



OFFICE OF INSURANCE COMMISSIONER

HEARINGS UNIT
Fax: (360) 664-2782

MIKE KREIDLER
STATE INSURANCE COMMISSIONER
DECLARATION OF MAILING
I declare under penalty of perjury...
DATED this 12 day of 12/09
at Tumwater, Washington.
Signed: Kelly Johnson

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

Sally Johnson
Paralegal
(360) 725-7002
Sallyj@oic.wa.gov

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of:

CHICAGO TITLE
INSURANCE COMPANY,

An Authorized Insurer.

OIC No. D07-308
OAH Docket No. 2008-INS-0002

FINAL ORDER OF
DISMISSAL
(Regarding Phase II)

To: David C. Neu, Esq.
K&L/Gates
925 Fourth Ave., Suite 2900
Seattle, WA 98104-1158

Chicago Title Insurance Company
601 Riverside Ave.
Jacksonville, FL 32204

Copy To: Mike Kreidler, Insurance Commissioner
Mike Watson, Chief Deputy Commissioner
Jim Odiorne, Deputy Commissioner for Company Supervision
Carol Sureau, Deputy Commissioner, Legal Affairs
Alan M. Singer, Staff Attorney, Legal Affairs
Post Office Box 40255
Olympia, Washington 98504-0255

Chicago Title Insurance Company (Chicago Title) is a title insurance company holding a Certificate of Authority to transact title insurance in the state of Washington. Land Title Company of Kitsap County, Inc. (Land Title) is a licensed title insurance agent appointed by Chicago Title.



FINAL ORDER OF DISMISSAL

(Phase II), No. D07-308

Page 2

On January 25, 2008, the Office of the Insurance Commissioner (OIC) entered a Notice of Hearing, and on March 27, 2008 an Amended Notice of Hearing, in this matter to impose penalties upon Chicago Title for seventeen alleged violations committed by Land Title. In the Notice of Hearing and Amended Notice of Hearing, the OIC asserts that Chicago Title, through its duly appointed title insurance agent, Land Title, violated WAC 284-30-800, the Illegal Inducement Regulation, and for these violations the OIC seeks to impose a fine of \$155,000 against Chicago Title pursuant to RCW 48.05.185.

On February 29, 2008, this matter was referred to the Office of Administrative Hearings (OAH) and the administrative hearing was held before Administrative Law Judge Cindy L. Burdue (ALJ), with instructions from the undersigned OIC's instructions to hear the case and enter Initial or Recommended Findings of Facts, Initial Conclusions of Law and Initial Order. During the course of that proceeding, the ALJ entered a First Pre-Hearing Order, and later an Amended First Pre-Hearing Order, bifurcating the issues in this case into two phases: Phase I involves *the preliminary issue of the legal responsibility of [Chicago] for the actions of Land Title ... being determined first*. Depending on the outcome of Phase I, the ALJ proposes to hear argument on, and enter an Initial or Recommended Order relative to, Phase II, which is the issue of *whether the expenditures of the Kitsap County company [Land Title] violate the law*. In accordance with this plan, on October 30, 2008, the ALJ entered Initial Findings of Facts, Initial Conclusions of Law and Initial Order Granting Summary Judgment (Initial Order) in Phase I, recommending that the undersigned enter Final Findings of Facts, Final Conclusions of Law and Final Order (Final Order) ruling that Chicago Title is not liable for the illegal acts of Land Title in violating the Inducement Regulation and statute. (It is noted that in Initial Finding of Fact No. 2, the ALJ states that for purposes of *this Motion* [for Summary Judgment] *only*, it is stipulated that Land Title did commit the alleged violations of the Illegal Inducement Regulation.)

On April 24, 2009, the undersigned entered Final Findings of Facts, Conclusions of Law and Order Denying Chicago Title's Motion for Summary Judgment (Phase I of Hearing). The undersigned did not adopt the ALJ's Initial Order Granting Chicago Title Insurance Company's Motion for Summary Judgment and ordered the hearing file be transferred back to the OAH for commencement of Phase II of this proceeding. In the Final Order it was determined that the OIC can hold Chicago Title responsible for the illegal acts of its legally appointed insurance agent, Land Title, in violating the Illegal Inducement Regulation and statute.

