

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

IN THE MATTER OF:

Chicago Title Insurance Company,
An Authorized Insurer,

Respondent.

Docket No. 2008-INS-0002

Infraction No. D07-308

FIRST PRE-HEARING ORDER

Pursuant to proper notice to all parties, a telephonic pre-hearing conference was held on March 31, 2008, at 9:45 a.m., before Cindy L. Burdue, Administrative Law Judge. Parties present: the Office of the Insurance Commissioner, represented by Marcia Stickler, Attorney at Law, and Chicago Title Insurance Company (Respondent), represented by Kimberly Osenbaugh, Attorney at Law, K&L Gates; with David Neu, Attorney at Law, and Kevin Chiarello, Compliance Officer and Vice-President.

The following matters were discussed and agreed upon; where matters were not discussed, the undersigned has entered the following rulings on the issues:

BIFURCATION OF HEARING

The hearing will be bifurcated, with the preliminary issue of the legal responsibility of Respondent for the actions of Land Title Company of Kitsap County, Inc., being determined first.

Depending on the outcome of that issue, whether Respondent is liable for the actions of Land Title Company of Kitsap County, Inc., a second hearing will be held to determine whether the expenditures of the Kitsap County company violate the law, specifically WAC 284-30-800 and various provisions of RCW 48.04 and RCW 48.05.

SCHEDULE FOR PHASE I OF THE HEARING PROCESS:

1. **Discovery Cut Off:** for the issue of legal responsibility/agency is set for May 15, 2008.
2. The **Motions calendar** is set as follows:
 - a. All motions and briefs related to the issue of the legal liability of Chicago Title Company for the actions of the Land Title Company of Kitsap County, Inc., will be filed

by **June 18, 2008.**

- b. The response briefs will be filed by **July 2, 2008;**
- c. The reply brief, if any, will be filed by **July 9, 2008.**
- d. **Oral argument** of any motions will be **by telephone, on July 16, 2008, at 9:45 a.m.** To appear for the motions argument, **the parties will telephone** the Administrative Law Judge at **1-800-843-7712 or (360) 753-7328**, to leave a return phone number, at which the Administrative Law Judge will call each party to begin the conference call. **Please call at 9:35 a.m.** to leave your phone number for the return call of the Administrative Law Judge.
- e. Assuming that the issue can be decided without the aid of witness testimony, on the affidavits and other documents provided by the parties, a ruling on the preliminary issue whether Chicago Title is legally liable for the actions of the Land Title Company of Kitsap County, Inc., will be issued by **July 30, 2008, in writing** by the Administrative Law Judge.
- f. Filing may be via mail or fax, and means "delivered" to the other party and the Administrative Law Judge on the date indicated, not "postmarked" that day.

Hearing of witness testimony on Phase I, as needed:

- g. The hearing of witness testimony, if needed, on the phase one issue (the agency issue) will be as follows:

**PLACE: The Office of Administrative Hearings,
2420 Bristol Ct. SW
Olympia, WA 98507**

OR Telephonically: 1-800-843-7712; (360) 753-7328

DATE: September 17, 2008,

TIME: 9:30 a.m.

This hearing may be a telephonic or in person hearing, to be determined at a subsequent date.

The ruling on the agency/phase I issue will be issued by **October 1, 2008**, in writing.

- h. All motions and hearings will be recorded by the Administrative Law Judge and

no court reporter will be ordered for these proceedings.

Witness identification

1. The deadline for exchange of witness lists for the phase one hearing, to be held on September 17, 2008, shall be, **August 6, 2008, at 5:00 p.m.** Please provide a copy to the Administrative Law Judge on that date, as well.
2. The parties' witness list shall include the following information for each witness: the person's name; job title; business address and telephone number; and a brief description of the anticipated testimony of that witness.
3. The witness lists may be exchanged by facsimile, with hard copies mailed promptly.

Exhibits

1. All Exhibits anticipated to be offered at the September 17, 2008, hearing are to be exchanged, with copies to the undersigned, by **August 27, 2008, at 5:00 p.m.**
2. All exhibits are to be pre-marked and all pages numbered. Unless some other system is arranged by mutual agreement of the parties, the Office of the Insurance Commissioner shall mark its exhibits using numbers (e.g., 1, 2, 3 . . .) and Chicago Title Insurance Company shall mark its exhibits using letters (e.g. A, B, C . . .).
3. If the Exhibits number less than 20 pages total, they may be faxed to the undersigned and the other party, with hard copies to follow in the mail. If your exhibits number more than 20 pages total, please mail these documents *to arrive* by August 27, 2008, 5:00 p.m.

SCHEDULE FOR PHASE II HEARING PROCESS:

1. **Discovery Cut Off** for issue of expenditures by Land Title Company of Kitsap County, Inc., by **December 1, 2008.**
2. **Motions Calendar is set as follows:**
 - a. All motions related to the phase II of the hearing, on the issue whether expenditures by the Land Title Company of Kitsap County, Inc., violated the law, will be filed by **January 28, 2009;**
 - b. Response briefs will be filed by **February 11, 2009;**

- c. Reply briefs will be filed by **February 18, 2009**;
- d. Oral argument, via **telephone: March 4, 2009, at 9:30 a.m.** (follow directions, above, and call the Office of Administrative Hearings ten minutes prior to the hearing time).
- e. The Administrative Law Judge's written ruling on motions will be issued by **March 18, 2009**.

Evidentiary Hearing on Phase II:

The hearing on the Phase II issues will be held, in person, at the Office of Administrative Hearings,

PLACE: 2420 Bristol Ct. SW, Olympia, WA 98507

or Telephonically, 1-800-843-7712; (360) 753-7328

DATE: April 8 through April 10, 2009

TIME: 9:30 a.m. each day.

Witness identification

- 6. The deadline for exchange of witness lists for the phase II hearing, to be held on April 8-10, 2009, shall be **March 25, 2009, at 5:00 p.m.** Please provide a copy to the Administrative Law Judge on that date, as well.
- 7. The parties' witness list shall include the following information for each witness: the person's name; job title; business address and telephone number; and a brief description of the anticipated testimony of that witness.
- 8. The witness lists may be exchanged by facsimile, with hard copies mailed promptly.

Exhibits

- 1. All Exhibits anticipated to be offered at the April 8-10, 2009, hearing are to be exchanged, with copies to the undersigned, by **March 25, 2009, at 5:00 p.m.**
- 2. All exhibits are to be pre-marked and all pages numbered. Unless some other system is arranged by mutual agreement of the parties, the Office of the Insurance

Commissioner shall mark its exhibits using numbers (e.g., 1, 2, 3 . . .) and Chicago Title Insurance Company shall mark its exhibits using letters (e.g. A, B, C . . .).

3. If the Exhibits number less than 20 pages total, they may be faxed to the undersigned and the other party, with hard copies to follow in the mail. If your exhibits number more than 20 pages total, please mail these documents *to arrive* by **March 25, 2009, at 5:00 p.m.**

ORDER

IT IS HEREBY ORDERED that if no objection to this Order is filed **within ten days** after its mailing, it shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

DATED and Mailed this 1st day of April 2009, at Olympia, Washington.



Cindy L. Burdue
Administrative Law Judge
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2420 Bristol Ct. SW
P.O. Box 9046
Olympia, WA 98507
1-800-843-7712; (360) 753-7328

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