

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Escrow Agent License of)
FIRST AMERICAN TITLE INSURANCE) STIPULATED FINAL ORDER
COMPANY)

The Oregon Real Estate Agency (OREA) and First American Title Insurance Company (First American) in order to avoid the expense and risks of hearing and appeals do hereby agree to resolve this case and stipulated that the following findings, conclusions and order may be entered.

FINDINGS OF FACT
&
CONCLUSIONS OF LAW

1.

1.1 At all times mentioned herein, First American was licensed as an escrow agent in Oregon.

1.2 On August 28, 2019, the Oregon Department of Consumer and Business Services forwarded a complaint filed by Robert Griffin.

1.3 Griffin and Patricia O'Brien (O'Brien) as required by their Dissolution of Marriage General Judgement (Divorce Decree), signed December 2018, were required to sell the real property located at 256 NE Kingwood Ct. in McMinnville, OR (subject property).

1.4 On May 7, 2019, Griffin and O'Brien signed a purchase and sale agreement to sell the property to Eric Colvin (Colvin). The sales agreement noted this transaction would close at "First American Title Company- Michelle Gregor." Closing was to occur on or before June 20, 2019.

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1 1.5 Per the divorce decree credit card debt was to be paid from the sale's proceeds.
2 The divorce decree was included in the escrow file and listed out 4 specific credit card
3 accounts.

4 1.6 Michelle Gregor explained they (First American) sometimes will work with sellers
5 to pay credit cards from sales proceeds. Per Gregor, O'Brien gave First American a
6 handwritten document, naming the credit cards to be paid with account numbers and
7 addresses. The credit cards listed on the note corresponded with those found in the divorce
8 decree with an additional account noted. The handwritten note was initialed as "Read &
9 Approved," by Griffin and O'Brien, however it was not dated. First American had no other
10 record of when O'Brien dropped off the handwritten document.

11 1.7 The transaction closed on June 7, 2019. The remaining proceeds (after payoffs
12 to the credit card debt) were to be split 50/50 between Griffin and O'Brien per the divorce
13 decree.

14 1.8 Griffin's proceeds were sent to him via wire transfer, while O'Brien picked up a
15 physical check from First American on June 10, 2019. When O'Brien came in to pick up her
16 check, First American had her signed a "Credit Card and Other Debt Payment Authorization"
17 form (Payment Authorization).

18 1.9 The Payment Authorization form stated the conditions in which First American
19 will pay credit cards or other personal debts. The form stated the following in part:
20 "Settlement Agent is making these payments strictly as an accommodation, is not
21 responsible or liable for any payments made in accordance with these instructions, and
22 will not be liable for any sums whatsoever, including interest, penalties or late charges,
23 resulting from any sum not being paid, accepted or properly applied, any delay in
24 payment, any payment being insufficient to pay the Debt in full, or any overpayments."
25 And
26 "Seller agrees to indemnify and hold harmless Settlement Agent from any liability
27 Settlement Agent may incur in connection with any Debt or any disbursement or
28 attempted disbursement contemplated by this document."

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1 **(1) Violation:** By having O'Brien sign the Credit Card and Other Debt Payment
2 Authorization form First American violated ORS 696.581(8)(b) (2019 Edition), which states: (8)
3 except as authorized in ORS 105.475, notwithstanding the requirement for dated, separate
4 escrow instructions to close an escrow or disburse funds or property in an escrow, an escrow
5 agent: (b) may not impose additional requirements on the principals to the transaction,
6 including a requirement that the principals sign a release of liability in favor of the escrow
7 agent.

8 1.10 On June 12, 2019, First American received an invoice from American Home
9 Shield, for a home warranty to be paid by the sellers as agreed to in the sales agreement.
10 Michelle Gregor stated the home warranty is typically paid at closing but this one was
11 overlooked. First American paid for the Home Warranty on June 20, 2019, after O'Brien and
12 Griffin each paid \$297.50 on June 13, 2019 and June 20, 2019.

13 **(2) Violation:** By failing to pay the home warranty, at closing, as agreed to in the sales
14 agreement and by neglecting to date the seller's modified instructions (described in paragraph
15 1.6), First American violated ORS 696.581(2) (2019 Edition), which states: except as provided
16 in this section, an escrow agent must follow dated, written escrow instructions executed by the
17 principals or a dated executed written agreement between the principals to a transaction.

18 STIPULATION & WAIVER

19 I have read and reviewed the above findings of fact and conclusions of law which have
20 been submitted to me by OREA and further, the order which follows hereafter. I understand
21 that the findings of fact, conclusions of law and this stipulation and waiver embody the full and
22 complete agreement and stipulation between OREA and First American. I further understand
23 that if First American does not agree with this stipulation First American has the right to
24 request a hearing on this matter and to be represented by legal counsel at such a hearing.
25 Hearings are conducted in accordance with the procedures set forth in ORS Chapter 183 and
26 in accordance with the Rules of Practice and Procedure adopted by the Attorney General of
27 the State of Oregon. First American freely and voluntarily waives its rights to a hearing, to
28 representation by legal counsel at such a hearing, and to judicial review of this matter.

29 First American neither admits or denies to the above findings of fact and conclusions of
30 law and understands that the order which follows hereafter may be completed and signed by

1 the Real Estate Commissioner or may be rejected by the Real Estate Commissioner. I
2 understand that, in accordance with the provisions of ORS 696.445(3), notice of this order
3 shall be published in the Oregon Real Estate News Journal.

4 First American agrees to enter into this Stipulated Order to resolve this matter and
5 further acknowledges and agrees once the Commissioner executes this stipulated order, that it
6 will accept service of the final order by email, and hereby waives the right to challenge the
7 validity of service.

8
9 ORDER

10 IT IS HEREBY ORDERED that, pursuant to ORS 696.585 and based upon the
11 violation(s) set forth above, First American pay a civil penalty in the sum of \$3,000.00, said
12 penalty to be paid to the General Fund of the State Treasury by paying the same to the OREA.

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14 IT IS SO STIPULATED:

IT IS SO ORDERED:

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16 DocuSigned by:
17 By: Matthew B. Sager
18 Matthew B. Sager
DB925199EF714EB...

DocuSigned by:
Steven Strode
STEVEN STRODE
D141D267DDE14A0...

19 Title: Sr. Operations Counsel
20 First American Title Insurance Company
21 Date 8/11/2020 | 3:13 PM PDT

Real Estate Commissioner
Date 8/12/2020 | 10:34 AM PDT

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23 Date of Service: 08/12/2020
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