

FILED

MAY 19 2008

Hearings with OIC
Patricia D. Petersen
Chief Hearing Officer

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

IN THE MATTER OF:

COMMONWEALTH LAND TITLE INSURANCE COMPANY Docket No. 2008-INS-0005

**RESPONSE BY
COMMONWEALTH LAND TITLE
INSURANCE COMPANY TO
NOTICE OF HEARING**

TO: Honorable C. Robert Wallis
Administrative Law Judge
Office of Administrative Hearings
2420 Bristol Court S.W., P.O. Box 9046
Olympia, Washington 98507-9046

Commonwealth Land Title Insurance Company ("CLTIC"), by and through its undersigned counsel, hereby responds to the Office of the Insurance Commissioner's ("OIC") Notice of Hearing as follows:

1. PARTIES AND JURISDICTION

1. Responding to paragraph 1.1, CLTIC admits that the Insurance Commissioner is authorized to regulate the business of insurance and to enforce the insurance laws of the State of Washington in accordance with Title 48 RCW.

RESPONSE BY COMMONWEALTH LAND TITLE INSURANCE COMPANY TO NOTICE OF HEARING

1 investigation of Rainier Title, and CLTIC denies the allegations relating to the OIC's
2 investigation of Rainier Title for lack of information or knowledge.

3 6. Responding to paragraph 2.3, CLTIC denies, for lack of information or
4 knowledge, the allegations relating to what the OIC's alleged investigation of Rainier Title
5 revealed, including any specific allegations regarding Rainier Title's conduct. CLTIC denies
6 that any violations of WAC 284-30-800 occurred.

7 7. Responding to paragraph 2.4, CLTIC denies, for lack of information or
8 knowledge, these allegations.

9 8. Responding to paragraph 2.5, CLTIC denies, for lack of information or
10 knowledge, these allegations.

11 3. APPLICABLE LAW AND ALLEGED VIOLATIONS

12 9. Responding to paragraph 3.1, CLTIC admits the legal requirements of WAC
13 284-30-800(2), but denies that the provisions of that regulation are applicable to CLTIC in
14 this matter.

15 10. Responding to paragraph 3.2, CLTIC admits the legal requirements of WAC
16 283-30-800(3), which describe the persons referenced in WAC 284-30-800(2), but denies that
17 the provisions of that regulation are applicable to CLTIC in this matter.

18 11. Responding to paragraph 3.3., CLTIC denies that it violated WAC 284-30-800
19 through the conduct of Rainier Title, an independent contractor. CLTIC denies that it gave
20 inducements, payments or rewards exceeding twenty-five dollars in value, per person per
21 year, to real estate agents and brokers, mortgage loan brokers or lenders, and builders, in
22 relation to the instances alleged in paragraphs 2.3 through 2.5. CLTIC denies that any
23 violations of WAC 284-30-800 occurred.

24 4. SANCTIONS REQUESTED

25 12. CLTIC objects to the OIC's request for sanctions on the basis that the OIC
26 lacks the legal authority to impose said fine. The statute cited by OIC, RCW 48.05.185, does

1 not apply to this proceeding. It authorizes the OIC to "levy a fine upon [an] insurer in an
 2 amount not less than two hundred fifty dollars and not more than ten thousand dollars" only
 3 "in addition to or in lieu of the suspension, revocation, or refusal to renew any certificate of
 4 authority." RCW 48.05.185. The OIC has not initiated proceedings to suspend or revoke
 5 CLTIC' certificate of authority, nor has it refused to renew the certificate. Moreover, CLTIC
 6 objects to the OIC's request for sanctions on the ground that RCW 48.05.185, even if it did
 7 apply, clearly limits the OIC's authority to impose a fine to "not more than ten thousand
 8 dollars." RCW 48.30.010(5) is the statutory provision that, under certain circumstances,
 9 authorizes fines for "unfair or deceptive acts or practices" pursuant to the regulations
 10 promulgated by the OIC, such as WAC 284-30-800. It provides:

11 If the commissioner has cause to believe that any person is violating any such
 12 regulation, the commissioner may order such person to cease and desist
 13 therefrom. The commissioner shall deliver such order to such person direct or
 14 mail it to the person by registered mail with return receipt requested. If the
 15 person violates the order after expiration of ten days after the cease and desist
 16 order has been received by him or her, he or she may be fined by the
 17 commissioner a sum not to exceed two hundred and fifty dollars for each
 18 violation committed thereafter.

19 The OIC has not issued a cease and desist order to CLTIC and lacks the authority to
 20 impose such a fine against CLTIC. Even if OIC had authority, RCW 48.30.010(5) expressly
 21 limits any such fine to not more than \$250.00 per violation.

22 **5. NOTICE OF HEARING**

23 13. CLTIC denies that it violated the Insurance Code or a regulation thereto, and
 24 that the sanction requested is authorized under the law.

25 **AFFIRMATIVE DEFENSES**

26 BY WAY OF FURTHER RESPONSE, CLTIC alleges the following affirmative
 defenses:

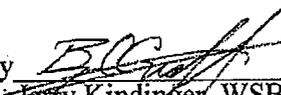
1. Lack of jurisdiction.
2. Failure to state a claim upon which relief can be granted.

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3. CLTIC reserves the right to allege additional affirmative defenses, and to amend and supplement this Response, based upon future discovery in this case.

DATED this 19th day of May, 2008.

RYAN, SWANSON & CLEVELAND, PLLC

By 
Jerry Kindinger, WSBA #5231
Bryan C. Graff, WSBA# 38553
Attorneys for Respondents

FILED

MAY 19 2008

Hearing Officer
Patricia M. Petersen
Chief Hearing Officer

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

IN THE MATTER OF:

COMMONWEALTH LAND TITLE INSURANCE
COMPANY

Docket No. 2008-INS-0005

**RESPONSE BY
COMMONWEALTH LAND TITLE
INSURANCE COMPANY TO
NOTICE OF HEARING**

I, Valerie Dominique, declare and state as follows:

I am a citizen of the United States, over the age of 18 years, not a party in the foregoing action, and am competent to testify as a witness. I am employed by the law firm of Ryan, Swanson & Cleveland PLLC, and my business address is 1201 Third Avenue, Suite 3400, Seattle, Washington 98101.

On May 19, 2008, I caused a true and correct copy of: (1) Response by Commonwealth Land Title Insurance Company to Notice of Hearing; and (2) this Declaration of Service to be served via facsimile and U.S. Mail, first class postage prepaid, on the following:

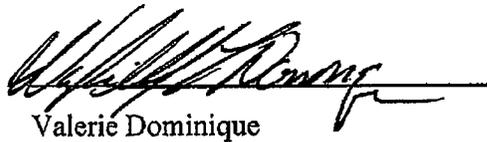
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Alan M. Singer
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OIC Legal Affairs
P.O. Box 40255
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Facsimile: (360) 586-0152

Patricia D. Peterson
Chief Hearing Officer
Hearings Unit, OIC
P.O. Box 40255
Olympia, Washington 98504-0255
Facsimile: (360) 664-2782

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct to the best of my knowledge

EXECUTED this 19th day of May, 2008.


Valerie Dominique