

1 CALIFORNIA DEPARTMENT OF INSURANCE
2 LEGAL DIVISION

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10
11 **BEFORE THE INSURANCE COMMISSIONER**
12 **OF THE STATE OF CALIFORNIA**
13 **SACRAMENTO**

14 In the Matter of the Licenses and Licensing
15 Rights of:

File Nos. LA 15489-A and LA 15516-A

16 ORANGE COAST TITLE COMPANY;

17 ORANGE COAST TITLE COMPANY OF
18 RIVERSIDE, now conducting business as,
19 ORANGE COAST TITLE COMPANY OF
20 THE INLAND EMPIRE;

ORANGE COAST TITLE COMPANY OF
LOS ANGELES; and,

CALIFORNIA TITLE COMPANY,

21 Respondents.

22 **ACCUSATION**

(Insurance Code §§790.03, 790.04, 790.05,
790.06, 12389.2, 12404, 12405, 12405.7,
12407, and 12408.5; and RESPA, 12 U.S.C.
§§2607(a) and (d));

23 **NOTICE OF NONCOMPLIANCE AND
24 HEARING**

(Insurance Code §§790.03, 790.05, 790.06,
12404, 12405, 12405.7, 12408.5, 12410,
12411, and 12928.6);

25 **DEMAND FOR MONETARY PENALTY**

(Insurance Code §§790.035, 790.08, 12409,
and 12976; and 12 U.S.C. §§2607(d)(1) and
26 (d)(2)); and,

27 **RIGHT TO ISSUE ORDER TO SHOW
28 CAUSE**

(Insurance Code §§790.05, and 790.06).

29 The Insurance Commissioner of the State of California (“Insurance Commissioner”) in his
30 official capacity alleges that:

1 **JURISDICTION AND PARTIES**

2 1. Respondent, ORANGE COAST TITLE COMPANY (“OCTC”), is licensed by the
3 Insurance Commissioner to act as an underwritten title company in the State of California,
4 pursuant to Section 12389 of the California Insurance Code.¹ OCTC is licensed to transact the
5 business of title insurance in the counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa,
6 Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Imperial, Inyo, Kern, Kings,
7 Lake, Lassen, Los Angeles, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono,
8 Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San
9 Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara,
10 Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama,
11 Trinity, Tulare, Tuolumne, Ventura, Yolo, and Yuba; and,
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14 2. Respondent, ORANGE COAST TITLE COMPANY OF RIVERSIDE, now
15 conducting business as ORANGE COAST TITLE COMPANY OF THE INLAND EMPIRE
16 (collectively “OCTCIE”), is licensed by the Insurance Commissioner to act as an underwritten
17 title company in the State of California, pursuant to Section 12389 of the California Insurance
18 Code. OCTCIE is licensed to transact the business of title insurance in the counties of Riverside
19 and San Bernardino; and,
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21 3. Respondent, ORANGE COAST TITLE COMPANY OF LOS ANGELES
22 (“OCTCLA”), is licensed by the Insurance Commissioner to act as an underwritten title company
23 in the State of California, pursuant to Section 12389 of the California Insurance Code. OCTCLA
24 is licensed to transact the business of title insurance in the counties of Los Angeles and Orange;
25 and,
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¹ Unless otherwise stated, all references are to the California Insurance Code.

1 4. Respondent, CALIFORNIA TITLE COMPANY (“CTC”), is licensed by the
2 Insurance Commissioner to act as an underwritten title company in the State of California,
3 pursuant to Section 12389 of the California Insurance Code. CTC is licensed to transact the
4 business of title insurance in the counties of Alameda, Contra Costa, Fresno, Kern, Los Angeles,
5 Orange, Riverside, Sacramento, San Bernardino, San Diego, San Luis Obispo, Santa Barbara,
6 Santa Clara, and Ventura; and,
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8 5. In October 2000, the Department of Insurance (“Department”) began examining
9 the operations of OCTC, OCTCIE, OCTCLA, and CTC, pursuant to California Insurance Code
10 Sections 790.04 and 12407, after the Department received numerous written and telephonic
11 complaints alleging illegal rebating activities by OCTC, OCTCIE, OCTCLA, and CTC. These
12 complaints raised the issue of whether certain activities implemented by each of these
13 underwritten title companies, from May 1999 to October 2000, constituted violations of
14 California’s insurance laws. The examination occurred in several OCTC, OCTCIE, OCTCLA,
15 and CTC branch offices in which OCTC, OCTCIE, OCTCLA, and CTC own and maintain title
16 insurance offices. The investigation included interviews with employees of OCTC, OCTCIE,
17 OCTCLA, and CTC, and the examination of the books and records of OCTC, OCTCIE,
18 OCTCLA, and CTC, as authorized by California Insurance Code Sections 790.04 and 12407; and,
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21 6. California Insurance Code Section 790.03 defines unfair methods of competition
22 and unfair and deceptive acts or practices in the business of insurance. Subdivision (e) of Section
23 790.03 identifies “making any false entry in any book, report, or statement of any insurer with
24 intent to deceive any agent or examiner lawfully appointed to examine into its condition or into
25 any of its affairs, or any public official to whom the insurer is required by law to report, or who
26 has authority by law to examine into its condition or into any of its affairs, or, with like intent,
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1 willfully omitting to make a true entry of any material fact pertaining to the business of the
2 insurer in any book, report, or statement of the insurer” as a prohibited acts; and,

