

STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE OFFICE OF INSURANCE COMMISSIONER

FILED

2009 OCT 26 A 8:25

In the Matter of:

Docket No. 2008-INS-0002R
OIC No. D-07-308
DICK
Patrick D. Petersen
Chief Hearing Officer

CHICAGO TITLE INSURANCE COMPANY,

INITIAL ORDER OF DISMISSAL

Respondent,

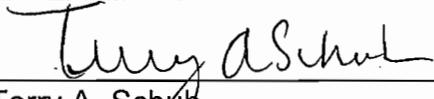
1. DISCUSSION

- 1.1 The Office of the Insurance Commissioner and Respondent Chicago Title Insurance Company stipulated and agreed that Phase II of this matter be settled and dismissed pending the conclusion of the Appeals Process in Thurston County Superior Court regarding Phase I of this matter.
- 1.2 "Phase I", "Phase II", and "the Appeals Process in Thurston County Superior Court" are more particularly described in the Stipulation and Agreement, attached and incorporated herein as Attachment A. The terms and conditions agreed upon are set forth in Attachment A.

2. ORDER

- 2.1 NOW THEREFORE, it is hereby ordered that this matter is dismissed pursuant to Washington Administrative Code (WAC) 10-08-230.

Dated and Mailed this 21st day of October 2009 from Olympia, Washington.
WASHINGTON STATE OFFICE OF ADMINISTRATIVE HEARINGS


Terry A. Schul
Administrative Law Judge
Office of Administrative Hearings
2420 Bristol Ct SW
PO Box 9046
Olympia, WA 98507-9046

PETITION FOR REVIEW

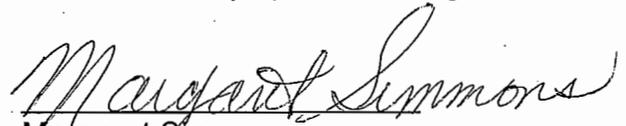
Pursuant to RCW 34.05.464 and WAC 10-08-211, any party to an adjudicative proceeding may file a Petition for Review of an Initial Order. The Petition for Review shall be filed with the agency head with **twenty (20) days** of the date of service of the Initial Order. Copies of the Petition must be served upon all other parties or their representatives at the time the Petition for Review is filed. The Petition for Review must specify the portions of the Initial Order to which exception is taken and must refer to the evidence of record which is relied upon to support the Petition.

The Petition for Review must be mailed to:

Office of Insurance Commissioner
c/o Patricia Petersen
Chief Hearing Officer
Hearing Unit, OIC
PO Box 40255
Olympia, WA 98504-0255

Certificate of Service

I assert that true and exact copies of the **Initial Order of Dismissal** were mailed to the following parties, postage prepaid this 21st day of October 2009 at Olympia, Washington.


Margaret Simmons
Legal Secretary

Chicago Title Insurance Company
c/o David Neu,
Attorney at Law
K&L Gates
925 - 4th Ave, Suite 2900
Seattle, WA 98104-1158

Alan Singer
Staff Attorney, Legal Affairs
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Patricia D. Petersen,
Chief Hearing Officer
Hearing Unit, OIC
PO Box 40255
Olympia, WA 98504-0255

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.

Attachment A

- 4) On October 30, 2008, an initial order ("Initial Order") granted summary judgment in favor of CTIC on the Phase I issue. On April 24, 2009, OIC Chief Hearing Officer Patricia D. Petersen entered a final order ("Final Order") entering judgment in Phase I in favor of the OIC. A merits hearing in Phase II of the Administrative Proceeding is scheduled to begin on October 19, 2009.
- 5) On May 13, 2009, CTIC appealed the Final Order to the Thurston County Superior Court (the "Superior Court Proceeding"). CTIC and OIC each wish to exhaust all appeal rights ("Appeals Process"). To resolve Phase II and obviate the need for a hearing on the merits, the parties hereby consent to the imposition of a fine in the event CTIC does not prevail in the Appeals Process.

II. CONSENT TO ORDER

- 1) CTIC, acknowledges its duty to comply fully with the applicable laws of the state of Washington.
- 2) In order to fully resolve the pending Phase II of the Administrative Proceeding between the OIC and CTIC, the parties agree to fully settle Phase II of this matter as follows:
 - 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 stipulation and agreement shall have no force or effect.

Attachment A

EXECUTED this 28th 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 5th day of October, 2009.

MIKE KREIDLER

Insurance Commissioner

By AM

Alan Michael Singer

Staff Attorney

Legal Affairs Division

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STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE OFFICE OF THE INSURANCE COMMISSIONER

FILED

2008 MAR 28 A 9:46

In re the Matter of

**CHICAGO TITLE INSURANCE
COMPANY,**

An authorized insurer.

Hearings Unit, DIC
Patricia D. Petersen
Chief Hearing Officer
Docket No. 2008-INS-0002

AMENDED NOTICE OF HEARING

TO: Kimberly W. Osenbaugh
K&L/Gates
924 Fourth Avenue, Suite 2900
Seattle, Washington 98104-1158

The Honorable Mike Kreidler, Insurance Commissioner of the State of Washington, proposes disciplinary action against Chicago Title Insurance Company and hereby issues this Amended Notice of Hearing. The Insurance Commissioner submits the following as the basis of this Amended Notice of Hearing in accordance with RCW 48.04.010.

1. PARTIES AND JURISDICTION

1.1 Pursuant to the Insurance Code, Title 48 RCW, the Insurance Commissioner is authorized to regulate the business of insurance and enforce the insurance laws of Washington State in order to protect the public interest.

1.2 Chicago Title Insurance Company ("Chicago Title") is authorized to transact the business of insurance in Washington State and, therefore, is subject to Title 48 RCW and Chapter 284 WAC.

