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OFFICE OF  
INSURANCE COMMISSIONER

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HEARINGS UNIT  
Fax: (360) 664-2782

Patricia D. Petersen  
Chief Hearing Officer  
(360) 725-7105

Patricia D. Petersen  
Chief Hearing Officer  
Kelly A. Cairns  
Paralegal  
(360) 725-7002  
[KellyC@oic.wa.gov](mailto:KellyC@oic.wa.gov)

BEFORE THE STATE OF WASHINGTON  
OFFICE OF INSURANCE COMMISSIONER

In the Matter of:	)	No. 11-0158
	)	
FIDELITY NATIONAL TITLE	)	NOTICE OF HEARING
INSURANCE COMPANY,	)	
CHICAGO TITLE INSURANCE	)	
COMPANY, and COMMONWEALTH	)	
LAND TITLE INSURANCE	)	
COMPANY,	)	
	)	
Authorized insurers.	)	

**TO:** Michael J. Rich, Vice President and Regulatory Counsel  
Fidelity National Title Group, Inc.  
601 Riverside Avenue  
Jacksonville, Florida 32204-7108

David C. Neu, Esq.  
K&L Gates LLP  
925 Fourth Avenue, Suite 2900  
Seattle, WA 98104-1158

**COPY TO:** Mike Kreidler, Insurance Commissioner  
Michael G. Watson, Chief Deputy Insurance Commissioner  
Carol Sureau, Deputy Commissioner, Legal Affairs Division  
Marcia Stickler, Staff Attorney, Legal Affairs Division  
James Odiorne, Deputy Commissioner, Company Supervision  
Office of the Insurance Commissioner  
PO Box 40255  
Olympia, WA 98504-0255



On June 29, 2011, the Insurance Commissioner (“Commissioner”) issued an Order to Cease and Desist against Fidelity National Title Insurance Company, Chicago Title Insurance Company and Commonwealth Land Title Insurance Company, and their respective officers, directors, trustees, agents, employees and affiliates (collectively referred to as “the Companies”), requiring that they immediately cease and desist from offering discounts to producers of title insurance business and associates of producers of title insurance business, through EC Purchasing or otherwise. The Commissioner asserts that the Companies offer membership in EC Purchasing to producers of title business, which allows the member to obtain discounts on a wide variety of products and services, and that therefore this activity violates the RCW 48.29.210(2). RCW 48.29.210(2) provides that *A title insurer, title insurance agent, or employee, agent, or other representative of a title insurer or title insurance agent shall not, directly or indirectly, give anything of value to any person in a position to refer or influence the referral of title insurance business to either the title insurance company or title insurance agent, or both,....*

In response, on September 28, 2011, the Companies, by and through their attorney, David C. Neu, Esq., of K&L Gates LLP in Seattle, filed their Demand for Hearing to contest the Order. As the bases for their Demand, the Companies assert that 1) the Commissioner has no authority over “affiliates” of Fidelity National, Chicago Title and Commonwealth Land Title. The Companies assert that Fidelity National, Chicago Title and Commonwealth Land Title, along with EC Purchasing and other entities, are all subsidiaries of Fidelity National Financial, Inc. (“FNF”), but that the Commissioner lacks authority to regulate entities, such as EC Purchasing, which have no connection to the title insurance business and only an attenuated connection to Fidelity National, Chicago Title and Commonwealth Land Title themselves. The Companies further assert that 2) Fidelity National, Chicago Title and Commonwealth Land Title have not violated RCW 48.29.210(2) by offering discounts to producers through EC Purchasing because, although EC Purchasing is also a subsidiary of FNF, it is a separate subsidiary and has no affiliation with the title insurance business.

On October 31, 2011, the undersigned held a first prehearing teleconference in this matter. David C. Neu, Esq., of K&L Gates, LLP, appeared on behalf of the Companies. The Commissioner appeared by and through Marcia Stickler, Staff Attorney in the Commissioner’s Legal Affairs Division. During said prehearing conference, the undersigned reviewed administrative procedure to be expected at hearing, citing Title 48 RCW, relevant sections of which are set forth in the Order to Cease and Desist, and Title 34 RCW, the Administrative Procedure Act. The undersigned also addressed all questions and concerns of the parties. Of significance, the undersigned determined, and the parties acknowledged, that pursuant to RCW 48.04.020 there is no stay of the Commissioner’s Order to Cease and Desist and therefore it became effective as of June 29, 2011, and shall remain in effect until a Final Order after hearing is entered by the undersigned. Finally, by agreement of the parties, the hearing in this matter was scheduled to commence at **10 a.m. on Wednesday, December 14, 2011**. The parties were informed if they had any future questions or concerns, or requests for additional prehearing conferences, they should contact Kelly Cairns, Paralegal to the undersigned, who can be reached by telephone at (360) 725-7002, e-mail at [KellyC@oic.wa.gov](mailto:KellyC@oic.wa.gov), or at the above address.

