

Reference: Section 375.1007 (4), RSMo, and 20 CSR 100-1.050 (1) (D)

Claim Number

108089\*

The following claim file contained an underwriting violation. Therefore, this error is not included in the error ratio. In this file, the Company insured the lender without a legal description on the deed of trust. The Company is in violation of sound underwriting practices by insuring without a legal description on the deed of trust. A title is not marketable and cannot be conveyed when omitting the legal descriptions from the deed of trust. No title insurance policy shall be written unless and until the title insurer, title agent or agency has made a determination of insurability of title in accordance with sound underwriting practices.

Reference: Section 381.071.1(2), RSMo

Claim Number

105968\*

**3. Closed With Payment**

Field Size:	101
Sample Size:	50
Type of Sample:	Systematic
Number of Errors:	1
Error Rate:	2%
Within Dept Guidelines:	Yes

The examiners found the following error in this review.

The following claim file does not contain notes and work papers in sufficient detail that pertinent claim dates can be reconstructed. There is no indication that the claim was ever acknowledged or that investigation letters were ever sent to the consumer in question. The claimant filed a complaint with the Better Business Bureau on July 15, 2005.

Reference: 20 CSR 300-2.100, and 20 CSR 300-2.200(2)

Claim Number

97600

## **IV. Consumer Complaints**

This section of the report is designed to provide a review of the company's complaint handling practices. Examiners reviewed how the Company handles complaints to ensure it was performing according to its own guidelines and Missouri statutes and regulations.

Section 375.936(3), RSMo, requires the company to maintain a registry of all written complaints received for the last three years by. The registry must include all Missouri complaints, including those sent to the DIFP and those sent directly to the company. The examiners requested the complaint registry.

Old Republic had five complaints on their registry for the time period reviewed. The examiners noted no errors in the Company's handling of those complaints.

## **V. Unclaimed Property**

The examiners conducted a review of the ORNIC's procedures for recording and reporting unclaimed property to determine compliance with Missouri's Uniform Disposition of Unclaimed Property Act, Section 447.500 et seq., RSMo.

The Company provided their unclaimed property reports for 2004, 2005 and 2006. The Company indicated they file their report in Minnesota and the Missouri unclaimed property is contained in that filing. The company indicated Missouri and Minnesota have a reciprocity agreement which allows them to file in Minnesota. The only Missouri property reported was in the 2004 report in the amount of \$225.00 belonging to Search Express in St. Charles, Missouri.

The examiners noted no errors in the Company's handling of unclaimed property.

## **VI. Formal Requests and Criticisms Time Study**

This study is based upon the time required by the Company to provide the examiners with the requested material or to respond to criticisms.

### **A. Criticism time study**

<u>Calendar Days</u>	<u>Number of Criticisms</u>	<u>Percentage</u>
0 to 10	84	100%

References: Section 374.205.2(2), RSMo and 20 CSR 300-2.200(5) and (6)

**B. Formal request time study**

<u>Calendar Days</u>	<u>Number of Requests</u>	<u>Percentage</u>
0 to 10	10	100.0%


References: Section 374.205.2(2), RSMo and 20 CSR 300-2.200(5) and (6)

The Company responded to all the examiners' criticisms and requests within the requisite time frame.

## SUBMISSION

Examiners respectfully submit this Market Conduct examination report of Old Republic Title Insurance Company to the Director of the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri.

Martha A. Burton, CIE, participated in this examination as the Examiner in Charge. Joseph Ott and Ted Greenhouse participated in the examination and helped in the preparation of this report.

  
\_\_\_\_\_  
Martha A. Burton, CIE  
Examiner-In-Charge

Date: 12/12/08

**VERIFICATION OF WRITTEN REPORT SUBMISSION**  
**AFFIDAVIT**

Before me, the undersigned authority, personally appeared Martha A. Burton, being duly sworn and deposed stated as follows:

1. My name is Martha A. Burton. I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.
2. I am the Examiner In Charge duly appointed by the Director of the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri to examine the business affairs and market conduct of the Old Republic Title Insurance Company that has been granted authority to transact the business of insurance in the State of Missouri.
3. Attached hereto and containing 25 pages is my examination report of the Old Republic Title Insurance Company.
4. This examination report was produced in observation of those guidelines and procedures set forth in the Examiners Handbook adopted by the National Association of Insurance Commissioners and such other guidelines and procedures adopted by the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri.
5. This examination is comprised of only facts appearing upon the books, records, or other documents of the Company, its producer or other persons examined, or as ascertained from the testimony of its officers or producers or other persons examined concerning its affairs, and such conclusions as reasonably warranted from the facts.

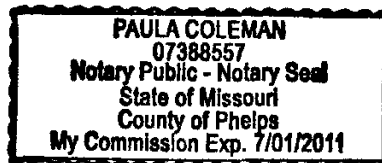
Martha A. Burton

Martha A. Burton, Examiner In Charge  
Missouri Department of Insurance, Financial Institutions and Professional Registration

State of Missouri  
County of Phelps

Subscribed and sworn to before me on 12/12 2008  
My commission expires 7/1/11.

Paula Coleman  
Notary Public





## SUPERVISION

The examination process has been monitored and supervised by the undersigned. The examination report and supporting work papers have been reviewed and approved. Compliance with NAIC procedures and guidelines as contained in the Market Conduct Examiners Handbook has been confirmed.



Win Nickens, JD, CIE, CPCU,  
Property and Casualty Audit Manager  
Missouri Department of Insurance

12-19-8

Date