3 7. California Insurance Code Section 790.035 states that “Any person who engages
4 in any unfair method of competition or any unfair or deceptive act or practice... is liable to the
5 state for a civil penalty to be fixed by the commissioner, not to exceed five thousand dollars
6 (\$5,000) for each act, or, if the act or practice was willful, a civil penalty not to exceed ten
7 thousand dollars (\$10,000) for each act. The commissioner shall have the discretion to establish
8 what constitutes an act;” and,

9 8. California Insurance Code Section 790.04 authorizes the Insurance Commissioner
10 to “examine and investigate into the affairs of every person engaged in the business of insurance
11 in the State in order to determine whether such person has been or is engaged in any unfair
12 method of competition or in any unfair or deceptive act or practice prohibited by Section
13 790.03...”; and,

14 9. California Insurance Code Section 790.05 states that “Whenever the commissioner
15 shall have reason to believe that a person has been engaged or is engaging in this state in any
16 unfair method of competition or any unfair or deceptive act or practice... and that a proceeding
17 by the commissioner in respect thereto would be to the interest of the public, he or she shall issue
18 and serve upon that person an order to show cause containing a statement of the charges in that
19 respect, a statement of that person’s potential liability under Section 790.035, and a notice of
20 hearing thereon...;” and,

21 10. California Insurance Code Section 790.06 provides for the prosecution of unfair
22 methods of competition and unfair and deceptive acts or practices in the business of insurance
23 that are not defined in Section 790.03; and,

1 11. California Insurance Code Section 790.08 states that “The powers vested in the
2 commissioner in this article shall be additional to any other powers to enforce any penalties, fines
3 or forfeitures, denials, suspensions or revocations of licenses or certificates authorized by law
4 with respect to the methods, acts and practices hereby declared to be unfair or deceptive;” and,

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6 12. California Insurance Code Section 12389.1 states that “Before granting a license
7 or a reissued license to act as an underwritten title company to any applicant, the commissioner
8 shall consider the qualifications of the applicant in respect to the following subjects: ...(e)
9 competency, character, and integrity of management; and... (g) fairness and honesty of methods
10 of doing business...”; and,

11 13. California Insurance Code Section 12389.2 provides that “After the issuance or
12 reissuance of a license to act as an underwritten title company, the holder shall continue to
13 comply with the requirements as to its business set forth in Section 12389.1 and in the other
14 applicable sections of this code, and in the other laws of this state;” and,

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16 14. California Insurance Code Section 12404 provides, in pertinent part, that “it is
17 unlawful for any title insurer, underwritten title company, or controlled escrow company, to pay,
18 directly or indirectly, any commission, compensation, or other consideration to any person as an
19 inducement for the placement or referral of title business;” and,

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21 15. California Insurance Code Section 12404(b)(1) defines “person” as “any
22 individual or entity who is any owner or prospective owner, lessee or prospective lessee of real
23 property or any interest therein, any obligee or prospective obligee of an obligation secured or to
24 be secured either in whole or in part by real property or any interest therein, or any person who is
25 acting or who is in the business of acting as agent, representative, attorney, or employee of those
26 persons” (hereafter collectively referred to as “12404 persons”); and,

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1 16. California Insurance Code Section 12404(c) provides that certain activities
2 enumerated in that section are “deemed per se inducements for the placement or referral of title
3 insurance business by any person, and are unlawful;” and,

4 17. California Insurance Code Section 12404(g) states that “The Legislature hereby
5 intends that this section, including the specific terms employed within it, shall be liberally
6 construed for the purpose of protecting consumers of title business;” and,

7 18. California Insurance Code Section 12405 provides, in relevant part, that “no
8 underwritten title company shall make any rebate of any portion of the fee or charge” shown in its
9 schedule of rates filed with the Commissioner; and,

10 19. California Insurance Code Section 12405.7 provides in pertinent part that “no...
11 person engaged in the business of selling or furnishing to the public, directly or indirectly,
12 evidence to title to real property shall: (a) pay for or furnish or offer to pay for or furnish any part
13 of the advertising or promotional material of the customer in connection with the sale or
14 encumbrance of real property;” and,

15 20. California Insurance Code Section 12408.5 provides that “...no underwritten title
16 company shall pay any commission for the solicitation or negotiation of any services constituting
17 the business of title insurance;” and,

18 21. California Insurance Code Section 12409 states that “Every... underwritten title
19 company which pays any commission or which makes any unlawful rebate in violation of this
20 article shall be liable to the people of California for five times the amount of that commission or
21 unlawful rebate...;” and,

22 22. California Insurance Code Section 12410 states that “In enforcing any of the
23 provisions of this article, the commissioner shall be entitled to the remedies provided for in
24 Section 12928.6 of this code;” and,

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1 23. California Insurance Code Section 12411 provides “The commissioner may after a
2 hearing suspend or revoke the... license of any underwritten title company licensed pursuant to
3 the provisions of Section 12389...;” and,