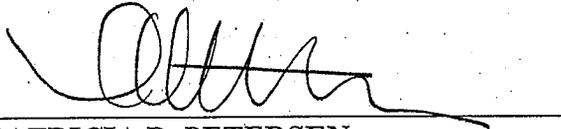
On October 26, 2009, the undersigned received an Initial Order of Dismissal from the ALJ at OAH regarding the above referenced matter, along with a Stipulation and Agreement executed by the parties on September 28 and October 5, 2009. Therein, the OIC and Chicago Title agreed that Phase II of this matter be settled and dismissed, as the parties had reached agreements on the terms of settlement of Phase II in both 1) the situation where the undersigned's Final Order in Phase I is upheld by the applicable appellate court; and 2) the situation where the undersigned's Final Order in Phase I is reversed by the applicable appellate court. Said Stipulation and Agreement is attached hereto and incorporated herein.

**ORDER**

Based upon the above activity,

**IT IS HEREBY ORDERED** that the proceedings in the matter of Chicago Title Insurance Company (Phase II), Docket No. D07-308 are hereby terminated.

This Order is entered this 3<sup>rd</sup> day of December, 2009, at Tumwater, Washington, pursuant to Title 48 RCW, Title 34 RCW and regulations pursuant thereto.



**PATRICIA D. PETERSEN**

Presiding Officer  
Chief Hearing Officer

IN THE MATTER OF:

CHICAGO TITLE INSURANCE  
COMPANY,

Respondent.

ORDER NO. D07-308

STIPULATION AND AGREEMENT

The Insurance Commissioner of the State of Washington ("OIC"), pursuant to the authority set forth in Title 48 RCW, including RCW 48.05.185, makes the following:

**I. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

- 1) Chicago Title Insurance Company ("CTIC") is a title insurance company holding a Certificate of Authority to transact title insurance in the state of Washington. Land Title Company of Kitsap County, Inc. ("Land Title") is a licensed title insurance agent appointed by CTIC.
- 2) Between December 1, 2006 and March 31, 2007, Land Title gave services and other things of value exceeding \$25.00 in value to producers of title insurance business in violation of WAC 284-30-800. These violations were alleged in the OIC's Amended Notice of Hearing dated March 28, 2008 ("Hearing Notice," incorporated herein by reference), in which the OIC commenced an administrative proceeding ("Administrative Proceeding") to impose a fine against CTIC for these violations. CTIC contested this Administrative Proceeding and demanded a hearing.
- 3) The Administrative Proceeding was bifurcated into two phases. The first phase ("Phase I") addressed the issue of whether the OIC may impose fines against CTIC pursuant to RCW 48.05.185 for the actions of its agent, Land Title. If Phase I resulted in a determination in the OIC's favor, a second hearing on the merits would be held ("Phase II") to determine whether the specific acts of Land Title violated WAC 284-30-800.



EXECUTED this 28<sup>th</sup> day of September, 2009.

Chicago Title Insurance Company

By: [Signature]

Printed Name: KEVIN R. CHIARELLO

Typed Corporate Title: Senior Vice President

### III. ORDER

Pursuant to Title 48 RCW, including RCW 48.05.185, and the foregoing Findings of Fact and Conclusions of Law, and Consent to Order, the OIC hereby enters the following order:

1) No less than fifteen (15) and no more than thirty (30) days after the conclusion of the Appeals Process, and the exhaustion by either party of all rights to appeal the Final Order or any order entered by the Thurston County Superior Court in the Superior Court Proceeding:

A. After exhaustion of the Appeals Process, if OIC prevails, CTIC agrees to pay a penalty of forty eight thousand three hundred and thirty four dollars (\$48,334) within thirty days of the date of entry of the final order in the Appeals Process;

B. If CTIC prevails after exhaustion of the Appeals Process, OIC agrees that it will not seek to take further administrative or judicial action against CTIC with respect to the allegations in OIC's Hearing Notice, and that this order shall have no force or effect.

2) In the event CTIC does not prevail after the conclusion of the Appeals Process, and fails to pay the foregoing fine within thirty (30) days of the conclusion of the Appeals Process, such shall result in the revocation of CTIC's Certificate of Authority and in the recovery of the fine through a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

ENTERED at Tumwater, Washington, this 5<sup>th</sup> day of October, 2009.

MIKE KREIDLER

Insurance Commissioner

By AM

Alan Michael Singer

Staff Attorney

Legal Affairs Division