Attachment A

1.3 Jurisdiction and venue are appropriate under, among other provisions, RCW 48.02.060, RCW 48.05.185, and RCW 48.04.010.

2. FACTS

2.1 Chicago Title appointed Land Title Company of Kitsap County, Inc. ("Land Title") as its agent, pursuant to RCW 48.17.010, to solicit and effectuate Chicago Title's business of title insurance on Chicago Title's behalf. All contracts of insurance effectuated by Land Title on properties in Kitsap County, Washington are placed with Chicago Title.

2.2 On or about May 15, 2007, The Office of the Insurance Commissioner ("OIC") initiated an investigation of several title insurers, including Chicago Title. The Chicago Title investigation commenced with the OIC auditing its agent, Land Title, at its business office in Silverdale, Washington. OIC investigators obtained a copy of Land Title's checkbook, ledger, expense account documents, and realtor continuing education class expenses, from December 1, 2006 through March 31, 2007.

2.3 The investigation revealed multiple violations of WAC 284-30-800. In particular, between December 1, 2006 and March 31, 2007, Land Title provided the following items and services to real estate offices, real estate agents, or lenders while acting as a representative of Chicago Title and soliciting insurance business on Chicago Title's behalf:

- a. Unlimited use of the online property information service RealQuest® for a \$25.00 annual "access fee".
- b. "Flyer Delivery" services to real estate agents, lenders, and builders in any of four "Zones of Delivery" comprising Kitsap County, for \$2.50 per zone.
- c. \$56.46 for a floral arrangement for the Reid Real Estate office on March 22, 2007.
- d. \$400.00 to take Absolute Mortgage broker C. C. and Coldwell Banker real estate agent R. S. to a Seattle Seahawks 2006 championship game.
- e. \$2,251.83 to sponsor a golf tournament for the benefit of Golf Savings mortgage lender K. B. The golf tournament included a \$1,216.00 cash donation, gift cards, and \$385.83 worth of pizza for tournament participants.
- f. \$145.00 for items purchased at the Mason County Board of Realtors® auction by Land Title employee Debbie Savunen.
- g. \$68.00 per month in advertising for RE/MAX real estate agent P. D.
- h. Meals for the following persons (pro-rated as a result of Land Title not having fully itemized receipts) in a position to steer title insurance business:
 - \$128.92: one meal, three diners, including Coldwell Banker real estate agent R. S., divided by four, \$32.23 each.
 - \$155.59: one meal, three diners, including Coldwell Banker real estate agent R. S., divided by three, \$51.86 each.
 - \$72.92: one meal, two diners, including Tim Ryan Construction builder D. R., divided by two, \$36.46 each.
 - \$65.18: one meal, two diners, including Golf Savings mortgage lender K. B., divided by two, \$32.59 each.
 - \$55.87: one meal, two diners, including Eagle Home Mortgage lender L. F., divided by two, \$27.94.
 - \$38.79: Windermere real estate agent P. M.'s share of two meals (one itemized) during the period under review.

Attachment A

3. APPLICABLE LAW AND ALLEGED VIOLATIONS

3.1 Pursuant to WAC 284-30-800(2), Chicago Title may not, directly or indirectly, offer, promise, allow, give, set off, or pay anything of value exceeding twenty-five dollars, calculated in the aggregate over a twelve-month period, on a per person basis in the manner specified in RCW 48.30.140, to any person as an inducement, payment, or reward for placing or causing title insurance business to be given to Chicago Title.

3.2 Pursuant to WAC 284-30-800(3), Chicago Title may not give inducements, payments or rewards to real estate agents and brokers, lawyers, mortgagees, mortgage loan brokers, financial institutions, escrow agents, persons who lend money for the purchase of real estate or interests therein, building contractors, real estate developers and subdividers, or any other person who is or may be in a position to influence the selection of a title insurer.

3.3 Chicago Title, by and through its agent Land Title, violated WAC 284-30-800 in the above-referenced seventeen instances by giving inducements, payments, or rewards exceeding twenty-five dollars in value, per person per year, to real estate agents and brokers, mortgage loan brokers or lenders, and builders.

4. SANCTIONS REQUESTED

Pursuant to RCW 48.05.185, the Commissioner seeks imposition of a fine against Chicago Title in the amount of \$155,000.

5. NOTICE OF HEARING

The OIC will convene a hearing at a date, location, and time to be determined, to consider the allegations above and the sanctions to be imposed upon Chicago Title pursuant to RCW 48.04.010 and RCW 48.05.185. At the hearing, the OIC will present evidence showing that Chicago Title, by and through its agent Land Title, violated a regulation effectuated by the Commissioner pursuant to his authority under RCW 48.02.060, and that the sanction requested above is authorized under the law. Chicago Title may cross-examine OIC witnesses and present any defenses, evidence, or arguments it may have in opposition.

Dated this 27th day of March, 2008.

MIKE KREIDLER
Insurance Commissioner

By:


Marcia G. Stiekler
Legal Affairs Division

CERTIFICATE OF SERVICE

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 matter, and competent to be a witness herein.

On the date given below I caused to be served the foregoing AMENDED NOTICE OF HEARING on the following individual in the manner indicated:

Kimberly W. Osenbaugh, Esq.
K&L/Gates
924 Fourth Avenue, Suite 2900
Seattle, Washington 98104-1158

Cindy L. Burdue, Administrative Law Judge
Office of Administrative Hearings
2420 Bristol Court Southwest
PO Box 9046
Olympia, Washington 98507-9046

(XXX) Via U.S. Mail

SIGNED this 27th day of March, 2008, at Tumwater, Washington.

Jodie Thompson
Jodie Thompson