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BEFORE THE STATE OF WASHINGTON  
OFFICE OF THE INSURANCE COMMISSIONER  
HEARINGS UNIT  
OFFICE OF  
INSURANCE COMMISSIONER

*In the Matter of*

**First American Title Insurance  
Company,**

Authorized Title Insurer.

Docket No. 15-0166

WAOIC No. 461

NAIC No. 50814

OIC RESPONSE TO FIRST AMERICAN  
TITLE INSURANCE COMPANY'S  
OPPOSITION TO OIC MOTION TO QUASH  
DEPOSITION

1. First American Title Insurance Company ("First American") insists that AnnaLisa Gellermann is a material witness in this case. First American's counsel has greatly exaggerated her role in the process. She is the supervisor of the enforcement specialist pursuing the action against First American, but she did not suggest the fine amount, and was only one vote of seven on the Compliance Committee to approve that fine amount as an offer of settlement. Mr. Kindinger has been provided with copies of the memorandum prepared for the Compliance Committee by the enforcement specialist and the guiding principles of the Compliance Committee decision-making process. He knows or should know that the decision as to sanctions is made by the Compliance Committee, not one person alone.

2. Ms. Gellermann does not directly supervise Mr. Walden and does not personally review his work. He has two supervisors within the investigations part of the Legal Affairs Division, one of whom reports directly to Ms. Gellermann. In any event, Mr. Kindinger's

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State of Washington  
Office of the Insurance Commissioner  
PO Box 40255  
Olympia, WA 98504-0255

opinion of Mr. Walden and his characterization of Mr. Walden's deposition testimony is not germane to whether Ms. Gellermann is a proper witness in this matter.

3. As to the assertion that the declarations presented by Mr. Kindinger of Mr. Wahlquist and Mr. McIrvin "establish the falseness" of the allegations of the Notice of Request for Hearing and Imposition of Fine, the Insurance Commissioner does not believe that they do so. We do not believe that they prove anything other than that these two men changed their stories, probably after pressure from First American. The Insurance Commissioner continues to believe, and will prove, that what they told Ms. Hopkins and Mr. Walden was and remains the truth about the First American educational event at issue, despite their recanting. Ms. Gellermann met and conferred with the enforcement specialist after the Wahlquist and McIrvin declarations came in, but took no action nor gave any direction pursuant to their receipt.

4. There is no specific reference in First American's Objection to where Mr. Walden's deposition testimony stated that there is no evidence for some of the allegations. A response is therefore difficult, since it is unclear to what evidence, or lack thereof, Mr. Walden supposedly testified about in his deposition.

5. As to the allegation that the offering of a consent order does not initiate a regulatory action, that is incorrect. The Insurance Code only permits the imposition of a fine on an insurer after a hearing or with the consent of the insurer, RCW 48.05.185. There is no Statement of Charges or other document initiating an action. The offer of settlement through a consent order offers an insurer the option to avoid going to hearing if it chooses to do so. That is what occurred in this matter. First American declined to enter into a consent order, so a hearing was noted up by the Insurance Commissioner. There is no other way to seek a fine or other sanction, and Ms. Gellermann has nothing to disclose otherwise in regard to the imposition of a fine.

6. Mr. Walden did initially come to believe that Chris Schulz was the Old Republic Title employee who spoke with the gentlemen from Snohomish County Camano Association of Realtors. He was incorrect, and the change made in that regard in the Notice of Hearing reflects that the correct employee, Ms. Hopkins, was the Old Republic Title employee who spoke with

them. This correction is not tantamount to denying evidence of the allegations against First American, and is nothing AnnaLisa Gellermann had anything to do with.

7. Given the above, there is no reasonable basis for deposing a member of the Compliance Committee who did not personally direct any material aspect of the enforcement action that followed from the Compliance Committee's decision.

Respectfully submitted,

Dated at Tumwater, Washington, this 1<sup>st</sup> day of March 2016.

  
MARCIA G. STICKLER, JD, LLM  
Insurance Enforcement Specialist  
Legal Affairs Division

CERTIFICATE OF MAILING

The undersigned certifies under the penalty of perjury under the laws of the state of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the state of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be filed and served the foregoing OIC RESPONSE TO FIRST AMERICAN TITLE INSURANCE COMPANY'S OPPOSITION TO OIC MOTION TO QUASH DEPOSITION on the following individuals in the manner indicated:

**Via Hand Delivery**

William Pardee, Presiding Officer  
Washington State Insurance Commissioner  
5000 Capitol Blvd  
Tumwater, Washington

**Via email and U.S. Mail Via State Consolidated Mail Service With Proper Postage Affixed**

Jerry Kindinger  
Ryan, Swanson & Cleveland PLLC  
1201 Third Avenue Suite 3400  
Seattle, WA 98101-3034  
kindinger@ryanlaw.com

Dated this 1st day of March, 2016, in Tumwater, Washington.



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Renee Molnes  
Paralegal  
Legal Affairs Division