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TITLE *News*

MARCH • APRIL 1992

On the Cover: Major developments impacting on management from the standpoint of the disabled are examined in this issue. Beginning on page 9 is a report on the Americans with Disabilities Act (ADA) that takes effect in July and bans discrimination on the basis of physical or mental handicap in places of employment, public accommodations, transportation or telecommunications services. Then, on page 13, there is commentary on the increasingly strong rationale for a pro-active management stance on AIDS in the workplace—in view of ADA, advances in medical treatment and enhancement of informational resources concerning the disease.

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A MESSAGE FROM THE PRESIDENT-ELECT



For some months your Board of Governors has struggled with the problem of budgets and an equitable dues structure for the membership of this Association. We now have in place a dues structure which I believe to be fair and realistic. We have performed this vast undertaking, without compromising our staff in Washington. I believe our Association staff is as fine a group as we've had in many, many years. They are all extremely dedicated individuals and responsive to our collective needs and directives.

The biggest change made in the Association dues structure has been the removal of "caps" on our underwriter members.

As you may recall, some underwriters were at the cap. Subsequent mergers of underwriters contributed to a serious revenue shortfall. As an abstractor-agent, I am happy that this problem has been resolved with the cooperation of our member underwriters.

Now, I'd like to lay some figures on the table for discussion.

	% of Membership	% of Membership Income
Active Underwriters	4	61
Active Abstractor-Agents	82	35
Associate, Honorary, Emeritus	14	4
	<hr/> 100	<hr/> 100

These figures dramatically show the interdependence each class of membership has upon one another. The figures speak for themselves. Should further consolidations occur at the underwriter level, we will not necessarily have lost revenue.

What can we do to help remedy any revenue losses that might occur? One obvious and simple solution is to increase our membership. Although some states have been more active than others, I feel strongly that we can and *must* increase our abstractor-agent membership. By doing so we will, of course, add additional revenue base. But more importantly, we will increase the representative membership which this Association speaks for in our united efforts in the Federal, State, real estate, lending and legal areas. We simply cannot afford to have our united voices unheard in these dynamic fields and times.

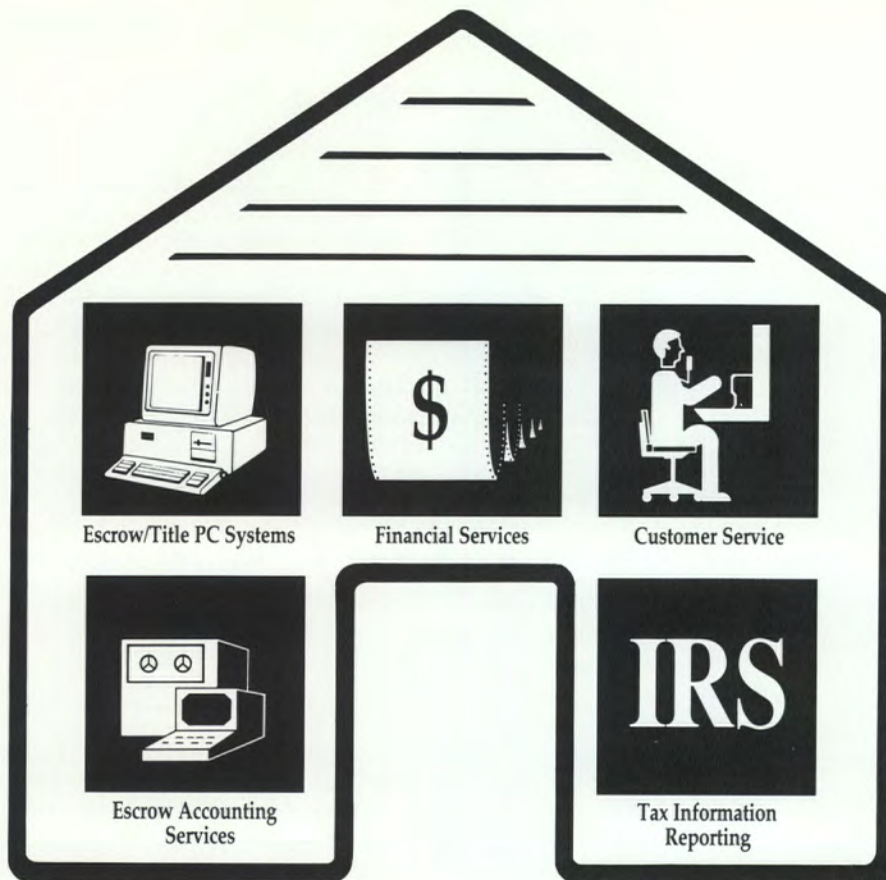
During World War I, a famous recruiting poster was created which most of us are familiar with. A stern faced Uncle Sam peered directly into our eyes and with index finger all but touching us, he stated "I Want You!" This poster was resurrected during World War II, Korea, Vietnam and even last year's Gulf War.

Perhaps all of us should make an individual effort to get out of our offices, go across or down the street and talk to one of our non-member competitors. The merits of membership in ALTA are many and rewarding. I challenge you to capture the spirit of the Uncle Sam poster. Go out and let each of us get one new member to join the ALTA.

Remember . . . "We Want You!"

Sincerely,

Dick Oliver



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ANTICIPATION: Waiting for the RTC and the FDIC to Resolve the Junior Lien Rights Problems

by Phyllis K. Slesinger,
ALTA general counsel

“**A**nticipation . . . is makin’ me wait!” say the words to the Carly Simon song and Heinz Ketchup commercial. We have been “anticipating” favorable action by the Federal Deposit Insurance Corporation (FDIC) and the Resolution Trust Corporation (RTC) on issues relating to their rights as junior lienholders since late January. At that time, RTC representatives held a meeting to discuss informally “concepts” for a comprehensive policy on these purported rights. Based on the concepts that were outlined to us, we could almost taste the ketchup!

As this article goes to press, it is April 1, and neither the RTC nor the FDIC has published a policy statement in the *Federal Register*, action which each agency has pledged to take. However, a second meeting was just held during the ALTA Mid-Year Convention. This time, the meeting was hosted by the FDIC with an RTC representative in attendance. Since the January meeting, FDIC staff have been studying the issues involved. Staff at each agency are making a concerted effort to confront the complex operational problems presented by their interpretations of the statutes in question. The RTC and FDIC also have

been trying to resolve differences in their respective interpretations of the statutes which they assert apply equally to them both. Our assessment of the recent FDIC meeting is that the ketchup might contain a little too much vinegar—the RTC recipe was a bit sweeter.