4 24. California Insurance Code Section 12928.6 provides that “Whenever the
5 commissioner believes, from evidence satisfactory to him, that any person is violating or about to
6 violate any provisions of this code or any order or requirement of the commissioner issued or
7 promulgated pursuant to authority expressly granted the commissioner by any provision of this
8 code or by law, the commissioner may bring an action in the name of the people of the State of
9 California in the superior court of the State of California against such person to enjoin such
10 person from continuing such violation or engaging therein or doing any act in furtherance
11 thereof;” and,

12 25. Section 8(a) of the Real Estate Settlement Practices Act (“RESPA”), 12 U.S.C.
13 Section 2607(a) states that “No person shall give and no person shall accept any fee, kickback, or
14 thing of value pursuant to any agreement or understanding, oral or otherwise, that business
15 incident to or part of a real estate settlement service involving a federally related mortgage loan
16 shall be referred to any person;” and,

17 26. Section 8(d) of the Real Estate Settlement Practices Act (“RESPA”), 12 U.S.C.
18 Section 2607(d)(1) states “Any person or persons who violate the provisions of this section shall
19 be fined not more than \$10,000 or imprisoned for not more than one year, or both;” and,

20 27. Section 8(d) of the Real Estate Settlement Practices Act (“RESPA”), 12 U.S.C.
21 Section 2607(d)(2) states “Any person or persons who violate the prohibitions or limitations of
22 this section shall be jointly and severally liable to the person or persons charged for the settlement
23 service involved in the violation in an amount equal to three times the amount of any charge paid
24 for such settlement service;” and,

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decorations, birthday cards, balloons, baskets, lingerie, and fragrances for closing gifts, sales promotions, birthday gifts, thank you gifts, wedding gifts, baby gifts, retirement gifts, Christmas gifts, barbeques, and Chili cook-offs; and,

- (2) Gift certificates to and for massages, facial treatments, spa treatments, restaurants, car washes, grocery stores, specialty stores, department stores, home improvement stores, party supply stores, movie theatres, ticket outlets, florists, electronic stores, real estate associations, entertainment entities and individuals, symphonies, country clubs and golf courses; and,

B. Trips and Entertainment Expenses

OCTC, OCTCIE, OCTCLA, and CTC submitted receipts, invoices, and expense reports totaling not less than forty four thousand two hundred thirty one dollars and ninety-seven cents (\$44,231.97) for trips and entertainment expenses. OCTC, OCTCIE, OCTCLA, and CTC sales managers and sales representatives submitted in excess of two hundred fifty one (251) receipts and invoices, some of which were redacted, documenting expenditures for the trips and entertainment expenses of 12404 persons, which were unrelated to the business of title insurance.

Examples from these receipts and invoices include, but are not limited to:

- (1) Trips to Mexico, Hawaii, Napa, Carmel, Las Vegas, Legoland, Disneyland, Knott's Berry Farm, Magic Mountain, Anaheim Pond, San Diego, Point Loma, Indian Wells Country Club, Del Mar

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Meadows, Gordon Beach, Orange County Performing Arts Center,
and Dana Wharf; and,

(2) Entertainment expenses for Christmas parties, pot lucks, ice cream
socials, baseball events, basketball games, tennis tournaments, golf
tournaments, cocktail parties, concerts, and symphonies; and,

C. Catering and Entertainment

OCTC, OCTCIE, OCTCLA, and CTC submitted receipts, invoices, and
expense reports totaling not less than thirty four thousand three hundred
thirty eight dollars and forty-four cents (\$34,338.44) for catering and
entertainment. OCTC, OCTCIE, OCTCLA, and CTC sales managers and
sales representatives submitted in excess of two hundred five (205) receipts
and invoices, some of which were redacted, documenting expenditures for
catering and entertainment on behalf of 12404 persons, and unrelated to the
business of title insurance. Examples from these receipts and invoices
include, but are not limited to, catered breakfasts, holiday luncheons, and
holiday dinners for catered fairs, thank you luncheons, award luncheons,
awards breakfasts, Christmas parties, post-game dinners, post-golf dinners,
garage sale catering, month end closings, birthday celebrations, top sales of
the month meetings, home tours, and Department of Real Estate classes;
and,

D. Training Seminars

OCTC, OCTCIE, OCTCLA, and CTC submitted receipts, invoices, and
expense reports totaling not less than thirty two thousand one hundred
thirty three dollars and eighty-eight cents (\$32,133.88) for training

1 seminars. OCTC, OCTCIE, OCTCLA, and CTC sales managers and sales
2 representatives submitted in excess of two hundred fifty eight (258)
3 receipts and invoices, some of which were redacted, documenting
4 expenditures to host training seminars for the benefit of 12404 persons, and
5 unrelated to the business of title insurance. Examples from these receipts
6 and invoices include, but are not limited to, training classes and seminars
7 for marketing commercial real estate, comparables, Propositions 69 and 90,
8 retrieving on-line school reports, accessing the world wide web, retrieving
9 schools profiles and reports, ordering property inspections, notaries, real
10 estate licensing, prospecting, Superstar strategies, using e-mail, on-line
11 Spanish profiles, clip art, cold calling scripts, computer training, Homes
12 For Sale, computer training for CMA Plus, new listings, Star Monthly
13 meetings, Success 2000 Seminars, marketing high end properties,
14 Microsoft Publisher, and market forecast and projections; and,

