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OFFICE OF
INSURANCE COMMISSIONER

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Hearings Unit, DIC
Patricia D. Petersen
Chief Hearing Officer

In re the Matter of

**CHICAGO TITLE INSURANCE
COMPANY,**

An authorized insurer.

NO. D07-308

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 Notice of Hearing. The Insurance Commissioner submits the following as the basis of this 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.

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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.

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.” First American Real Estate Solutions, owner of RealQuest®, sells a one-time, five-report RealQuest® information package for \$29.95.
- 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. Two Land Title employees had a daily route for deliveries as their primary job responsibility during the period under review, in addition to Land Title having a service agreement with Schwartz Enterprises, Inc. for daily pick-up and delivery services.
- c. \$56.46 for a floral arrangement for the office of a real estate broker on March 22, 2007.
- d. \$400.00 to take a mortgage broker and a real estate agent to a Seattle Seahawks 2006 playoff game.
- e. \$2,251.83 to sponsor a golf tournament for the benefit of a mortgage lender. The golf tournament included a \$1,216.00 cash donation to the lender, gift cards, and \$385.83 worth of pizza for tournament participants.
- f. \$145.00 for items Land Title purchased at the Mason County Board of Realtors® auction.
- g. \$68.00 per month in advertising for a RE/MAX agent, P. D.
- h. Meals for persons, pro-rated, in a position to steer title insurance business:
 - \$128.92: one meal, three diners, one a real estate agent, divided by three, \$42.97 each
 - \$155.59: one meal, three diners, one a real estate agent, divided by three, \$51.86 each
 - \$65.18: one meal, two diners, one a real estate agent, divided by two, \$32.59 each
 - \$72.92: one meal, two diners, one a builder, divided by two, \$36.46 each
 - \$39.65: a real estate agent’s share of two meals during the period under review.
 - \$62.93: a mortgage lender’s share of three meals during the period under review.

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 \$145,000.00.

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 25TH day of January, 2008.

MIKE KREIDLER
Insurance Commissioner

By: 

Thomas P. Rowland, Staff Attorney
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 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

(XXX) Via U.S. Mail

SIGNED this 25th day of January, 2008, at Tumwater, Washington.

Jodie Thompson
Jodie Thompson