The Junior Lien Rights Issues

The title industry has been extremely concerned since approximately last summer about the effect on real estate transactions of two federal statutes. The first is the so-called Consent or Automatic Stay Statute, 12 U.S.C. §1825(b)(2); the second is the federal Redemption Statute, 28 U.S.C. §2410(c).

Since last summer, even where there has been no equity in properties, some field and central office staff of the FDIC and the RTC have been asserting under the Consent Statute that lienholders senior to either the FDIC or RTC must obtain the prior consent of the appropriate agency before foreclosing their senior interests, including first mortgage liens. The Consent Statute provides, “No property of the Corporation shall be subject to levy, attachment, garnishment, foreclosure, or sale without the consent of the Corporation, nor shall any

involuntary lien attach to the property of the Corporation." Private attorneys and title counsel have equated this purported right with the automatic stay power of a bankruptcy trustee.

Under the Redemption Statute, there have been reported instances of both the FDIC and RTC asserting a one-year right of redemption of junior lien interests in both judicial *and* nonjudicial foreclosure proceedings, although the Redemption Statute has traditionally been applied only to judicial foreclosures.

Numerous problems with foreclosures, workouts, and property sales have arisen because of the specter of these statutes. As an interim measure, the FDIC issued a directive to the field offices on March 20, 1992. Essentially, the directive reaffirms the status quo—field offices should assert the purported rights set forth in §1825(b)(2) with respect to both lien interests and fee interests. However, the directive clarifies that consent should not be withheld, except in unusual cases (involving litigation, for example) where there is insufficient equity in the property to satisfy the FDIC's junior interest. The directive also indicates that FDIC field staff should not assert the federal right of redemption in receivership capacity; state redemption law would be applicable. The directive does indicate that the FDIC is considering the advisability of issuing a comprehensive policy statement on the application of the Consent and Redemption Statutes.

The FDIC and RTC generally argue that the Consent and Redemption Statutes confer needed powers to delay private sector action. The agencies assert they need time to evaluate the cases involved and reach a reasoned decision regarding their mortgage or property rights. However, what they are doing is federalizing what were private, consensual real estate transactions.

Taking the government's interest into consideration, business, including the title insurance business, can adjust procedures to the dictates of federal statutes. However, these two statutes have caused grave concern within the title industry and lender community in large part because of the problem in identifying *when* they would apply. Although it is possible to assume that every financial institution named in the public land records as the holder of a junior mortgage lien is in receivership, it is not always possible to determine what institution in fact holds the interest. For example, in many deed of trust states, assignments of the deed of trust are not recorded. Therefore, the record holder could be two or three transfers removed from the actual

Impacts of broad interpretation of consent and redemption statutes

1. Devaluation of First Lien Loans: Extending the Consent Statute to mortgage liens will undermine the traditional role and legal rights of first lien lenders. The hallmark of the rights of a first lien lender is priority—the right to be paid first at foreclosure if the property sells to a third party or to acquire title unencumbered by any junior lien. However, if the Consent Statute is applied against senior liens other than tax liens, the first lien lender may instead acquire title encumbered by a lien, which is the position it would be in if its lien had been a second lien rather than a first lien.

If the Consent Statute applies, it would appear that the RTC would have the option in each case to decide whether (and in what amount) it will require payment of its junior debt as the condition of granting its consent and allowing title to be cleared. Thus, the RTC would obtain control over the first lienor's rights to property, in a drastic reversal of hundreds of years of real property law. Moreover, it would appear that the decision of the junior lienor as to the value of the property, though presumably guided by an appraisal or appraisals, would be substituted for the bid price at the foreclosure sale as the determinant of whether there is sufficient equity in the property to satisfy some or all of the junior debt.

Normally, a junior lienholder may foreclose and sell the security, but its rights are subject to those of the senior lienholder who must be paid off before the junior lienholder may share in the sale proceeds. Under the Consent Statute, the senior lender's position is even worse than that of a normal junior lienholder because, in deciding whether to make a junior loan, the lender will know and evaluate the amount of the senior loan. However, if the RTC's junior lien survives foreclosure of the first lien, the first lien lender finds its interest subject to a lien of which it was completely uninformed as to amount, other terms, and identity of the lienor.

Subjecting first mortgage loans to the Consent Statute will tend to devalue *all* first mortgage loans as a class, including those held by federally insured lenders, because first lien lenders will normally have no way of knowing whether a junior loan will be obtained after they make a loan, what the amount of any such loan will be, or whether such junior loan may eventually become owned by the RTC. Such devaluation has adverse implications for mortgage loans as investments and for the soundness of both healthy and marginal lenders.

2. Increase in Liabilities of Foreclosing Lender: Most foreclosure sales result in the property being acquired by the lender. The chance that the property will go instead to a third party who bids enough to satisfy the first lien loan will be diminished if the second lien loan will survive the foreclosure sale. When a lender later sells the property, it generally will give covenants of title that might be breached if there is an unextinguished junior lie or an unexpired right of redemption. Liability to the buyer would arise whether or not the selling lender had knowledge of such defects. The lender's liability for title would also be triggered if title reverted to the borrower because the foreclosure sale was found to be void or voidable. If the foreclosure sale is voidable, presumably it can be set aside only by the party whose consent was not obtained; but if it is void, the foreclosure sale might be challenged by any affected party—the borrower, or perhaps a party that pledged a junior loan to a bank (if the scope of the Consent Statute reaches such interests).

Aside from other issues of damages, it must be considered that if the innocent purchaser makes improvements to the property and then loses title by reason of any of these defects, he is likely to seek reimbursement from the lender for the cost of his improvements. In particular, with respect to the right of redemption, it is notable that 28 U.S.C. §2410(d) expressly provides that the redemption price will take into account "the expenses necessarily incurred in connection with such property," but does not mention the cost of any improvements.