17 E. Door Prizes and Raffle Prizes

18 OCTC, OCTCIE, OCTCLA, and CTC submitted receipts, invoices, and
19 expense reports totaling not less than twelve thousand five hundred ten
20 dollars and ninety-five cents (\$12,510.95) for door prizes and raffles prizes.
21 OCTC, OCTCIE, OCTCLA, and CTC sales managers and sales
22 representatives submitted in excess of one hundred eighty four (184)
23 receipts and invoices, some of which were redacted, documenting
24 expenditures for door prizes and raffle prizes on behalf of 12404 persons,
25 and unrelated to the business of title insurance. Examples from these
26 receipts and invoices include, but are not limited to, door prizes and raffle
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1 prizes for golf tournaments, bowling tournaments, football games,
2 Riverside BIA meetings, real estate conventions, board of realtor meetings,
3 California Desert Association of Realtors seminars, Desert Escrow
4 Association meetings, broker caravan tours, and casino night fundraisers;
5 and,
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7 F. Business Support Expenses

8 OCTC, OCTCIE, OCTCLA, and CTC submitted receipts, invoices, and
9 expense reports totaling not less than eleven thousand five hundred forty
10 seven dollars and twenty-eight cents (\$11,547.28) for business support
11 expenses. OCTC, OCTCIE, OCTCLA, and CTC sales managers and sales
12 representatives submitted in excess of ninety six (96) receipts and invoices,
13 some of which were redacted, documenting expenditures for the business
14 support expenses of 12404 persons, which were unrelated to the business
15 of title insurance. Examples from these receipts and invoices include, but
16 are not limited to, software programs, marketing layouts, flyers, postcards,
17 mail out birthday cards, mixer flyers, telemarketing leads, board
18 advertising, personal marketing flyers, holidays handouts, posters, training
19 books, team advertising, team photos, marketing distributions, seminar
20 advertisements, monthly mailings, Holiday Easter Scavenger Hunt,
21 nameplate advertising, open house flyers, Halloween handouts, desk plate
22 engraving, online marketing flyers, flood maps, Thomas Guides, notary
23 seminars, award banquet photographs, award luncheon photographs, poster
24 boards, signs, invitations, county phone lists, workshop advertising, and
25 broker caravan advertising; and,
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G. Miscellaneous Expenses

OCTC, OCTCIE, OCTCLA, and CTC submitted receipts, invoices, and expense reports totaling not less than seven thousand two hundred thirty dollars and ninety-eight cents (\$7,230.98) for miscellaneous expenses. OCTC, OCTCIE, OCTCLA, and CTC sales managers and sales representatives submitted in excess of one hundred one (101) receipts and invoices, some of which were redacted, documenting miscellaneous expenditures on behalf of 12404 persons, and unrelated to the business of title insurance. Examples from these receipts and invoices include, but are not limited to, subdivision maps, wall maps, new school test scores, STAR reports, pastries, copies, mailers, decorations, bus trip photos, tailgate party supplies, room rentals, bird houses, forest service permits, top ten awards, wedding decorations, photo albums, film, film processing, toys, champagne glasses, centerpieces, floral arrangements, candy, tree decorations, table covers, wine, cups, pretzels, trophies, and disposable cameras; and,

H. Promotional Items

OCTC, OCTCIE, OCTCLA, and CTC submitted receipts, invoices, and expense reports totaling not less than six thousand fifty nine dollars and sixteen cents (\$6,059.16) for promotional items. OCTC, OCTCIE, OCTCLA, and CTC sales managers and sales representatives submitted in excess of eighty eight (88) receipts and invoices, some of which were redacted, documenting expenditures for promotional items on behalf of 12404 persons, and unrelated to the business of title insurance. Examples from these receipts and invoices include, but are not limited to, Halloween

1 candy, Valentine's Day candy, St. Patrick's Day potluck, St. Patrick's Day
2 candy, 4th of July candy, American flags, Easter candy, Easter lilies,
3 birthday cookies, and promotional cookies; and,

4 I. Sponsorships and Donations

5 OCTC, OCTCIE, OCTCLA, and CTC submitted receipts, invoices, and
6 expense reports totaling not less than five thousand nine hundred forty
7 seven dollars and seven cents (\$5,947.07) for sponsorships and donations.

8 OCTC, OCTCIE, OCTCLA, and CTC sales managers and sales
9 representatives submitted in excess of fifty seven (57) receipts and
10 invoices, some of which were redacted, documenting expenditures for
11 sponsorships and donations paid on behalf of 12404 persons, and unrelated
12 to the business of title insurance. Examples from these receipts and
13 invoices include, but are not limited to:

14 (1) Sponsorships for golf tournaments, golf benefits, open houses,
15 mixers, and bowling tournaments; and,

16 (2) Cash donations for golf tournaments, luncheons, and flowers; and,

17 J. School Reports/Property Profiles

18 OCTC, OCTCIE, OCTCLA, and CTC submitted receipts, invoices, and
19 expense reports totaling not less than two thousand seventy nine dollars
20 and forty-eight cents (\$2,079.48) for school reports and property profiles.

