

STATE OF INDIANA ) BEFORE THE INDIANA  
 ) SS:  
COUNTY OF MARION ) COMMISSIONER OF INSURANCE

IN THE MATTER OF: )  
 )  
National Attorneys' Title Assurance Fund, Inc. )  
306 West Pike Street )  
Vevay, Indiana 47043 )

Examination of **National Attorneys' Title Assurance Fund, Inc.**

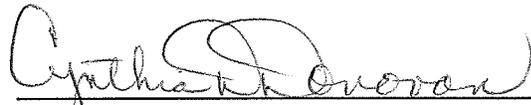
**NOTICE OF ENTRY OF ORDER**

Enclosed is the Final Order entered by Stephen W. Robertson, Commissioner of the Indiana Department of Insurance, after fully considering and reviewing the Verified Report of Examination of **National Attorneys' Title Assurance Fund, Inc.**, any relevant examination work papers, and any written submissions or rebuttals. The Verified Report of Examination, as sent to you on March 11, 2011, has been adopted by the Commissioner.

Pursuant to Ind. Code § 27-1-3.1-12(b), within thirty (30) days of receipt of the Final Order, each director of **National Attorneys' Title Assurance Fund, Inc.** shall file an affidavit with the Indiana Department of Insurance stating that he/she has received a copy of the Verified Report of Examination and the Final Order.

The Final Order is a final administrative decision that may be appealed pursuant to Ind. Code § 4-21.5-5.

6/30/2011  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Cynthia D. Donovan  
Chief Financial Examiner

**CERTIFIED MAIL NUMBER: 7005 3110 0002 4443 8530**

STATE OF INDIANA ) BEFORE THE INDIANA  
 ) SS:  
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National Attorneys' Title Assurance Fund, Inc. )  
306 West Pike Street )  
Vevay, Indiana 47043 )

Examination of **National Attorneys' Title Assurance Fund, Inc.**

### FINDINGS AND FINAL ORDER

The Indiana Department of Insurance conducted an examination into the affairs of the **National Attorneys' Title Assurance Fund, Inc.** (hereinafter "Company") for the time period January 1, 2005 through December 31, 2009.

The Verified Report of Examination was filed with the Commissioner of the Department of Insurance (hereinafter "Commissioner") by the Examiner on February 20, 2011.

A copy of the Verified Report of Examination, along with a Notice of Opportunity to Make Written Submission or Rebuttal, was mailed to the Company via Certified Mail on March 11, 2011 and was received by the Company on March 16, 2011.

The Company did not file any objections.

NOW THEREFORE, based on the Verified Report of Examination, I hereby make the following **FINDINGS**:

1. That the Verified Report of Examination is a true and accurate report of the financial condition and affairs of the **National Attorneys' Title Assurance Fund, Inc.** as of December 31, 2009, except that the Subsequent Events section omits notations of potential claims against the Company resulting from the Accurate Land Title, LLC defalcation.

2. That the Examiner's Recommendations are reasonable and necessary in order for the **National Attorneys' Title Assurance Fund, Inc.** to comply with the laws of the State of Indiana.

Based on the FINDINGS, the Commissioner does hereby ORDER:

1. Pursuant to Ind. Code § 27-1-3.1-11(a)(1), the Verified Report of Examination is adopted and shall be filed. Hereafter the Verified Report of Examination, may constitute prima facie evidence of the facts contained therein in any action or proceeding taken by the Indiana Department of Insurance against the Company, its officers, directors, or agents.
2. The Company shall comply with the Examiner's Recommendations enumerated in summary form and throughout the text of the Verified Report of Examination. A written response to these recommendations should be provided to the Department within 30 days of receipt of this order.
3. Compliance with the Examiner's recommendations shall be completed on or before the filing of the subsequent annual statement. In the event it is not feasible to comply with a recommendation before the filing of the subsequent annual statement, the Company shall submit a written explanation as to why it was not feasible with the filing of the annual statement.

Signed and Sealed this 30<sup>th</sup> day of June, 2011.