3. Massive Problems Identifying Whether Junior Liens are Held by Relevant Parties: If the Consent Statute is applied to non-tax liens, compliance with the consent requirement could not be easily assured. Similarly, it is difficult to determine when the Redemption Statute might apply. Title insurers have experienced great difficulty in identifying whether a junior lien shown by the land records is held, at the day and hour of the foreclosure sale, by an entity that might assert rights under the Consent and Redemption Statutes. The difficulties in determining whether a junior lien is within the scope of these statutes is based on several factors:

- (i) The list of RTC interventions changes daily. Notices of initial RTC interventions

holder. Also, in some cases, builders may take back second liens on single family residences in their subdivisions, making unrecorded pledges of them to banks or thrifts. When these institutions go into receivership, their junior lien interests would not be identified in the land records; however, the RTC or FDIC arguably would still be able to assert rights under the Consent and Redemption Statutes based on those unrecorded interests.

Although title insurers on a go forward basis may take Schedule B exceptions for the rights of the RTC or FDIC when junior liens are involved, the risks to the industry are still staggering absent clarifying policy determinations. Think about all the junior liens that title insurers and first lienholders believe were extinguished in foreclosures predating recognition of these issues. Many attorneys have been debating whether foreclosures without the consent of the RTC or FDIC are void or whether they were merely ineffective to extinguish the rights of the applicable organization. In either event, the consequences are serious, not only for the title industry but for lenders, mortgage insurers, and secondary mortgage market facilities, such as the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac).

In mid-December, ALTA initiated a briefing session in our offices and succeeded in forming a coalition of Fannie Mae and Freddie Mac and several trade associations—the American Bankers Association, the Mortgage Bankers Association of America, the Mortgage Insurance Companies of America, the National Council of Community Bankers, and the United States League of Savings Institutions. In January, the coalition completed letters on these issues which were sent to Alfred Casey, CEO of the RTC, and William Taylor, Chairman of the Board of the FDIC. These letters were designed to pack a certain punch—they were actually signed by the executive vice presidents of each of the trade associations and the general counsels of Fannie Mae and Freddie Mac (generally, in Washington, coalition letters merely list the names of the participating organizations). The letters stated the concerns of the organizations and asked for meetings to discuss them. The letters emphasized the potential adverse impacts of broad implementation of the two statutes over specific legal arguments although reservations about legal authority also were expressed. The projected impacts are set forth in the accompanying sidebar.

continued on page 36

are not routinely or promptly filed in all jurisdictions where the insolvent bank may have junior lien rights. Further, the land records frequently do not show RTC transfers from conservatorship to receivership or the reverse, though such status is relevant to applicability of the Consent and Redemption Statutes.

(ii) In practice, mortgage or deed of trust assignments often are not recorded when loans are sold. At the time of RTC intervention, the insolvent bank may no longer own loans for which the land records show it as the junior lienor, and it may have acquired other junior loans without its interest showing in the land records.

(iii) The insolvent bank will often appear in the land records as mortgagee of record for junior loans it does not own but merely services (either because it retained servicing when it sold the loans or purchased servicing rights as to loans it never owned).

(iv) The limits of the Consent and Redemption Statutes are unclear, even if applicable. For example, questions may arise when a junior lien loan is held by a subsidiary of an RTC-controlled entity, or when such entity is a loan participant or is a loan pledgee.

4. Effect of Consent and Redemption Statutes on Title Insurers: If these statutes are broadly applied, and foreclosure sales held without the consent of the RTC are determined to be void or voidable, title insurers could possibly face grave, and unforeseen, exposure to lenders and owners arising from title policies issued without protective exceptions from coverage. The risk to insurers will arise primarily because of the difficulty, which is discussed above, in determining whether a junior lien interest is one within the scope of the statutes. The liability could be very substantial to the title industry. While the volume of such liability is difficult to assess because of the uncertainties the types of junior interests that are covered and the difficulty in determining ownership of junior liens, clearly the magnitude is significant when one simply considers the volume of outstanding home equity loans.

5. Effect on Mortgage Insurance Claims: HUD field offices reportedly have refused to accept conveyances of real property with title exceptions for rights arising under the Consent and Redemption Statutes, with the effect that mortgage insurance claim benefits are delayed until the exception can be cleared. Private mortgage insurers may follow the same policy. Further, some lender's counsel and title insurers are concerned that the lack of explicit consent by the junior lienor to a foreclosure may render a foreclosure void or voidable. If this is the case, FHA and private mortgage insurance claims are more likely to be denied, rather than simply delayed.

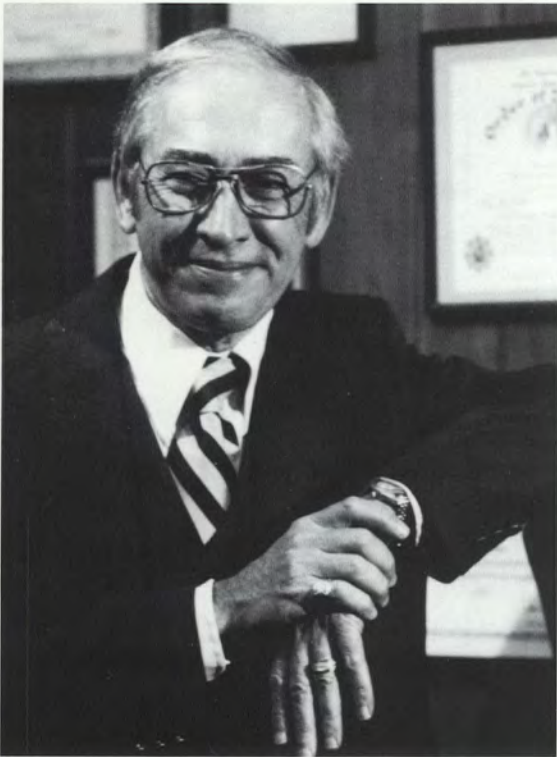
In the event of delay, the mortgage insurer is unlikely to compensate the lender for holding costs during the period of delay. In the event of denial, the lender holding the loan in portfolio will not have the protection against loss that would be provided by the mortgage insurance or, if the lender has sold the loan with warranties of mortgage insurance coverage, it may be exposed to a repurchase obligation. Such risks might adversely affect the treatment of the loan for risk-based capital purposes. Regulators might question the treatment of a broad universe of loans that could be similarly affected. To compound the problem, the scope of the universe is difficult to establish, since a lender usually will have no way of knowing whether the borrower has obtained junior financing from some other lender after the first loan is made and because of the difficulty in determining whether a junior lien interest is held by a relevant party (as discussed above).