21 OCTC, OCTCIE, OCTCLA, and CTC sales managers and sales
22 representatives submitted in excess of fifteen (15) receipts and invoices,
23 some of which were redacted, documenting expenditures for school reports
24 and property profiles prepared for the benefit of 12404 persons, and
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1 unrelated to the business of title insurance. Examples from these receipts
2 and invoices include, but are not limited to, school map books, property
3 profiles in Spanish, access to school reports on the Internet, and land
4 investments; and,

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6 K. Food, Beverages, and Floral Arrangements

7 OCTC, OCTCIE, OCTCLA, and CTC submitted receipts, invoices, and
8 expense reports totaling not less than one thousand nine hundred ninety
9 two dollars and twenty-nine cents (\$1,992.29) for food, beverages, and
10 floral arrangements. OCTC, OCTCIE, OCTCLA, and CTC sales managers
11 and sales representatives submitted in excess of thirteen (13) receipts and
12 invoices, some of which were redacted, documenting expenditures for
13 food, beverages, and floral arrangements paid on behalf of realtor open
14 houses and grand openings, and unrelated to the business of title insurance.
15 Examples from these receipts and invoices include, but are not limited to,
16 food, beverages, and floral arrangements from Safeway, Elephant Bar,
17 Ralphs, Albertsons, Black Angus, Party City, Costco, and Togo's for grand
18 openings and open houses hosted by Prudential Realty, Keller Williams
19 Realty, Century 21 Superstars, and Centerstone Realty; and,

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22 L. Promotional Materials and Supplies

23 OCTC, OCTCIE, OCTCLA, and CTC paid vendor invoices totaling not
24 less than one thousand thirty four dollars and fifty-seven cents (\$1,034.57)
25 for promotional materials and supplies. Receipts and invoices submitted
26 by OCTC, OCTCIE, OCTCLA, and CTC sales managers and sales
27 representatives reveal that on nineteen (19) separate occasions, OCTC,
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OCTCIE, OCTCLA, and CTC paid vendor invoices for promotional materials and supplies to assist in the promotion of the businesses of 12404 persons. Examples of the vendor invoices paid by OCTC, OCTCIE, OCTCLA, and CTC include, but are not limited to:

- (1) Parties N Us for decorations for a Chili Cook-off on behalf of Century 21 and Prudential California Real Estate; and,
- (2) Vons and Victoria Falls for large cups for the sales offices of Regency Homes; and,
- (3) Sav-On for paper goods for Fred Sands Realty; and,

STATUTORY ALLEGATIONS

30. The facts alleged herein demonstrate that OCTC, OCTCIE, OCTCLA, and CTC have made false entries in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, and constitute an unfair method of competition and/or unfair or deceptive acts or practices in the marketplace affecting title insurance competitors and consumers in this State, in violation of subsection (e) of Section 790.03 of the California Insurance Code, and constitute grounds for the Insurance Commissioner to suspend or revoke OCTC, OCTCIE, OCTCLA, and CTC's licenses and licensing rights pursuant to California Insurance Code Section 790.08; and,

31. The facts alleged herein demonstrate that OCTC, OCTCIE, OCTCLA, and CTC have made payments in the form of commissions, compensation, and/or other consideration to any person as an inducement for the placement or referral of title business, and constitute an unfair method of competition and/or unfair or deceptive acts or practices in the marketplace affecting title insurance competitors and consumers in this State that are not defined in California

1 Insurance Code Section 790.03, in violation of subsection (a) of Section 790.06 of the California
2 Insurance Code, and constitute grounds for the Insurance Commissioner to suspend or revoke
3 OCTC, OCTCIE, OCTCLA, and CTC's licenses and licensing rights pursuant to California
4 Insurance Code Section 790.08; and,

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6 32. The facts alleged herein demonstrate that OCTC, OCTCIE, OCTCLA, and CTC
7 have paid, directly or indirectly, any commission, compensation, or other consideration to any
8 person as an inducement for the placement or referral of title business, in violation of California
9 Insurance Code Section 12404(a), and constitute grounds for the Insurance Commissioner to
10 restrict or suspend OCTC, OCTCIE, OCTCLA, and CTC's licenses and licensing rights pursuant
11 to California Insurance Code Section 12409; and,

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13 33. The facts alleged herein demonstrate that OCTC, OCTCIE, OCTCLA, and CTC
14 have paid, provided or offered to provide assistance with the business expenses of any person, in
15 violation of California Insurance Code Section 12404(c)(1), and constitute grounds for the
16 Insurance Commissioner to restrict or suspend OCTC, OCTCIE, OCTCLA, and CTC's licenses
17 and licensing rights pursuant to California Insurance Code Section 12409; and,

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19 34. The facts alleged herein demonstrate that OCTC, OCTCIE, OCTCLA, and CTC
20 have provided or offered to provide consideration for the benefit of any person, in violation of
21 California Insurance Code Section 12404(c)(2), and constitute grounds for the Insurance
22 Commissioner to restrict or suspend OCTC, OCTCIE, OCTCLA, and CTC's licenses and
23 licensing rights pursuant to California Insurance Code Section 12409; and,

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25 35. The facts alleged herein demonstrate that OCTC, OCTCIE, OCTCLA, and CTC
26 have furnished or offered to furnish all or any part of the time or productive effort of any
27 employee of the underwritten title company for services unrelated to the title business, in
28 violation of California Insurance Code Section 12404(c)(6), and constitute grounds for the

1 Insurance Commissioner to restrict or suspend OCTC, OCTCIE, OCTCLA, and CTC's licenses
2 and licensing rights pursuant to California Insurance Code Section 12409; and,