  
Stephen W. Robertson  
Insurance Commissioner  
Indiana Department of Insurance

**STATE OF INDIANA**

**Department of Insurance**

**REPORT OF EXAMINATION**

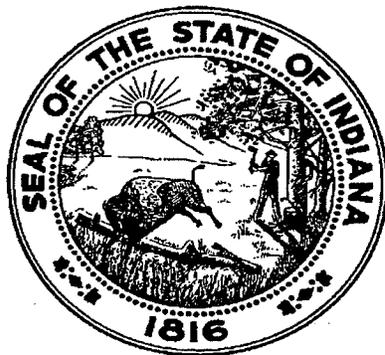
**OF**

**NATIONAL ATTORNEYS' TITLE ASSURANCE FUND, INC.**

NAIC Co. CODE 50938

As of

December 31, 2009



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# STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

# IDOI

**INDIANA DEPARTMENT OF INSURANCE**  
311 W. WASHINGTON STREET, SUITE 300  
INDIANAPOLIS, INDIANA 46204-2787  
TELEPHONE: (317) 232-2385  
FAX: (317) 232-5251

Stephen W. Robertson, Commissioner

February 21, 2011

Honorable Stephen W. Robertson, Commissioner  
Indiana Department of Insurance  
311 West Washington Street, Suite 300  
Indianapolis, IN 46204-2787

Dear Commissioner:

Pursuant to the authority vested in Appointment Number 3648, an examination has been made of the affairs and financial condition of:

**National Attorneys' Title Assurance Fund, Inc.**  
**306 West Pike Street**  
**Vevay, Indiana 47043**

hereinafter referred to as the "Company," an Indiana domiciled stock, abstract, and title insurance company. The examination was conducted at the Company's corporate offices in Vevay, IN.

The Report of Examination, reflecting the status of the Company as of December 31, 2009, is hereby respectfully submitted.

ACCREDITED BY THE  
NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

AGENCY SERVICES  
(317) 232-2413

COMPANY COMPLIANCE  
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CONSUMER SERVICES  
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## SCOPE OF EXAMINATION

The Company was last examined by representatives of the Indiana Department of Insurance (IDOI) as of December 31, 2004. The present examination was conducted by Noble Consulting Services, Inc. (Noble), representing the IDOI, and covering the period from January 1, 2005, through December 31, 2009, including any material transactions and/or events occurring subsequent to the examination date and noted during the course of the examination.

The examination was conducted pursuant to and in accordance with the 2010 NAIC Financial Condition Examiners Handbook. The Handbook requires that we plan and perform the examination to evaluate the financial condition and identify prospective risks of the Company by obtaining information about the Company including corporate governance, identifying and assessing inherent risks within the Company, and evaluating controls and procedures used to mitigate those risks. An examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation, management's compliance with Statutory Accounting Principles and annual statement instructions when applicable to domestic state regulations.

The Company has requested and has been granted an exemption from filing an actuarial opinion for the period covered by this examination due to the limited premium writings of the Company.

## HISTORY

The Company was incorporated on May 2, 1958, as The Indiana Bar Title Insurance Corporation and commenced business writing abstract and title insurance on January 6, 1960. On December 4, 1969, amended Articles of Incorporation were approved and filed with the Indiana Secretary of State for the purposes of changing the name of the Company to its current title and to increase the authorized shares of capital stock.

The Company's ultimate controlling party is Attorneys' Title Insurance Fund, A Business Trust (Florida Fund). The Company became a member of the holding company system as a result of Attorneys' Title Insurance Fund, Inc. purchasing fifty-one percent (51%) of the Class B Voting Stock effective July 28, 1993.

The acquisition of a controlling interest in the Company was part of a strategy by the Florida Fund to consolidate multiple attorney title funds across the United States. As this strategy has not come to fruition, the Florida Fund technically remains the ultimate controlling party but the Company does not maintain a traditional parent-subsidiary relationship with the Florida Fund. The Company operates independently with Board participation and other managerial support from the Florida Fund.