The hearing will be held under the authority of Title 48 RCW and specifically RCW 48.04, Title 34 RCW and regulations applicable thereto. Pursuant thereto, the Commissioner has delegated to the undersigned the authority to conduct all activities preliminary to the hearing, the hearing and all activities following the hearing, and to determine and enter the final decision in this matter. As required by Title 34 RCW, the undersigned shall handle these activities and make the final decision herein without input or communication with the Commissioner or any member of his staff or others who have knowledge of the facts herein. David C. Neu, Esq. of K&L Gates LLP will appear on behalf of the Companies. Mr. Neu's address is 925 Fourth Avenue, Suite 2900, Seattle, Washington 98104-1158, and his telephone number is (206) 370-8125. The Commissioner will appear by and through Marcia Stickler, Staff Attorney in the Commissioner's Legal Affairs Division. Ms. Stickler's address is Office of the Insurance Commissioner, Legal Affairs Division, P.O. Box 40255, Olympia, WA 98504-0255, and her telephone number is (360) 725-7048.

As required by RCW 34.05.434(2)(I), you are advised that a party who fails to attend or participate in the hearing or other stage of the adjudicative proceeding may be held in default in accordance with ch. 34.05 RCW.

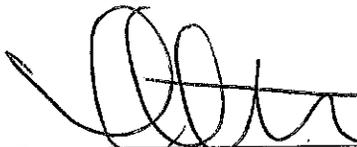
Pursuant to WAC 10-08-040(2) and in accordance with ch. 2.42 RCW, if a limited English-speaking or hearing impaired or speech impaired party or witness needs an interpreter, a qualified interpreter will be appointed. There will be no cost to the party or witness therefore, except as may be provided by ch. 2.42 RCW. A Request for Interpreter form is attached to this Notice, with instructions thereon.

This Notice is provided pursuant to RCW 48.04.010 and RCW 34.05.434.

Based upon the above activity,

**IT IS HEREBY ORDERED** that the adjudicative proceeding in this matter shall commence on **Wednesday, December 14, 2011 at 10 a.m.**, Pacific Standard Time, in the Office of the Insurance Commissioner, 5000 Capitol Boulevard, Tumwater, Washington 98501.

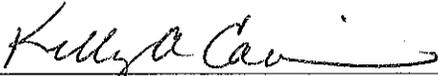
ENTERED AT TUMWATER, WASHINGTON, this 10<sup>th</sup> day of November, 2011, pursuant to RCW 48.04, Title 34 RCW and applicable regulations.

  
\_\_\_\_\_  
PATRICIA D. PETERSEN  
Chief Hearing Officer  
Presiding Officer

Declaration of Mailing

I declare under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery through normal office mailing custom, a true copy of this document to the following people at their addresses listed above: Michael J. Roth, David C. Neu, Esq., Mike Kreidler, Michael G. Watson, Carol Sureau, Esq., Marcia Stickler, Esq., and James Odiorne.

DATED this 10<sup>th</sup> day of November, 2011.

  
KELLY A. CAIRNS

**HEARINGS UNIT**  
Fax: (360) 664-2782

Patricia D. Petersen  
Chief Hearing Officer  
(360) 725-7105

Kelly A. Cairns  
Paralegal  
(360) 725-7002  
[KellyC@oic.wa.gov](mailto:KellyC@oic.wa.gov)

To request an interpreter, complete and mail this form to:

Chief Hearing Officer  
Office of Insurance Commissioner  
P.O. Box 40255  
Olympia, WA 98504-0255

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**REQUEST FOR INTERPRETER**

I am a party or witness in Matter No. \_\_\_\_\_, before the Insurance Commissioner. I NEED AN INTERPRETER and request that one be furnished.

Please check the statements that apply to you:

I am a non-English-speaking person. I cannot readily speak or understand the English language. My primary language is \_\_\_\_\_ (insert your primary language). I need an interpreter who can translate to and from the primary language and English.

I am unable to readily understand or communicate the spoken English language because:

- I am deaf.
- I have an impairment of hearing.
- I have an impairment of speech.

[Please state below or on the reverse side any details which would assist the Commissioner or Presiding Officer in arranging for a suitable interpreter or in providing appropriate mechanical or electronic amplification, viewing, or communication equipment.]

Date: \_\_\_\_\_ Signed: \_\_\_\_\_

Please print or type your name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_