3 36. The facts alleged herein demonstrate that OCTC, OCTCIE, OCTCLA, and CTC
4 have paid consideration as an inducement for the placement or referral of title business not
5 specifically set forth in this section, in violation of California Insurance Code Section 12404(e),
6 and constitute grounds for the Insurance Commissioner to restrict or suspend OCTC, OCTCIE,
7 OCTCLA, and CTC's licenses and licensing rights pursuant to California Insurance Code Section
8 12409; and,

9 37. The facts alleged herein demonstrate that OCTC, OCTCIE, OCTCLA, and CTC
10 have rebated portions of the fee or charge for a title policy, in violation of California Insurance
11 Code Section 12405, and constitute grounds for the Insurance Commissioner to restrict or
12 suspend OCTC, OCTCIE, OCTCLA, and CTC's licenses and licensing rights pursuant to
13 California Insurance Code Section 12409; and,

14 38. The facts alleged herein demonstrate that OCTC, OCTCIE, OCTCLA, and CTC
15 have paid for or furnished the advertising or promotional material of a customer in connection
16 with the sale or encumbrance of real property in violation of California Insurance Code Section
17 12405.7, and constitute grounds for the Insurance Commissioner to restrict or suspend OCTC,
18 OCTCIE, OCTCLA, and CTC's licenses and licensing rights pursuant to California Insurance
19 Code Section 12409; and,

20 39. The facts alleged herein demonstrate that OCTC, OCTCIE, OCTCLA, and CTC
21 have paid or offered to pay, either directly or indirectly, any part of the employee compensation
22 to persons or entities as an inducement for, or as compensation for, any title insurance business, in
23 violation of California Insurance Code Section 12408.5, and constitute grounds for the Insurance
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1 Commissioner to restrict or suspend OCTC, OCTCIE, OCTCLA, and CTC's licenses and
2 licensing rights pursuant to California Insurance Code Section 12409; and,

3 40. The facts alleged herein demonstrate that OCTC, OCTCIE, OCTCLA, and CTC
4 have provided kickbacks for the referral of title insurance business in connection with
5 transactions involving federally related mortgage loans, in direct contravention of RESPA, 12
6 U.S.C. Section 2607(a) and 24 C.F.R. Section 3500.14(g)(4), and constitute grounds for the
7 Insurance Commissioner to assess monetary penalties pursuant to 12 U.S.C. Section 2607(d)(1);
8 and,
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10 41. The facts alleged herein demonstrate that OCTC, OCTCIE, OCTCLA, and CTC
11 have provided kickbacks for the referral of title insurance business in connection with
12 transactions involving federally related mortgage loans, in direct contravention of RESPA, 12
13 U.S.C. Section 2607(a) and 24 C.F.R. Section 3500.14(g)(4), and constitute grounds for the
14 Insurance Commissioner to assess treble damages pursuant to 12 U.S.C. Section 2607(d)(2); and,
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16 42. The facts alleged herein demonstrate that OCTC, OCTCIE, OCTCLA, and CTC
17 have provided kickbacks for the referral of title insurance business in connection with
18 transactions involving federally related mortgage loans, in direct contravention of RESPA, 12
19 U.S.C. Section 2607(a) and 24 C.F.R. Section 3500.14(g)(4), and constitute grounds for the
20 Insurance Commissioner to enjoin further violations of these sections; and,
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22 43. The Insurance Commissioner hereby notifies OCTC, OCTCIE, OCTCLA, and
23 CTC that based upon the facts alleged herein, OCTC, OCTCIE, OCTCLA, and CTC are in
24 violation of California Insurance Code Sections 790.03, 790.06, 12389.2, 12404(a), 12404(c),
25 12404(e), 12405, 12405.7, and 12408.5, and RESPA, 12 U.S.C. Section 2607(a), and that OCTC,
26 OCTCIE, OCTCLA, and CTC have ten (10) days to comply with the provisions of those
27 Sections, or OCTC, OCTCIE, OCTCLA, and CTC will be considered to be willfully failing to
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1 comply. If OCTC, OCTCIE, OCTCLA, and CTC are found willfully failing to comply, each and
2 every company will be subject to an Order by the Commissioner prohibiting it from conducting
3 its businesses for a period of not more than one year, and will also be subject to the suspension or
4 revocation of its licenses and licensing rights by the Insurance Commissioner pursuant to
5 California Insurance Code Sections 790.08 and 12411; and,
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8 **DEMAND PURSUANT TO**
9 **CALIFORNIA INSURANCE CODE SECTIONS 790.035, 12409, and 12976**
10 **and RESPA, 12 U.S.C. 2607(d)(1) and (d)(2)**