## CAPITAL AND SURPLUS

The Company's Amended Articles of Incorporation state that the authorized capital stock shall be 50,000 shares of Class A Common Stock with a par value of fifty dollars (\$50) per share, 50,000 shares of Class B Common Stock with a par value of fifty dollars (\$50) per share, and 568 shares of preferred stock with a par value of one hundred dollars (\$100) per share. Only holders of the Class B Common Stock have voting rights.

As of December 31, 2009, the Company reported surplus of \$861,298, common capital stock of \$222,850, preferred stock of 36,400 and gross paid in and contributed surplus of \$190,322. As stated above the Florida Fund owns a 51% controlling interest of the voting stock.

### TERRITORY AND PLAN OF OPERATION

The Company is authorized as a title insurer to transact business solely in the State of Indiana. The Company guarantees and insures titles to interests in, and liens upon, real estate through its approximately 75 writing agents, all of whom are attorneys. The Company also provides title search services for its agents, although that portion of the business has decreased during the period of examination.

### GROWTH OF THE COMPANY

The following exhibit, as contained in the Company's filed Annual Statement, summarizes the financial results of the Company during the examination period:

<u>Year</u>	<u>Admitted Assets</u>	<u>Liabilities</u>	<u>Policyholder Surplus</u>	<u>Premium Earned</u>	<u>Net Income</u>
2009	\$ 1,653,582	\$ 342,711	\$ 1,310,870	\$ 749,778	\$ (70,923)
2008	1,622,546	304,036	1,318,511	664,730	(134,369)
2007	1,921,119	354,221	1,566,898	733,437	(102,749)
2006	2,030,319	315,301	1,715,019	792,061	7,522
2005	2,004,174	328,241	1,675,934	834,631	46,568

As reflected in the chart above, activity in the real estate markets decreased significantly in and around 2008. As a result of the depressed activity, the Company has reported a loss over the last three (3) years of the examination period.

### MANAGEMENT AND CONTROL

#### Shareholders

The Bylaws of the Company call for an annual meeting of the Class B Shareholders to be held within five (5) months following the end of the fiscal year to elect directors and transact such other business as may properly come before the meeting. The Company was found to be in compliance with this requirement.

#### Directors

The Bylaws provide that the business affairs of the Company are to be managed by a Board of Directors consisting of nine (9) persons. The Board members are elected for a term of one (1) year and serve until their successors are elected. The shareholders, at their annual meeting, elect the members of the Board of Directors.

The following is a listing of persons serving as directors at December 31, 2009:

<u>Name and Address</u>	<u>Principal Occupation</u>
Jerry W. Allender Titusville, FL	Attorney
Richard E. Hendrickson Mooresville, IN	Attorney
Ronald J. Hocker Vevay, IN	President National Attorneys' Title Assurance Fund, Inc.
James L. Ritchey Sarasota, FL	Attorney
Stephen L. Mackey Boca Raton, FL	Attorney
Loren R. Sloat Nappanee, IN	Attorney
Michael E. Smith Perry, FL	Attorney
Paul J. Vogler Indianapolis, IN	Attorney
Julius J. Zschau Dunedin, FL	Attorney

Officers

The Bylaws state that the Officers of the Company, who shall be chosen by the Board of Directors, shall consist of a President, one (1) or more Vice-Presidents, a Secretary, a Treasurer, and such assistants and other officers as shall be designated by the Board. The following is a list of officers and their respective titles as of December 31, 2009:

<u>Name</u>	<u>Office</u>
Richard E. Hendrickson	Chairman
Ronald J. Hocker	President
G. Thomas Smith	Secretary
William R. Richards	Treasurer
Danielle L. Kaiser	Vice-President

### CONFLICT OF INTEREST

The Company requires officers, directors, and employees to review and sign Conflict of Interest statements on an annual basis. Signed statements for the examination period were examined and the Company was found to be in compliance with the requirement.

