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## Minnesota agents accused of participating in sham businesses

**First American Title settled allegations in February for \$500,000**

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[Inman News](#)

Minnesota officials are sending enforcement letters to real estate agents alleged to have participated in sham affiliated business arrangements with First American Title Insurance Co.

The letters, which follow a \$500,000 Feb. 28 settlement with First American, request that the agents admit to the allegations and pay a fine in the range of \$1,000 to \$2,000, according to an [alert](#) posted on the Minnesota Association of Realtors' Web site.

According to the alert, the agents are accused of taking kickbacks, rebates or other considerations in exchange for referring clients to the sham affiliated businesses, soliciting the sale of title insurance without a license, or failing to disclose their interest in the joint ventures.

If agents refuse to admit the allegations, the letters warn that the Minnesota Department of Commerce may issue charges with potentially more severe consequences, the alert said.

The alert was signed by Donald D. Smith, general counsel for the Minnesota Association of Realtors, who did not return a call from *Inman News* requesting comment.

A spokesman for the Minnesota Department of Commerce, Bill Walsh, said the department does not comment on ongoing investigations. But Walsh said the settlement agreement with First American Title was not the last word in the matter.

"The First American action only dealt with one side of the AfBA relationship," Walsh said. "There will be actions taken on the other side," against the referral partners.

On March 7, the Department of Commerce [announced](#) that First American Title Insurance Co. had agreed to settle allegations it created 35 sham businesses designed to generate referrals from real estate agents and brokers, mortgage originators, building contractors and land developers.

First American agreed to pay a civil penalty and create educational material for consumers, but maintained that the affiliated businesses it created with more than 600 partners beginning in 1995 complied with state and federal law.

Minnesota regulators, however, said the companies were "sham" businesses created to drum up referrals.

The Real Estate Settlement Procedures Act, or RESPA, allows affiliated business arrangements, or AfBAs, but requires that companies have their own employees, separate offices, phones and capital. RESPA stipulates that agents who refer clients to affiliated title insurance companies must disclose their financial interests in them, and cannot require their clients to do business with them.

According to the [settlement](#), First American granted its partners an 80 percent interest in the sham businesses for a typical investment of \$500. First American allegedly ran the companies without compensation, hiring, training and supervising employees. Some of the businesses shared workers, office space and equipment, the settlement alleged.

Smith warned Minnesota real estate agents now accused of participating in the sham businesses to consult with a lawyer before admitting to the allegations.

He said an admission of guilt could generate a public record of admitting wrongdoing, which could damage the reputation of an agent, and make it more difficult to obtain a license in other professional or regulated industries. Smith said admitting guilt could also leave agents open to other regulatory enforcement actions or lawsuits.

Smith advised agents to consult an attorney in order to weigh "the potential consequences of admitting the allegations versus the potential consequences of not admitting the allegations."

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