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Insurance Commissioner John Garamendi Announces Major Settlement Agreements with Title Insurers -- More Than \$37 Million to be Paid for Illegal Kickback Schemes

Three Title Insurer Groups Agree to Pay Record Penalty; More than 82,000 Households may be Eligible for Refunds Averaging Over \$300; Title Insurers Settled after making \$25 million in Illegal Rebates for Business Referrals

("The \$20 million settlement with First American Title Insurance Company reflects an earlier settlement the company reached with the State of Colorado requiring it to refund \$15 million to consumers, as well as a \$5 million penalty obtained by the California Department of Insurance. The Department will closely monitor the distribution of refunds to affected Californians and ensure that the terms of the settlement are followed.")

LOS ANGELES – Insurance Commissioner John Garamendi announced today that the California Department of Insurance (CDI) has reached agreement with nine major title companies who will pay \$37.8 million in refunds and penalties for alleged illegal rebating. The companies were accused of paying \$25.4 million in illegal kickbacks to various lenders, builders and realtors in exchange for the referral of title insurance business.

The nine companies, members of three insurance groups -- LandAmerica Financial Corporation, the First American Title Insurance Company, and Fidelity National Financial Inc. -- control roughly 75 percent of the California title insurance market. Their actions in this case involved more than 82,000 California households which purchased or refinanced a home between 1997 and 2004.

"These kickbacks are illegal," said Commissioner Garamendi. "Today's settlement puts an end to these kickbacks. We found violations of law and are punishing the offenders to deter such conduct in the future and, more importantly, to secure refunds for consumers."

CDI served administrative accusations against the nine companies alleging that they "ceded," or paid, nearly half of the premium they collected to lenders, builders and realtors in return for the referral of business. Following the accusation the companies agreed to financial settlements and to accept a cease and desist order ending the practice. These settlements represent the largest rebating penalties in CDI's history; in addition to \$12.5 million in penalties, the companies will pay refunds to consumers totaling \$25.3 million, or an average refund of over \$300 for consumers.

The companies also agreed to work with CDI on future rate-reductions and improved consumer-information. "I welcome the commitment of these

companies to help me reform the title insurance industry," said Commissioner Garamendi.

Today's announcement was the result of a wide-ranging investigation of the title industry begun by the Commissioner last fall, when he invited other state Commissioners to join in a multi-state probe of "captive reinsurance" firms. In April, Commissioner Garamendi held a hearing in Los Angeles to investigate serious charges of illegal rebating practices in the title-insurance industry. Many believe those practices are driving up the cost of purchasing and financing a home. The department found that these "captive" firms were essentially shell corporations that had no offices, no employees, and no purpose other than to funnel the illegal rebates to their parent companies.

To accomplish this scheme, the title insurers would cede premium from title policies to these captive reinsurance firms, which were controlled by builders, lenders and developers. The companies attempted to disguise these kickbacks as "reinsurance premiums." Losses from insurance claims in the title industry are extremely low – well under 10% of premium – and reinsurance is unheard-of for this kind of title insurance.

"This reinsurance scheme appears to be nothing more than a form of commercial bribery," said Commissioner Garamendi, "a blatant breach of trust by title agents, lenders, developers and builders. It skews the market and inflates transaction costs, and I will not stand for illegal rebating in California."

The Commissioner noted that the record \$37.8 million settlement is far more than the amount title insurers illegally rebated to the builders, lenders and realtors.

The Insurance Commissioner regulates title companies but not the builders, lenders and realtors who received the rebates. "The recipients of these kickbacks are just as culpable," added Commissioner Garamendi. "We have contacted Governor Schwarzenegger's administration and will turn over all information and materials and request that they investigate those who are on the receiving end of the illegal kickbacks."

Increasing the "middle-man" costs of home acquisition exacts a toll on home ownership, and with housing prices at record levels excessive title-insurance costs are comparable to a tax on purchasing and financing a house. Studies have shown that for every additional \$1,000 in the cost of a home, another 21,000 families are priced out of the housing market.

The average premium on a title policy in California today is over \$1,400. It is an expense the consumer cannot avoid, as no lender will lend money to purchase a home without title insurance, and no buyer can safely purchase a home without assurance of the seller's title.