11 44. As a result of the actions of OCTC, OCTCIE, OCTCLA, and CTC, as set forth
12 hereinabove, and pursuant to California Insurance Code Sections 790.03, 790.035, and 790.06,
13 OCTC, OCTCIE, OCTCLA, and CTC are liable to the people of California in the amount of
14 twelve million two hundred ten thousand dollars (\$12,210,000.00), as a civil penalty for engaging
15 in two thousand four hundred forty two (2,442) acts of unfair methods of competition or unfair or
16 deceptive acts or practices; and,
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18 45. As a result of the actions of OCTC, OCTCIE, OCTCLA, and CTC, as set forth
19 hereinabove, and pursuant to California Insurance Code Section 12409, OCTC, OCTCIE,
20 OCTCLA, and CTC are liable to the people of California in the amount of one million two
21 hundred eight thousand two hundred sixty two dollars and fifteen cents (\$1,208,262.15), which is
22 five times the amount of the unlawful rebates of two hundred forty one thousand six hundred fifty
23 two dollars and forty-three cents (\$241,652.43); and,
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25 46. As a result of the actions of OCTC, as set forth hereinabove, and pursuant to
26 RESPA, 12 U.S.C. Section 2607(d)(1), OCTC is liable in the amount of ten thousand dollars
27 (\$10,000.00) as a monetary penalty for providing kickbacks and unearned fees to settlement
28 service providers; and,

1 47. As a result of the actions of OCTCIE, as set forth hereinabove, and pursuant to
2 RESPA, 12 U.S.C. Section 2607(d)(1), OCTCIE is liable in the amount of ten thousand dollars
3 (\$10,000.00) as a monetary penalty for providing kickbacks and unearned fees to settlement
4 service providers; and,

5 48. As a result of the actions of OCTCLA, as set forth hereinabove, and pursuant to
6 RESPA, 12 U.S.C. Section 2607(d)(1), OCTCLA is liable in the amount of ten thousand dollars
7 (\$10,000.00) as a monetary penalty for providing kickbacks and unearned fees to settlement
8 service providers; and,

9 49. As a result of the actions of CTC, as set forth hereinabove, and pursuant to
10 RESPA, 12 U.S.C. Section 2607(d)(1), CTC is liable in the amount of ten thousand dollars
11 (\$10,000.00) as a monetary penalty for providing kickbacks and unearned fees to settlement
12 service providers; and,

13 50. As a result of the actions of OCTC, OCTCIE, OCTCLA, and CTC, as set forth
14 hereinabove, and pursuant to RESPA, 12 U.S.C. Section 2607(d)(2), OCTC, OCTCIE, OCTCLA,
15 and CTC are liable to the people of the State of California in the amount of seven hundred twenty
16 four thousand nine hundred fifty seven dollars and twenty-nine cents (\$724,957.29), which is
17 three times the amount of the unlawful rebates of two hundred forty one thousand six hundred
18 fifty two dollars and forty-three cents (\$241,652.43); and,

19 51. Demand for fourteen million one hundred eighty three thousand two hundred
20 nineteen dollars and forty-four cents (\$14,183,219.44) is hereby made to OCTC, OCTCIE,
21 OCTCLA, and CTC. Pursuant to California Insurance Code Section 12976, OCTC, OCTCIE,
22 OCTCLA, and CTC have ten (10) days to make payment; and,

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1 **ORDER TO SHOW CAUSE PURSUANT TO CALIFORNIA INSURANCE CODE**
2 **SECTIONS 790.05 and 790.06**

3 52. WHEREAS, the Insurance Commissioner has reason to believe that a proceeding
4 by the Insurance Commissioner would be in the public interest, he shall bring an Order to Show
5 Cause pursuant to Section 790.05 of the California Insurance Code, containing a statement of the
6 charges and OCTC, OCTCIE, OCTCLA, and CTC'S potential liability under Section 790.05;
7 and,

8 53. WHEREAS, the Insurance Commissioner has reason to believe, based upon the
9 facts sets forth herein, that OCTC, OCTCIE, OCTCLA, and CTC have engaged in and are
10 currently engaging in a method of competition and/or an act or practice in the conduct of its
11 business that is not defined in California Insurance Code Section 790.03, and that the method is
12 unfair and/or the act or practice is unfair or deceptive pursuant to California Insurance Code
13 Section 790.06; and,

14 54. WHEREAS, the Insurance Commissioner reserves his right to bring, in the future,
15 such Order to Show Cause against OCTC, OCTCIE, OCTCLA, and CTC for the acts set forth
16 herein.
17

18 WHEREFORE, the Insurance Commissioner prays for the following:
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- 20 1. An Order to Cease and Desist, against ORANGE COAST TITLE COMPANY,
21 ORANGE COAST TITLE COMPANY OF RIVERSIDE, now conducting business as
22 ORANGE COAST TITLE COMPANY OF THE INLAND EMPIRE, ORANGE
23 COAST TITLE COMPANY OF LOS ANGELES, and CALIFORNIA TITLE
24 COMPANY, from engaging in unfair methods of competition and unfair and
25 deceptive acts or practices in the business of title insurance in violation of California
26 Insurance Code Section 790.03(e); and,
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2. An Order to Cease and Desist, against ORANGE COAST TITLE COMPANY, ORANGE COAST TITLE COMPANY OF RIVERSIDE, now conducting business as ORANGE COAST TITLE COMPANY OF THE INLAND EMPIRE, ORANGE COAST TITLE COMPANY OF LOS ANGELES, and CALIFORNIA TITLE COMPANY, from engaging in unfair methods of competition and unfair and deceptive acts or practices in the business of title insurance in violation of California Insurance Code Section 790.06; and,
3. An Order to Cease and Desist, against ORANGE COAST TITLE COMPANY, ORANGE COAST TITLE COMPANY OF RIVERSIDE, now conducting business as ORANGE COAST TITLE COMPANY OF THE INLAND EMPIRE, ORANGE COAST TITLE COMPANY OF LOS ANGELES, and CALIFORNIA TITLE COMPANY, from engaging in practices, methods, acts or conduct in violation of California Insurance Code Sections 12404, 12405, and 12408.5, and RESPA, 12 U.S.C. Section 2607(a); and,
4. The restriction or suspension, on a statewide basis or in specified counties, of the licenses and licensing rights of ORANGE COAST TITLE COMPANY, ORANGE COAST TITLE COMPANY OF RIVERSIDE, now conducting business as ORANGE COAST TITLE COMPANY OF THE INLAND EMPIRE, ORANGE COAST TITLE COMPANY OF LOS ANGELES, and CALIFORNIA TITLE COMPANY, pursuant to California Insurance Code Section 12409; and,
5. The imposition of Notice on ORANGE COAST TITLE COMPANY, ORANGE COAST TITLE COMPANY OF RIVERSIDE, now conducting business as ORANGE COAST TITLE COMPANY OF THE INLAND EMPIRE, ORANGE COAST TITLE COMPANY OF LOS ANGELES, and CALIFORNIA TITLE COMPANY that they

