

1 STATE OF ALASKA  
2 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT  
3 DIVISION OF INSURANCE

4 In Re: OLD REPUBLIC NATIONAL )  
5 TITLE INSURANCE COMPANY )

6 ) CEASE AND DESIST ORDER  
7 ) No. D 01-31

8 STIPULATION FOR DISMISSAL AND ORDER

9 The Division of Insurance (DOI) staff, Old Republic, ATGA and ATGS, by and  
10 through the undersigned counsel, stipulate and agree that DOI will withdraw Cease and Desist  
11 Order No. D 01-31 upon approval of this stipulation by the director, that all deadlines and the  
12 scheduled hearing in this proceeding should be vacated, and that this proceeding should be  
13 dismissed with each party to bear its own costs and attorney fees. The grounds for this  
14 stipulation are as follows:

15 1. The legislature has passed, and the governor has signed, HB 246, which  
16 amends AS 21.66.210 and effectively moots the legal issues in this proceeding involving AS  
17 21.66.200 and AS 21.66.210 as of the effective date of the bill, July 1, 2002;

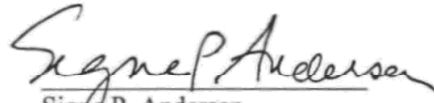
18 2. The issue of whether Old Republic has been operating in violation of AS  
19 21.66.200 from the date of ATGS' certificate of authority, August 15, 2001 until the effective  
20 date of the bill, July 1, 2002 is still not determined. The stipulating parties agree, however, that  
21 it is not in the public interest to continue to expend public resources to obtain a final  
22 determination of this issue, because of the legislature's action and in light of DOI staff's  
23 observations during the examination of ATGS' operations, on which Old Republic has relied  
24  
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Stipulation for Dismissal and Order  
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1 since August 15, 2001, that ATGS was performing accurate and thorough title searches and it  
2 did not pose a threat to the consuming public.

3 BRUCE M. BOTELHO  
4 ATTORNEY GENERAL

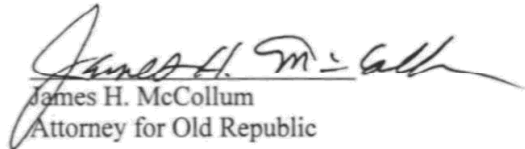
5 Date: 6/14/02



6 Signe P. Andersen  
7 Assistant Attorney General  
8 Attorney for DOI Staff

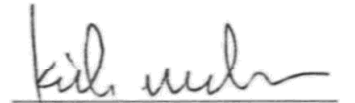
9 LAW OFFICES OF JAMES H.  
10 McCOLLUM

11 Date: 6/14/02



12 James H. McCollum  
13 Attorney for Old Republic

14 Date: 6.20.02  
15 none pro tunc  
16 6.14.02

  
17 Kirk Wickersham  
18 Attorney for ATGA and ATGS

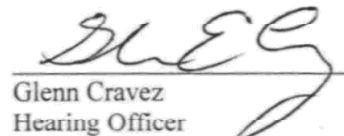
19 **ORDER AND RECOMMENDATION**

20 The undersigned hearing officer, having considered the above stipulation,

21 1. Orders that all deadlines and scheduled events in this proceeding are hereby  
22 vacated, and

23 2. Recommends that the Director of Insurance withdraw Cease and Desist  
24 Order No. D 01-31 and dismiss this proceeding with each party to bear its own costs and  
25 attorney fees.

26 Date: June 25<sup>th</sup>, 2002

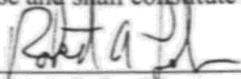
  
Glenn Cravez  
Hearing Officer

Stipulation for Dismissal and Order  
D01-31  
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ORDER

The Director of the Division of Insurance, having considered the above stipulation and the recommendation of the Hearing Officer, withdraws Cease and Desist Order No. D 01-31 and dismisses this proceeding with each party to bear its own costs and attorneys fees. This Order is entered in full resolution of the issues in this case and shall constitute a final order.

Date: ~~June~~ <sup>July</sup> 2, 2002

  
Robert A. Lohr, Director  
Division of Insurance

DEPARTMENT OF LAW  
OFFICE OF THE ATTORNEY GENERAL  
ANCHORAGE BRANCH  
1031 W. FOURTH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 269-5100

This is to certify that on this date a copy of the foregoing is being mailed ~~hand~~ <sup>faxed</sup> delivered to the following attorneys or parties of record:

Jarnea Donak, Kirk  
Wickensham, James  
McCollum  
Judith E. McKee 6/20/02  
Signature Date

1 STATE OF ALASKA  
2 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT  
3 DIVISION OF INSURANCE

4 CEASE AND DESIST ORDER D 01-31

5 TO: Old Republic National Title Insurance Company  
6 350 California Street, 12<sup>th</sup> Floor  
7 San Francisco, CA 94104

8 The Alaska Division of Insurance (the division) has determined that Old Republic Insurance  
9 National Title Insurance Company (Old Republic) has been transacting title insurance using  
10 a title plant that does not comply with all requirements of AS 21.66.200. This determination  
11 is based on the following background.