6. Drain on Capital Due to Delay: Efforts to obtain consent to a foreclosure or waiver of redemption rights will extend the period from loan default until marketable title is obtained and, thereby, will postpone the lender's first opportunity to mitigate its loss by disposition of the property. Such delay aggravates the lender's total final loss and, thus, impairs the soundness of both healthy and marginal lenders. Under some mortgage-backed security structures, unless the lender elects to repurchase the defaulted loan from the mortgage-backed security pool (for outstanding principal plus accrued interest), the lender must advance monthly mortgage payments during the period of delay.

Delay is likely to be substantial, given the problems associated with identifying whether junior liens are held by relevant parties (as discussed above), the lack of current procedures for consenting to foreclosure or waiving the rights of redemption, and the fact that RTC field offices are greatly overworked. Establishing rules and procedures for various classes of properties would help ease the administrative burden of compliance, but is not likely to remove delay as a significant factor altogether. Designing and complying with appropriate procedures for making timely determinations of value for large volumes of cases will be difficult, time consuming, and expensive. In particular, it is inappropriate for the first lienor to bear the cost of appraisals.

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—John Ruskin (1819-1900)

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AMERICANS WITH DISABILITIES ACT

by Adina Conn, *Title News* editor, and
Laura Einstein, esq.

The Americans With Disabilities Act (ADA), signed into law on July 26, 1990, takes effect for employers on July 26, 1992. It is the most comprehensive and sweeping anti-discrimination legislation enacted since the Civil Rights Act of 1964, and its provisions affect ALTA members in several respects. The law bans discrimination on the basis of physical or mental handicap in places of employment, public accommodations, transportation or telecommunications services. The bill draws principally from two key civil rights statutes, The Civil Rights Act of 1964 and Title V of the Rehabilitation Act of 1973 (which already prohibits federal contractors and recipients of federal financial assistance from discriminating on the basis of disability). The ADA provides a "clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities" (42 U.S.C. § 12101). Indeed, the use of the term "disability" instead of handicap, represents a Congressional effort to update terminology. The ADA states that "the terminology applied to individuals with disabilities is a very significant and sensitive issue. As with racial and ethnic terms, the choice of words to describe a person with a disability is overlaid with stereotypes, patronizing attitudes, and other emotional connotations" (ADA Sec. 36.104).

The ADA, and all the provisions it embodies, represents a vast change in the way private employers must respond to disabled individuals. Yet, despite the significance of this legislation, many people remain unaware of the ADA. In June of 1991, the New York-based firm of Louis Harris and Associates, Inc, conducted a telephone poll, regarding awareness of the ADA. Of the 1,257 adults surveyed, only 18% knew of the impending Act. Even for those who have some prior knowledge of this new body of legislation, many questions may arise, regarding how to comply with the ADA. In anticipation of these questions, the Department of Justice recently awarded \$3.4 million in grants aimed at educating national businesses and advocacy groups. In addition, Congress passed a bill, in which \$5 million will be spent on establishing ten regional centers nationwide, in order that businesses, and the general public will be informed of their rights and obligations as provided for under this law.

This article is intended to provide an overview of the key provisions of the ADA and to provide guidance on what an employer must do to comply with the requirements of the law. Employers are cautioned to consult an attorney specializing in this area, if specific questions arise.

Disability Defined

Under the ADA, a person with a disability is defined as (a) one who has a physical or mental impairment that substantially limits one or more major life activities, (b) one who has a record of having such an impairment, (c) being regarded as having such a physical or mental impairment (42 U.S.C.

§ 12102). The ADA is clear in its applications to: a) persons who have substantial (as distinct from minor) impairments, and b) that the impairment limit major life activities such as seeing, hearing, speaking, walking, breathing, performing manual tasks, learning, or caring for oneself. The statute does not however, list all the diseases and conditions that it embodies. Regulations promulgated by the Equal Employment Opportunity Commission (EEOC) firmly establish that individuals with illnesses or conditions such as epilepsy, paralysis, visual and hearing impairments or learning disabilities are also provided for. A user of illegal drugs is not protected by the ADA, but a recovering alcoholic (one currently in treatment, or a person having undergone rehabilitation) is covered. The ADA protects individuals with contagious diseases such as AIDS or tuberculosis. If, however, employing that individual poses a direct threat to others, that person may not be deemed to be qualified for the position. Specifically excluded from the definition of disability are: homosexuality, bisexuality, behaviors such as transvestism, transsexualism, pedophilia, exhibitionism, compulsive gambling, kleptomania, compulsive gambling, pyromania, and psychoactive substance use disorders which are a direct result of illegal use of drugs. (42 U.S.C. § 12211).

Actions Which Constitute Discrimination in the Workplace

The employment provisions of the ADA are intended to be broad in scope. The ADA was designed to include practically every facet of the employment process, including employers, labor organizations, and joint labor-management committees (42 U.S.C. § 12111(2)). Under the new law, places of business employing 25 or more persons, will have until July 26 of this year to comply with the standards mandated by the ADA. For businesses with 15 or more employees, the law will take effect July 26, 1994. Employers with fewer than 15 employees are not covered by the ADA. Most states, however, have local laws prohibiting discrimination on the basis of disability. These states will look to the ADA to interpret the scope of their laws. The ADA will be enforced by the EEOC. If an employer is found by the EEOC or a court of law, to have violated the ADA, the employer may be liable for lost wages, reinstatement, and attorneys fees. The ADA also provides that employers could be liable for up to \$300,000 (depending on the size of the business), for damages for the embarrassment and humiliation caused by their actions.

The ADA prohibits discrimination in applications, testing, hiring, assignments, training opportunities, evaluations, layoff/recall, promotions, medical examinations, termination, compensation, leave, and benefits. The EEOC has defined the types of practices that would be prohibited under the ADA:

- Limiting, segregating, or classifying a job applicant or employee in a way that adversely affects employment opportunities for the applicant or employee because of the disability.
- Contracting with another entity, e.g. hotel for a conference, that is not accessible for disabled persons.
- Denying employment opportunities to a qualified individual because he or she has a relationship or association with a person with a disability.
- Refusing to make reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee with a disability—unless the accommodation would pose an undue hardship on the business.
- Using qualification standards, employment tests, or other criteria that screen out or tend to screen out an individual with a disability unless the standard is job-related and necessary for the business.
- Failing to use employment tests in the most effective manner to measure actual abilities.