1 have ten (10) days within which to comply with the provisions of California Insurance
2 Code Sections 790.03, 790.06, 12404, 12405, and 12408.5, and RESPA, 12 U.S.C.
3 Section 2607(a). If ORANGE COAST TITLE COMPANY, ORANGE COAST
4 TITLE COMPANY OF RIVERSIDE, now conducting business as ORANGE COAST
5 TITLE COMPANY OF THE INLAND EMPIRE, ORANGE COAST TITLE
6 COMPANY OF LOS ANGELES, and CALIFORNIA TITLE COMPANY do not
7 comply, the non compliant entity will be considered willful, and will be subject, after
8 hearing, to an Order by the Insurance Commissioner prohibiting the non compliant
9 entity from conducting title business for a period of not more than one year, and to the
10 possible suspension or revocation of its license and licensing rights pursuant to
11 California Insurance Code Section 12411; and,

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14 6. The imposition of a monetary penalty of twelve million two hundred ten thousand
15 dollars (\$12,210,000.00), against ORANGE COAST TITLE COMPANY, ORANGE
16 COAST TITLE COMPANY OF RIVERSIDE, now conducting business as ORANGE
17 COAST TITLE COMPANY OF THE INLAND EMPIRE, ORANGE COAST TITLE
18 COMPANY OF LOS ANGELES, and CALIFORNIA TITLE COMPANY, pursuant
19 to California Insurance Code Section 790.035; and,

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21 7. The imposition of a monetary penalty of one million two hundred eight thousand two
22 hundred sixty two dollars and fifteen cents (\$1,208,262.15), against ORANGE
23 COAST TITLE COMPANY, ORANGE COAST TITLE COMPANY OF
24 RIVERSIDE, now conducting business as ORANGE COAST TITLE COMPANY OF
25 THE INLAND EMPIRE, ORANGE COAST TITLE COMPANY OF LOS
26 ANGELES, and CALIFORNIA TITLE COMPANY, pursuant to California Insurance
27 Code Section 12409; and,
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- 8. The imposition of a fine of ten thousand dollars (\$10,000.00), against ORANGE COAST TITLE COMPANY, pursuant to RESPA, 12 U.S.C. Section 2607(d)(1); and,
- 9. The imposition of a fine of ten thousand dollars (\$10,000.00), against ORANGE COAST TITLE COMPANY OF RIVERSIDE, now conducting business as ORANGE COAST TITLE COMPANY OF THE INLAND EMPIRE, pursuant to RESPA, 12 U.S.C. Section 2607(d)(1); and,
- 10. The imposition of a fine of ten thousand dollars (\$10,000.00), against ORANGE COAST TITLE COMPANY OF LOS ANGELES, pursuant to RESPA, 12 U.S.C. Section 2607(d)(1); and,
- 11. The imposition of a fine of ten thousand dollars (\$10,000.00), against CALIFORNIA TITLE COMPANY, pursuant to RESPA, 12 U.S.C. Section 2607(d)(1); and,
- 12. The imposition of a monetary penalty of seven hundred twenty four thousand nine hundred fifty seven dollars and twenty-nine cents (\$724,957.29), against ORANGE COAST TITLE COMPANY, ORANGE COAST TITLE COMPANY OF RIVERSIDE, now conducting business as ORANGE COAST TITLE COMPANY OF THE INLAND EMPIRE, ORANGE COAST TITLE COMPANY OF LOS ANGELES, and CALIFORNIA TITLE COMPANY, pursuant to RESPA, 12 U.S.C. Section 2607(d)(2); and,

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13. The reservation of the right to bring an Order to Show Cause against ORANGE COAST TITLE COMPANY, ORANGE COAST TITLE COMPANY OF RIVERSIDE, now conducting business as ORANGE COAST TITLE COMPANY OF THE INLAND EMPIRE, ORANGE COAST TITLE COMPANY OF LOS ANGELES, and CALIFORNIA TITLE COMPANY, pursuant to California Insurance Code Sections 790.05 and 790.06.

Dated: February 2, 2006

JOHN GARAMENDI
Insurance Commissioner

By: /s/
Rebecca M. Westmore
Senior Staff Counsel