### OATH OF OFFICE

Indiana Code (IC) 27-1-7-10(i) stipulates that every director, when elected, shall take and subscribe to an oath stating that he or she will faithfully, honestly, and diligently administer the affairs of the corporation and will not knowingly violate any of the laws applicable to such corporation. Signed "Oath of Office" statements were reviewed for each year of the examination period and the Company was found to be in compliance with the requirement.

### CORPORATE RECORDS

#### Articles of Incorporation and Bylaws

No amendments were made to the Company's Articles of Incorporation or Bylaws during the examination period.

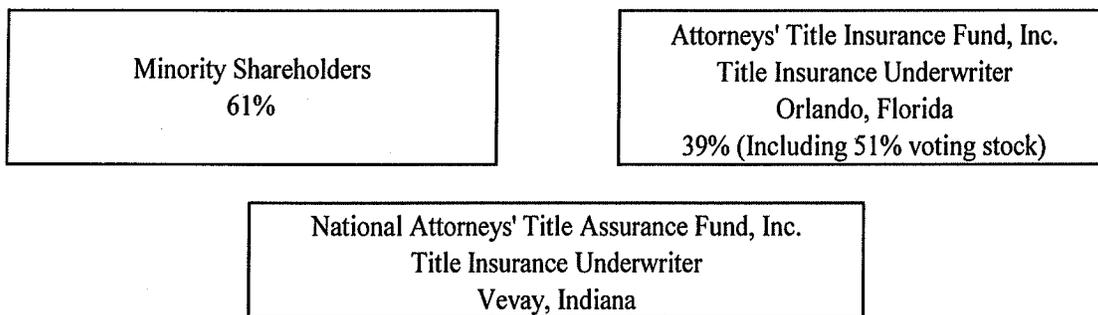
#### Minutes

The Board of Directors, Shareholder, and committee meeting minutes were reviewed for the period under examination through the fieldwork date and significant actions taken during each meeting were noted. All business addressed during these meetings was deemed to be adequately documented.

## AFFILIATED COMPANIES

### Organizational Structure

The organizational structure of the Company, per review of the Annual Statement filing, for the year ending December 31, 2009, is reflected in the following diagram:



### Related Party Transactions

Attorneys, directors, and other shareholders frequently perform services for the Company, such as performing title searches and providing legal representation that would ordinarily be performed by individuals similarly qualified. Shareholders also act as agents for sales of title insurance. Transactions and account balances with related parties represent less than ten percent (10%) of operating revenues and expenses and trade accounts receivable and payable at December 31, 2009.

### Affiliated Agreements

The Company maintained no related party agreements at December 31, 2009. Prior to July 1, 2009, the Company maintained a reinsurance treaty with the Florida Fund. See the Reinsurance section of this report for further information.

## FIDELITY BOND AND OTHER INSURANCE

The Company protects itself against loss from any fraudulent or dishonest acts by any employees through a fidelity bond issued by Hartford Fire Insurance Company. The bond has an aggregate coverage of \$50,000 with a \$1,000 deductible. The fidelity bond was found to meet the requirements as outlined in the NAIC Financial Condition Examiners Handbook.

The Company had additional types of coverage in-force at December 31, 2009, including, but not limited to, business personal property, liability and medical, terrorism, workers compensation, and commercial auto.

### STATUTORY AND SPECIAL DEPOSITS

The Company reported the following statutory deposit comprised of a Certificate of Deposit as of December 31, 2009.

<u>State</u>	<u>Book Value</u>	<u>Fair Value</u>
Indiana	<u>50,000</u>	<u>50,000</u>
Total Deposits	<u>\$ 50,000</u>	<u>\$ 50,000</u>

### REINSURANCE

Effective July 1, 2009, the Company entered into an automatic excess of loss reinsurance treaty with Connecticut Attorneys' Title Insurance Company (CATIC). Under the terms of the treaty, the Company retained the first \$150,000 of liability on all policies issued, with all liability above the retention assumed by CATIC.

For the examination period prior to July 1, 2009, the Company maintained a similar reinsurance treaty with the Florida Fund.