Thus, the ADA prohibits an employer from categorizing or segregating disabled employees. It also prohibits an employer from using standards that are not job-related, but have the effect of disqualifying an otherwise qualified employee. The ADA also specifies that an employer may not refuse a job or benefits to a qualified individual known to have an association or relationship with a disabled person (42 U.S.C. § 12112(b)(4)). For example, under this provision, an employer could not refuse to hire, fire, or withhold a promotion from a prospective employee, or existing worker on the basis that his or her spouse has AIDS or requires kidney dialysis.

Medical Inquiries

The ADA absolutely prohibits an employer from: administering physical examinations, inquiring about the health or disability of an applicant, or requiring an applicant to take a medical examination before making a job offer. (42 U.S.C. § 12112(d)). Appropriate questions in an interview can relate to an applicant's ability to perform job-related functions. After a job offer is made, an applicant may be required to have a medical examination, but only if everyone within that job category is also required to undergo a physical exam. A medical examination can be required only if the health or physical condition of the employee is specifically job-related and necessary for the conduct of the business. Questions in a job interview, regarding whether an applicant has a disability are absolutely prohibited—except in cases where the answers are immediately relevant to the applicant's ability to perform the functions of the job. For example, an employer who is aware an applicant has a disability, may inquire how an applicant can perform the tasks of a job and what types of accommodations would be required.

Qualified Individuals

An individual with a disability is protected under the ADA *only* if he is also qualified to perform the essential functions of a job, with or without a reasonable accommodation. The employer generally determines a job's essential functions. This means that an individual must satisfy the valid job requirements such as education, experience, skills, licenses and the like, and be able to perform the essential tasks of the job. If, for example, a person in a wheelchair applies for a job that requires typing, and he cannot type, the applicant would not be qualified for the position. Therefore, to deny employment to this particular individual would *not* be found discriminatory. In contrast, if a person who is hearing impaired applies for a position that requires the ability to input data into a computer, and he has the experience and ability to perform that task, his disability cannot disqualify him from the job.

Reasonable Accommodation

The key provision of the ADA — and one which is calculated to cause the most questions—is its requirement that a reasonable accommodation be made to enable an employee to perform the essential job functions. The term "reasonable accommodation" is broadly defined as the providing of assistance that would enable an otherwise qualified employee to perform the necessary job functions without placing any undue hardship upon the business (29 CFR § 1630.9). A "reasonable accommodation" will depend on the unique facts of any given situation, but it could include:

- making existing employment facilities readily accessible;
- job restructuring;
- part-time or modified work schedule;
- job reassignment to a vacant position;
- acquiring and/or modifying equipment, training materials or policies;
- providing readers or interpreters (ADA § 101 (9)).

The ADA is deliberately vague about delineating a reasonable accommodation. It anticipates, however, that the employee and employer will confer as the requirements of the individual, and the provisions that can be furnished by the employer. Liz Savage of the Disability Rights Education and Defense Fund, a Berkeley, California organization which has long promoted the rights of disabled persons, emphasizes that a reasonable accommodation is just that, "reasonable." Says Savage, "Employers are the best experts on what their business needs and a disabled employee is the best expert on the accommodation he or she needs. Therefore, the parties must consult with each other and determine a reasonable accommodation. The accommodation need not be a Cadillac if there is a Ford." This informal consultation is likely to produce an accommodation that is acceptable and feasible to both parties. Employers may also contact the Job Accommodation Network (JAN). JAN is a free consultation service that provides employers with assistance in determining an accommodation. The telephone number is 1-800-526-7234.

Undue Hardship

The ADA defines a reasonable accommodation as one which would not cause an employer "undue hardship." Therefore, if an accommodation is very expensive, substantial, or disruptive, or, if it would alter the nature or operation of the business, it would be deemed an undue hardship, thereby deemed unreasonable. The ADA provides various factors in its consideration of the term "undue hardship": 1) the nature and cost of the necessary accommodation, 2) the financial resources of the facility where the accommodation would be installed, along with the financial resources of the employer, 3) the size of the business in question, 4) the structure and composition of the workplace, and 5) the reassignment of a disabled employee to a vacant position (29 CFR § 1630.2(p)). Whether an accommodation poses an undue hardship will largely depend on the cost of the requested accommodation (including consideration of account tax credits and deduction, and/or outside funding), the size and type of business, and the financial resources of the business.