12 **Background**

- 13 1. Old Republic is an admitted title insurer doing business in Alaska under certificate of  
14 authority number 1158 issued under AS 21.09 and AS 21.66.
- 15 2. Old Republic holds a one percent ownership interest in Attorneys Title Guaranty  
16 Services, L.L.C. (ATGS).
- 17 3. ATGS is a joint plant company authorized under AS 21.66.210 on August 15, 2001.  
18 ATGS initially applied for authorization under AS 21.66.210 on April 12, 2001. After  
19 determining that ATGS and its principals met the qualifications established under  
20 AS 21.66.210, the division issued a certificate of authority to ATGS as required by the  
21 statute.
- 22 4. In its application process under AS 21.66.210, ATGS represented that it intended to  
23 perform title searches using the public record and Motznic, a computerized index database  
24 regarding instruments of record affecting land in Alaska. ATGS asserts that AS 21.66.210  
25 gives it the option of performing title searches either from the public record or from records  
26 it owns.
- 27 5. On October 3 and 4, 2001, Ted Lehrbach, Chief of Market Conduct for the division,  
28 conducted an on-site inspection of ATGS. This inspection reviewed the contents of the  
29 plant and the manner in which ATGS performed title searches. ATGS owns some  
30 subdivision records, but primarily relies on searches of public records and Motznic when  
31 completing a title search. The inspection observed that, based on the experience of Mr.  
32 Lamb, neither he nor ATGS is a threat to the consumer.

STATE OF ALASKA  
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT  
DIVISION OF INSURANCE  
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FAX (907) 269-7910  
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1 6. ATGS does not own and maintain fully indexed records reflecting all instruments of  
2 record affecting all land within the Anchorage area recording district for a period of at least  
3 25 years.

4 7. On December 10, 2001, the division received a legal advice memorandum from the  
5 Attorney General's office regarding the interpretation of AS 21.66.200 and AS 21.66.210.  
6 In this memorandum, the attorney concludes that AS 21.66.200 requires a title insurer to  
7 have a title plant that consists of "adequate maps and fully indexed records showing all  
8 instruments of record affecting land" within each recording district it or its agent maintains  
9 an office "for a period of at least 25 years." The attorney further concludes that  
10 AS 21.66.210 providing for joint plant companies does not amend, abridge, or create an  
11 exception to the content requirements for title plants set forth under AS 21.66.200.

12 8. On December 11, 2001, the division sent a letter to Old Republic and ATGS giving  
13 them 10 days to confirm compliance with AS 21.66.200. ATGS responded to the division's  
14 request by letter dated December 14, 2001, which states that ATGS does not believe it is  
15 necessary for ATGS to comply with the requirements of AS 21.66.200 to operate as a joint  
16 title plant under AS 21.66.210. By letter dated December 17, 2001, Old Republic responded  
17 to the division's request stating that "if a final determination is made by the Division of  
18 Insurance that ATGS is not operating within the guidelines of the applicable Alaska title  
19 plant statutes, the underwriting agreement between Old Republic and ATGS contains a  
20 provision for termination upon the occurrence of such a contingency."

21 9. ATGS has repeatedly confirmed to the division that it does not to meet the  
22 requirements of AS 21.66.200, because ATGS believes it is not required to do so to operate  
23 as a joint title plant. ATGS also has not communicated to the division any plans in the  
24 future to comply with AS 21.66.200.

### 25 Order

26 Old Republic is hereby ordered to cease and desist from using ATGS as its title plant for  
purposes of AS 21.66.200 in violation of the insurance code. Old Republic may issue title  
insurance policies on all title insurance orders received prior to the effective date of this  
order that are based on searches from or by ATGS, provided that the searches comply with  
AS 21.66.170. No new title insurance orders may be taken after the effective date of this  
order using ATGS as the title plant.

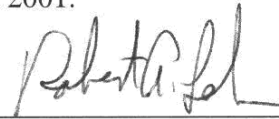
Continued transaction of title insurance in Alaska in violation of AS 21.66.200 after the  
effective date of this order will be considered a wilful violation and subject to appropriate  
action under the insurance code. Further, a violation of the insurance code is considered a  
fraudulent insurance act under AS 21.36.360(p)(1), which may be prosecuted as a class B  
misdemeanor under AS 21.36.360(q).

This order is effective 10 days from the date signed by the director.

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Dated at Anchorage, Alaska this 26th day of December, 2001.



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Robert A. Lohr  
Director