### ACCOUNTS AND RECORDS

The Company's accounting procedures, practices, account records, and supporting data were reviewed and tested to the extent deemed necessary. The trial balances prepared from the Company's general ledger for the years ended December 31, 2008, and 2009, were agreed to the respective Annual Statements. The Annual Statements for these years were agreed to each year's independent audit report with no material exception. The Company's accounting procedures, practices, and account records were determined to be satisfactory.

**National Attorneys' Title Assurance Fund, Inc.**

**Financial Statements**

**Assets**

	As of December 31, 2009			
	<u>Per Annual Statement</u>	<u>Examination Adjustments</u>	<u>Per Examination</u>	<u>December 31, Prior Year</u>
<b>Assets:</b>				
Bonds	\$ 150,000		\$ 150,000	\$ 250,000
<b>Stocks:</b>				
Common stocks	446,120		446,120	340,098
<b>Real Estate:</b>				
Properties held for sale	40,000		40,000	40,000
Cash, cash equivalents and short-term investments	438,689		438,689	409,254
<b>Subtotals, cash and invested assets</b>	<b>\$ 1,074,809</b>		<b>\$ 1,074,809</b>	<b>\$ 1,039,352</b>
Title plants	251,173		251,173	251,173
Investment income due and accrued				304
<b>Premiums and Considerations:</b>				
Uncollected premiums and agents' balances in course of collection	127,482		127,482	104,257
Current federal and foreign income tax recoverable	2,000		2,000	2,000
Net deferred tax asset	198,018		198,018	223,410
Accrued state income tax	100		100	2,050
<b>Total Assets</b>	<b>\$ 1,653,582</b>		<b>\$ 1,653,582</b>	<b>\$ 1,622,546</b>

**National Attorneys' Title Assurance Fund, Inc.**

**Financial Statements**

**Liabilities**

	As of December 31, 2009			
	Per Annual Statement	Examination Adjustments	Per Examination	Prior Year
<b>Liabilities:</b>				
Known claims reserve	\$ 50,000		\$ 50,000	\$ 22,736
Statutory premium reserve	50,000		50,000	50,000
Supplemental reserve	150,000		150,000	150,000
Commissions, brokerage and other charges due or accrued to attorneys, agents and real estate brokers	255		255	888
Aggregate write-ins for liabilities	92,456		92,456	80,412
<b>Total liabilities</b>	<b>\$ 342,711</b>		<b>\$ 342,711</b>	<b>\$ 304,036</b>
Common capital stock	\$ 222,850		\$ 222,850	\$ 222,850
Preferred capital stock	36,400		36,400	36,400
Gross paid in and contributed surplus	190,322		190,322	190,322
Unassigned funds (surplus)	861,298		861,298	868,939
<b>Surplus as regards policyholders</b>	<b>\$ 1,310,870</b>		<b>\$ 1,310,870</b>	<b>\$ 1,318,511</b>
<b>Total liabilities, capital and surplus</b>	<b>\$ 1,653,581</b>		<b>\$ 1,653,581</b>	<b>\$ 1,622,547</b>