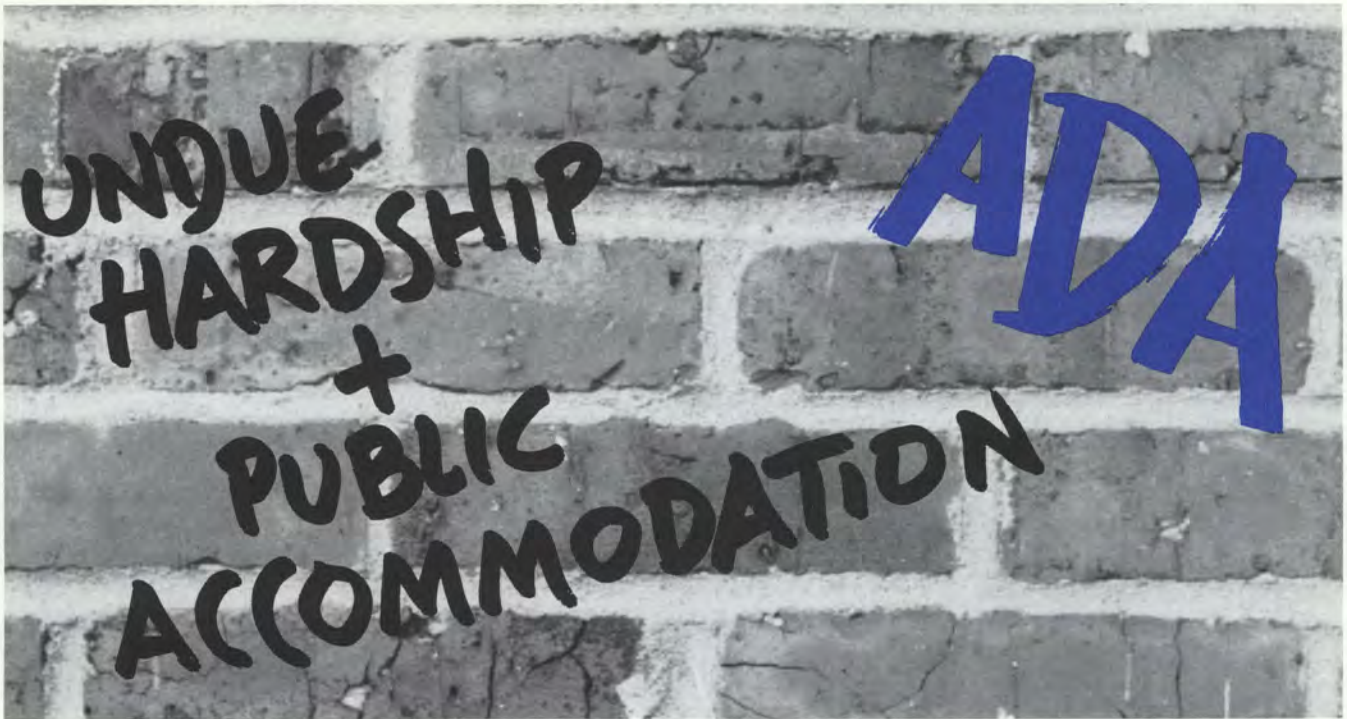
There is, however, some relief in sight. You may not be aware that the Internal Revenue Service provides a tax credit to small businesses for expenses paid to accommodate disabled employees. Pursuant to section 44 of the Internal Revenue Code, small business (those with fewer than 30 employees or less than \$1 million in gross receipts) may be eligible to receive a tax credit of 50% for certain expenditures made toward compliance with the ADA that exceed \$250 and are less than \$10,250 per year. Large employers may find themselves qualifying for a \$15,000 tax credit for expenses made toward accessibility. The Justice Department has recently mailed notices to over six million employers nationwide, with tax information provided by the Internal Revenue Service.

Compliance with the Law

Despite the amount of information that has been disseminated about the ADA, many questions remain as to what businesses must do in order to comply with the law. The ADA does not specify hard and fast rules. Questions are intended to be resolved on a case-by-case basis.

One question that is certain to arise, is whether an employer must restructure facilities in his or her place of employment, in order for them to be deemed accessible. An employer is required to modify facilities so that a disabled individual can perform the essential functions of the job. At least one restroom must be wheelchair accessible. If there is an employee lounge or other common areas that are not accessible, an employer should investigate making it accessible or moving its location so that the disabled worker can take breaks with co-workers. If an employee is visually impaired, the employer may have to purchase software that enables that person to read the writing on the computer. If the employee cannot see at all, the employer, if financially able, may have to hire a reader to assist the employee. Other general principles:

- Employers are required to attempt to accommodate known disabili-



ities. If an employer is unaware of a disability, he or she has no obligation to make a reasonable accommodation.

- If there are several qualified applicants for a job, the ADA does not require the applicant with a disability be hired. It requires *only* that the most qualified applicant be hired, and that the employer cannot discriminate because of a disability.
- Even if a disease can be controlled or corrected, it may still be covered by the ADA. For example if an employee is diabetic, but takes insulin to control the diabetes, he is still covered by the ADA.
- An employer cannot require an employee to accept a reasonable accommodation. If however, a necessary accommodation is refused, the individual may not be qualified for the job.
- If a conference or meeting is planned in another facility, the employer must ensure that the facility is accessible to employees with disabilities, unless to do so would cause an undue hardship.
- Employers are not required to provide additional insurance for employees with disabilities. They are obligated *only* to provide an employee equal access to whatever coverage they have. The ADA does not require changes in insurance plans that exclude or limit coverage for pre-existing conditions.

Public Accommodation

ALTA members are also covered by another provision of the ADA. Title III of the ADA prohibits discrimination in places of public accommodation. Included in the definition of public accommodation are lawyers' and other offices serving members of the public. Therefore title companies arguably, are included under this provision. Pursuant to this section of the ADA, places of public accommodations should be free of barriers that impede access by the public. The ADA defines barriers in two ways. Architectural barriers are those that impede access to usage of a facility (e.g. a narrow doorway that prevents a wheelchair from passing.) Communication barriers are those that prevent a person with disabilities from knowing about the services available, and the failure to provide necessary signs or aids that will enable a disabled person to use the facility. This includes such items as audio indicators on an elevator that enable a visually impaired individual to know what floor he is on. Both types of barriers are pertinent to ALTA members.

Any renovations or new construction begun after January 26, 1992 must comply with the ADA's requirements for accessibility. In order to ensure compliance, businesses should have their architect consult with an attorney familiar with the requirements of the ADA.

Even absent renovations or new construction, architectural and communication barriers must be removed to the extent such removal is "readily achievable". Readily achievable means that the alterations can be executed without much difficulty or expense. Landlords are responsible for ensuring accessibility in common areas—including entry into the building. The tenant, however, must ensure accessibility within his or her own office area.

Title employers (especially small business owners) needn't think "grand scale." One can approach this from a creative standpoint. If, for instance, you find yourself serving a deaf customer, have a paper and pencil ready to help assist in the communications process. If your conference room where you conduct closings is not wheelchair accessible, you are not required to make it so—unless restructuring can be accomplished without undue expense or difficulty. You must, however, provide another locale in your office, or elsewhere, where you can serve that individual. Likewise, if a customer is hearing impaired, you may have to provide an interpreter. If a customer is visually impaired, you may have to provide a reader. Title companies who own their own buildings, may find themselves installing adequate ramps, lowering light switches in an office, creating proper parking spaces, restroom and elevator access for customers in wheelchairs, adding Braille lettering to elevator buttons, or rearranging furniture. The circumstances of the title company; including the landlord/tenant relationship, and the individuals they serve will dictate the outcome.