Tens of thousands of consumers rely on their realtors, lenders, and builders to represent their interests in putting together a home purchase deal. This includes obtaining title insurance at the lowest possible cost. But, Commissioner Garamendi charged, customers in over 82,000 transactions in recent years were not routinely sent to the low-cost insurer, but to the insurer promising the realtor, lender, or builder the biggest kickback.

"My department will continue to work to protect consumers from these unethical practices," said Commissioner Garamendi. "California simply cannot tolerate the excessive cost of title insurance any longer."

See below for a breakdown of the settlements:

- Fidelity agreed to pay a full refund of ceded premium (\$7.7 million) plus \$5.6 million in penalties and cost reimbursement;

First American agreed to pay a full refund of ceded premium (\$15 million) plus \$5 million in penalties and cost reimbursement;

LandAmerica agreed to pay a full refund of ceded premium (\$2.6 million) plus \$1.9 in penalties and cost reimbursement.

Fact-Sheet on Insurance Commissioner John Garamendi's Title Insurance Administrative Prosecutions

Insurance Commissioner John Garamendi announces administrative charges against three title insurance groups, LandAmerica, Fidelity, and First American.

These groups control nine title-insurance companies accused of paying \$25.4 million in illegal rebates to home-builders, lenders, and realtors, who in return steered title-insurance business their way.

The companies' actions affected home purchase or refinancing transactions involving 84,000 home buyers and borrowers. The accusation names:

Insurance Group	Title Insurer	Illegal Rebates to Captive Reinsurers	Number of Transactions
Fidelity	Chicago Title Ins. Co.	\$3,731,985.41	18,595
	Fidelity Title Ins. Co.	\$3,985,692.55	19,757
	Security Union Title Ins. Co.	\$8,127.00	193
	Ticor Title Ins. Co.	\$15,849.00	194
	Fidelity Total	\$7,741,653.96	38,739
First American	First American Title Ins. Co.	\$15,000,000.00	30,544
LandAmerica	Commonwealth Land Title Ins. Co.	\$478,836.75	2,589
	Lawyers Title Ins. Corp.	\$2,104,087.78	9,973
	Transnation Title Ins. Co.	\$50,485.75	236
	LandAmerica Total	\$2,633,410.28	12,798
	Total	25,375,064.24	82,081

The Insurance Commissioner has jurisdiction over the title-insurance companies that paid the rebates, not the companies that received them. The Commissioner is providing information from his investigation to the U.S. Department of Housing and Urban Development, and to the Schwarzenegger administration, which have jurisdiction over the builders, realtors, and lenders.

Both state and federal laws prohibit rebating by title insurers. The main California statute is Insurance Code section 12404: "It is unlawful for any title insurer, underwritten title company or controlled escrow company to pay, directly or indirectly, any commission, compensation, or other consideration to any person as an inducement for the placement or referral of title business."

Similarly, the federal Real Estate Settlement Procedures Act prohibits such referral fees.

State law makes insurers liable for penalties equal to five times the rebate. Federal law, which states are specifically authorized to enforce, imposes additional penalties of three times the total closing costs. The aim of the laws, and the Commissioner's goal in these enforcement actions, is to deter future rebating.

Participants in Illegal Kickback Scheme

Builders	Realtors	Lenders
Artistic Homes	Asbury Park Financial L.L.C.	Citigroup
Beazer Homes	Capital Plus Document Services, Inc.	First Horizon
Citation Homes	CB Alliance	United Home Mortgage Corp.
Engle Homes	Century 21 Hilltop Lacarr	Well Fargo
Fulton Homes	CMC Residential, Inc.	
John Laing Homes	Fairway Independent Mortgage Corp.	
K. Hovnanian	Fudosan, Inc.	
KB Homes	KMG Realty	
Maracay Homes	Paramount Properties	
Meritage Homes	Pinnacle Realty	
Orleans Homebuilders	Re/Max Accord	
Pulte Homes	Re/Max Beach Cities	
Richmond American	Re/Max College Park Realty, Inc.	
Ryland Homes	Re/Max Excalibur	
Shea Homes	Re/Max Fine	
Warmington Homes	Re/Max on the Boulevard	
William Lyon Homes	Re/Max Professionals	
	Re/Max Real Estate Consultants	
	Re/Max Tri-City Realty	
	SamTim Corp.	
	South Bay Brokers, Inc.	
	Young Realtors	

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