1. For the purposes of this rule the following terms have the following meanings.

(a) “Authorized Person” means a person doing the business of title insurance under the authority of the Texas Title Insurance Act of the Insurance Code.

(b) “Producer” means a real estate broker, real estate agent, lender, mortgage company, mortgage broker, builder, developer, attorney, or architect who is not an Affiliate of an Authorized Person. A Trade Association is not a Producer; however, Paragraphs 2 and 3 of this rule apply to a Trade Association.

(c) “Affiliate” means:
(i) an officer, director, agent or employee of an Authorized Person or a Producer;
(ii) a member of the immediate family of an officer, director, agent, or employee of an Authorized Person or a Producer;
(iii) a Person who owns a Producer or Authorized Person;
(iv) a Person who is owned by a Producer or Authorized Person; or
(v) a Person who is under common ownership with a Producer or Authorized Person.

(d) “Business Expense” means a cost to operate or promote a business, including but not limited to costs of furnishings, postage, office supplies, advertising, electronic media, computer hardware, computer software, telephones, telephone charges, printing, copiers, fax machines, office equipment, vehicles, staff, employee compensation, and rent. An expense that a Producer is, in accordance with generally acceptable accounting principles, permitted to deduct for tax purposes is presumed to be a Business Expense. Without limiting this definition, the following constitute the payment of Business Expenses of a Producer by an Authorized Person, subject to the provisions of paragraph 3 herein:
(1) jointly, with a Producer, advertising real property not owned by the Authorized Person for sale or lease;
(2) contributing to a Producer or paying any part of the Producer's costs of any of the following:
(A) for sale or for lease signs;
(B) advertisements, in any media or form, that promote any one property not owned by the Authorized Person for sale or lease;
(C) boxes or similar items in which to store advertising media;
(D) hosting an open house;
(E) prizes, food, beverages, gifts, decorations, entertainment or professional services given at open houses; or
(F) parties or receptions which promote a Producer or the Producer's properties or activities of the Producer.

(e) “Trade Association” means a membership organization of persons engaging in similar or related lines of commerce, organized to promote and improve business conditions, and not engaged in a business for profit.

(f) “Market rate” means the price at which a seller, under no obligation or duress to sell, is willing to accept and a buyer, under no obligation or duress to buy, is willing to pay in an Arms-length transaction. The market rate is determined by comparing the rights or items purchased or sold to similar rights or items that have been recently purchased by others or sold to others, including others not in the title insurance business.

(g) “Arms-length transaction” means a business transaction between two unrelated and unaffiliated parties or a business transaction conducted between affiliated parties as if the parties were unrelated or unaffiliated.

2. Except as provided by this rule, an Authorized Person, directly or through an Affiliate, may not:
(a) pay, contribute, share in the cost of or finance any part of the Business Expenses of a Producer;
(b) pay, contribute, share in the cost of or finance any part of the expenses of an event or activity of a Trade Association that exists for the primary benefit of Producers and in which a majority of members are Producers; or
(c) solicit or engage in a title insurance transaction(s) involving land located in more than one state which includes land located in Texas if:
(1) the policy premium charged or solicited to be charged by the Authorized Person or Affiliate for any title insurance policy issued in the transaction(s) covering the land described in the policy outside the state of Texas violates the law of that other jurisdiction where the land is located; or
(2) the policy premium for the land in the other jurisdiction is so discounted or reduced from the normal and customary charge as to constitute a thing of value in this state.

3. Notwithstanding Paragraph 2, an Authorized Person or its Affiliates may:
(a) join a Trade Association and voluntarily participate in a Trade Association's activities provided that the level of such participation does not exceed normal participation (not more than two hours per business week) of a volunteer member of a Trade Association and is not activity that would ordinarily be performed by paid staff of a Trade Association;
(b) purchase advertising promoting the title insurance company or the title insurance agent at market rates from any person in any publication, event, or media;
(c) deliver to a party in the transaction or the party's representative legal documents or funds which are directly or indirectly related to a real estate transaction closed by the Authorized Person; and
(d) engage in legal promotional and educational activities that are not conditioned on the referral of title insurance business.

4. Authorized Persons shall maintain auditable records documenting compliance with this rule.

5. In addition to any other sanction or penalty which the Commissioner may impose by law, after notice and opportunity for hearing, any person (including a Producer or Authorized Person) found to have violated this Rule is subject to a civil penalty of not more than $10,000 for each act of violation and for each day of violation, unless a greater penalty is specified by the Insurance Code or another insurance law of Texas. The Escrow Officer, Title Insurance Agent or Direct Operation license or the certificate of authority of any person found in violation of this Rule may be suspended or revoked, after notice and opportunity for hearing.

Heritage Title Company of Austin, Inc.

Downtown Office
Frost Bank Tower
401 Congress Avenue, Suite 1500
Austin, Texas 78701
512.505.5000

Rollingwood Office
Rollingwood Center
2500 Bee Caves Road, Building 1, Suite 100
Austin, Texas 78746
512.329.3900

Tarrytown Office
The Carillon
2630 Exposition Blvd, Suite 105
Austin, Texas 78703
512.380.8900