**National Attorneys' Title Assurance Fund, Inc.**

**Financial Statements**

**Statement of Income**

	<b>As of December 31, 2009</b>			
	<b>Per Annual Statement</b>	<b>Examination Adjustments</b>	<b>Per Examination</b>	<b>December 31, Prior Year</b>
<b>Operating Income:</b>				
Title insurance and related income				
Title insurance premiums earned	\$ 749,778		\$ 749,778	\$ 664,730
Escrow and settlement services	9,608		9,608	39,832
Other title fees and service charges	131,220		131,220	276,285
Total operating income	<u>890,606</u>		<u>890,606</u>	<u>980,847</u>
Losses and loss adjustment expenses incurred	266,471		266,471	155,176
Operating expenses incurred	727,914		727,914	1,082,095
Total operating deductions	<u>994,385</u>		<u>994,385</u>	<u>1,237,271</u>
Net operating gain or (loss)	<u>(103,779)</u>		<u>(103,779)</u>	<u>(256,424)</u>
<b>Investment Income:</b>				
Net investment income earned	18,216		18,216	38,555
Net realized capital gains (losses)				6,060
Net investment gain	18,216		18,216	44,615
<b>Other Income:</b>				
Net income, after capital gains tax and before all other federal income taxes	(85,563)		(85,563)	(211,809)
Federal and foreign income taxes incurred	(14,640)		(14,640)	(77,440)
<b>Net Income</b>	<u>\$ (70,923)</u>		<u>\$ (70,923)</u>	<u>\$ (134,369)</u>
<b>Capital and Surplus Account:</b>				
Surplus as regards policyholders, Dec 31 prior year	\$ 1,318,513		\$ 1,318,513	\$ 1,566,899
Net Income	(70,923)		(70,923)	(134,369)
Change in net unrealized capital gain (losses)	59,113		59,113	(122,082)
Change in nonadmitted assets	4,169		4,169	8,065
Change in surplus as regards policyholders for year	<u>(7,641)</u>		<u>(7,641)</u>	<u>(248,386)</u>
<b>Surplus as regards policyholders, Dec 31 current year</b>	<u>\$ 1,310,872</u>		<u>\$ 1,310,872</u>	<u>\$ 1,318,513</u>

## **COMMENTS ON THE FINANCIAL STATEMENTS**

There were no recommended adjustments to surplus as of December 31, 2009, based on the results of this examination.

## **OTHER SIGNIFICANT ISSUES**

There were no significant issues during the examination period which require comment in this report.

## **SUBSEQUENT EVENTS**

A defalcation was found to have occurred on the part of Accurate Land Title, LLC (Accurate) in March of 2010. At the time, Accurate was issuing title policies on behalf of the Company. The IDOI issued a cease and desist order to Accurate on March 5, 2010, and NATAF filed a complaint in Johnson County Superior Court on March 11, 2011, against Accurate. A verified amended complaint was filed April 23, 2010, alleging, among other things, breach of fiduciary duty, fraud and embezzlement. An agreed judgment was obtained in favor of the Company on September 13, 2010. The Company has initiated proceedings supplemental to identify assets and collect upon this judgment.

## **MANAGEMENT REPRESENTATION**

In support of contingencies and accuracy of information provided during the course of the examination, a completed management representation letter in the standard NAIC format was obtained. This letter was executed by key financial personnel and has been made part of the examination.

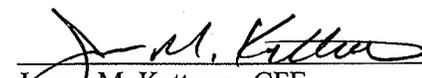
**AFFIDAVIT**

This is to certify that the undersigned is a duly qualified Examiner-in-Charge appointed by the Indiana Department of Insurance and that he, in coordination with staff assistance from Noble Consulting Services, Inc., hereinafter collectively referred to as the "Examiners", performed an examination of **National Attorneys' Title Assurance Fund, Inc.**, as of **December 31, 2009**.

The Indiana Department of Insurance is accredited under the National Association of Insurance Commissioners Financial Regulation Accreditation Standards.

This examination was performed in accordance with those procedures required by the 2010 NAIC Financial Condition Examiner's Handbook and other procedures tailored for this examination. Such procedures performed on this examination do not constitute an audit made in accordance with generally accepted auditing standards and no audit opinion is expressed on the financial statements contained in this report.

The attached report of examination is a true and complete report of condition of **National Attorneys' Title Assurance Fund, Inc.**, as of **December 31, 2009**, as determined by the undersigned.

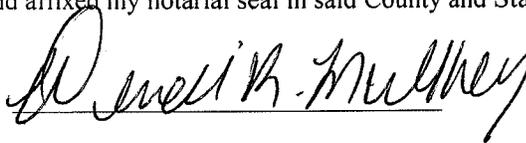
  
\_\_\_\_\_  
James M. Kattman, CFE  
Noble Consulting Services, Inc.

State of:  
County of:

On this 23 day of February 2011, before me personally appeared, James M. Kattman, to sign this document.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal in said County and State, the day and year last above written.

My commission expires: 3/1/18

  
\_\_\_\_\_  
Wendi R. Mulkey