Conclusion

The ADA is the most comprehensive and explicit law to date, with respect to how employers can treat disabled persons (including those who are HIV positive or have AIDS). There are a number of reasons why an employer should consider becoming familiar with the requirements of the ADA. Knowledge of the subject and its particular provisions detailed in the Act provide an employer with the opportunity to implement cost-containment, timely, and creative solutions—especially with regard to reasonable accommodations for both the employer and the disabled employee. Working with the law, and anticipating compliance will help to prevent costly and protracted litigation.

The co-author of this article, Laura Einstein, is a partner in the Washington, D.C., law firm of Dolkart and Einstein. Ms. Einstein specializes in issues pertaining to the ADA.

DISABLED- MANAGEMENT AND THE LAW

SAFE MANAGEMENT: PROACTIVE TREATMENT OF AIDS IN THE WORKPLACE

Advances in medical treatment, new legal constraints through the federal Americans With Disabilities Act (ADA, please see accompanying article), and enhancement of informational resources have brought a new perspective to development of management policy on HIV/AIDS in the workplace.

The "ostrich approach"—ignoring the potential impact of HIV/AIDS—is becoming more and more questionable as a suitable alternative for management.

With the Center for Disease Control estimating that one American in 250 now is infected with HIV, the AIDS-causing virus, and the likelihood that new treatments will enable infected employees to spend a longer period on the job, having an appropriate policy in place is taking on new importance for the title industry and other areas of private enterprise. Preparing co-workers for a greater influx of employees with the disease and assuring those afflicted of humane treatment and reasonable accommodations are not the least among considerations.

Informal visits with title executives across the nation recently indicated that employee priorities and policies regarding AIDS vary

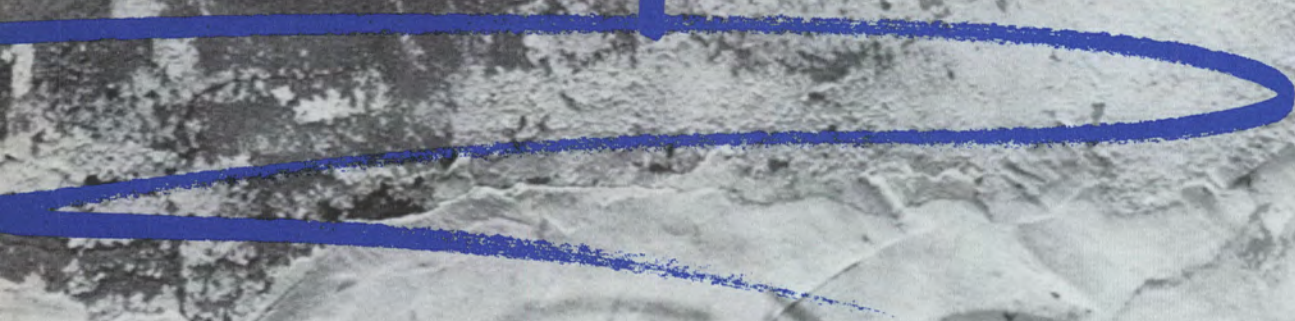
considerably. But with the total marching steadily upward from the 209,693 individuals already affected with AIDS, and six major title insurance underwriting companies currently known to have cases of AIDS among their employees, issues surrounding the disease can be expected to intensify for title management.

Information, Advice Most Helpful

Title executives, including those who are closest to development and administration of employee disability policy, generally hold that the manager who is best prepared to deal with AIDS in the workplace is (a) well informed on the issue, and (b) knows where to go for expert advice when a problem arises—whether to a senior manager or to an "outside" resource. Major elements needing management consideration are providing employee education on the disease and making sure the workplace has reasonable accommodations for those with disabilities. (Please see the accompanying article on ADA and side bar on AIDS information sources.)

Studies by the National Leadership Coalition on AIDS point to denial that "it could happen in my workplace" as the leading

SAFE MANAGEMENT



contributor to a lack of initiative by business in addressing problems related to the disease. According to the New York Business Group on Health, about 10 percent of concerns employing fewer than 500 persons have reported a worker with AIDS or a positive test for the HIV virus—and over two thirds of businesses employing more than 2,500 have reported HIV/AIDS cases. It is estimated that some 68 percent of American businesses have no HIV/AIDS policy, and that 90 percent of businesses lack an educational program on the disease. With these statistics, the grim outlook for spread of the disease, and recent gains in knowledge of HIV/AIDS, the rationale for inaction on AIDS education is weakening steadily, in the view of one title industry observer.

As policy considerations are discussed, it should be remembered that HIV and AIDS are separate health problems. It can take 10 years or more for an employee infected with the virus to develop serious symptoms of AIDS.

Also important in the realm of policy determination is the prohibition in ADA against pre-hire medical inquiries or testing. According to the act, an employer may inquire about an employee's medical condition only after a job offer is extended—and then only insofar as the medical condition might pertain to the employee's ability to perform work assigned. Refusing to hire because of fear about AIDS among employees or customers, and segregation or limiting employee responsibilities because of HIV/AIDS, are prohibited by ADA.

Pro-Active Stance Eases Disruption

Taking a pro-active approach in AIDS policy including employee education is widely regarded as the best means for reducing, if not eliminating, disruption and even crisis. The senior human resources ex-

ecutive for one title insurance underwriting company introduced this philosophy a few years ago by enclosing a copy of the Surgeon General's Report on AIDS with each employee's paycheck, and arranging for the company to purchase an educational

videotape from the San Francisco AIDS Foundation for internal use.

Another underwriter posts all material related to AIDS (educational flyers, benefit activities such as walk-a-thons, etc.) on employee bulletin boards, while still another sends educational pamphlets to branch offices. As a follow-up activity, corporate headquarters of the second-mentioned company undertook the responsibility of education for regional managers, who in turn informed those in branch offices.

"We treat AIDS like any other disease," said the corporate human resources officer for the company. "We encourage our managers to openly deal with the subject among employees and to create a supportive work environment."

A Florida title agency became a pro-active pioneer several years ago, joining with others including major corporations outside the real estate industry in endorsing the Citizen's Commission on AIDS "Ten Principles of AIDS in the Workplace" (please see accompanying side bar).

Recalling the experience, the title agency president commented, "We didn't have anyone here with HIV/AIDS. I just agreed with the philosophy that the document ascribed to and believed in fostering the principles handed to us by the council."

The Florida title executive added, "From an anti-discrimination standpoint, I strongly felt this was an issue that needed addressing."

Support from the chief executive officer obviously is an essential asset in shaping policy on AIDS and other disabilities. Several years ago, the CEO of a major title underwriter "went public" with his employees, publishing a message on HIV/AIDS in the company newsletter, where he expressed resolve to provide a safe, productive work environment that included prohibition of discrimination in all phases of

Costs of Other Care

Annual costs for treating an AIDS patient average \$32,000. Lifetime costs of medical care for AIDS patients are about \$85,000. In contrast, the lifetime cost of treating a woman with breast cancer exceeds \$52,000, and the lifetime cost of caring for a premature, low birth weight baby can reach \$500,000 (as cited by Hazel A. Witte, Esq., and Sophie M. Korczyk, Ph.D., in *AIDS, Health Insurance and Small Business*, January, 1992).

Liver Transplant \$145,795

Heart-Lung Transplant \$134,881

Heart Transplant \$ 91,570

Pancreas Transplant \$ 66,917

Kidney Transplant \$ 39,625

The figures provided above are averages, as cited in the 1991 study by the United Network for Organ Sharing, Richmond, Virginia.

Information on AIDS

Whether you represent a large underwriter corporation with a full personnel and/or human resource department, or a small business owner, it is important for you to have ready access to the latest AIDS information and legislation that can affect your company. The following are several organizations that offer information, referrals, or educational materials on AIDS in the workplace:

The American Red Cross can help employers and employees by presenting a basic education program designed to increase knowledge and understanding of the impact of HIV infection on HIV-infected workers, co-workers, and employers. For further information, contact your local chapter.

The National Leadership Coalition on AIDS is a membership organization serving business and labor organizations in the vanguard of providing ongoing education, civic support and leadership in responding to HIV/AIDS (202-429-0930).

The National AIDS Clearinghouse provides information on AIDS services, educational resources and free publications (1-800-458-5231).

National AIDS Hotline provides confidential information, referrals, and educational material free of charge. Employees can call the Hotline for confidential information about HIV/AIDS transmission, prevention, or risk reduction, testing, and related issues.

(1-800-342-AIDS; 24-hour, toll-free service;

1-800-344-7432—Servicio en Espanol;

1-800-243-7889—TTY/TDD for the hearing impaired.)

employment.

Without an effective AIDS education program, the overall risk of problems among employees is definitely greater. According to the New York Business Group on Health, one of three Americans still harbor the mis-

Responding to AIDS: Ten Principles For the Workplace

- 1 People with AIDS or HIV (Human Immunodeficiency Virus) infection are entitled to the same rights and opportunities as people with other serious or life threatening illnesses.
- 2 Employment policies must, at a minimum, comply with federal, state, and local laws and regulations.
- 3 Employment policies should be based on the scientific and epidemiological evidence that people with AIDS or HIV infection do not pose a risk of transmission of the virus to coworkers through ordinary workplace contact.
- 4 The highest levels of management and union leadership should unequivocally endorse nondiscriminatory employment policies and educational programs about AIDS.
- 5 Employers and unions should communicate their support of these policies to workers in simple, clear and unambiguous terms.
- 6 Employers should provide employees with sensitive, accurate, and up-to-date education about risk reduction in their personal lives.
- 7 Employers have a duty to protect the confidentiality of employees' medical information.
- 8 To prevent work disruption and rejection by co-workers of an employee with AIDS or HIV infection, employers and unions should undertake education for all employees before such an incident occurs and as needed thereafter.
- 9 Employers should not require HIV screening as part of pre-employment or general workplace physical examinations.
- 10 In those special occupational settings where there may be a potential risk of exposure to HIV (for example, in health care, where workers may be exposed to blood or blood products), employers should provide specific, ongoing education and training, as well as the necessary equipment, to reinforce appropriate infection control procedures and ensure that they are implemented.

conception that HIV can be spread by casual contact—sharing food utensils, toilet seats, giving blood, etc. This strongly suggests using the workplace to dispel misconceptions through focusing on employees with comprehensive and targeted information—and by reinforcing through group interaction.

National Leadership Coalition on AIDS Workplace Resource Center Director Rosalind Brannigan agrees that developing a pro-active AIDS educational policy and program is an excellent management action for avoiding costly work disruptions, dealing with co-worker and customer concerns and protecting the rights of any employee who becomes infected.

Besides reducing the chance of disruption, workplace education can encourage compassion among fellow employees that improves the atmosphere for respecting privacy and preserving individual human dignity for the afflicted. Inherent in this is reassurance for other workers that an infected employee is not contagious as a result of casual contact and that the work environment consequently does not present a health hazard.

Education Should Be Tailored

It can be helpful to tailor educational material for the office concerned; what works for headquarters may need to be adapted for a branch operation. If program affordability is a problem, management may wish to check with the Chamber of Commerce, the American Red Cross and similar organizations for information on educational programs and resources. The Red Cross, for example, has a nationwide program on AIDS in the workplace, with volunteer speakers who address topics of particular interest.

According to NLCA's Brannigan, in the 80s, many of those with AIDS or HIV either left their jobs or were fired. Today, thanks to AZT and other prophylactic treatment, the majority of HIV-infected people prefer to continue working. Brannigan points out that these individuals now lead active and productive lives.

Under ADA, an employer is required to provide reasonable accommodations that will enable the disabled to perform their work. Reasonable accommodations may include the following:

- Flexible work schedules so an employee may obtain necessary medical treatment
- Restructuring the job to reduce stress and permit the employee to work less than full time
- Reassigning an employee to a vacant position if one is available, should the

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employee prove unable to perform existing job functions

- Providing a computer and other equipment that would permit the employee to work at home

Being Prepared Best Strategy

Even with the best preparations, the reality of HIV/AIDS does not register fully until a company employee is diagnosed as having the disease. As one title underwriter human resources officer remarked, "You read about AIDS in the workplace, but you never know how to really deal with it until it hits your company. But employers need to be prepared."

One west coast title company executive was faced by concerned co-workers when an employee advised he had contracted AIDS a few years ago. The executive immediately telephoned his corporate human re-

sources department, which provided educational literature. Reading this material greatly reduced the fears of co-workers. When the infected employee could no longer perform in his usual job, he was transferred to another branch located closer to where his medical treatment was provided.

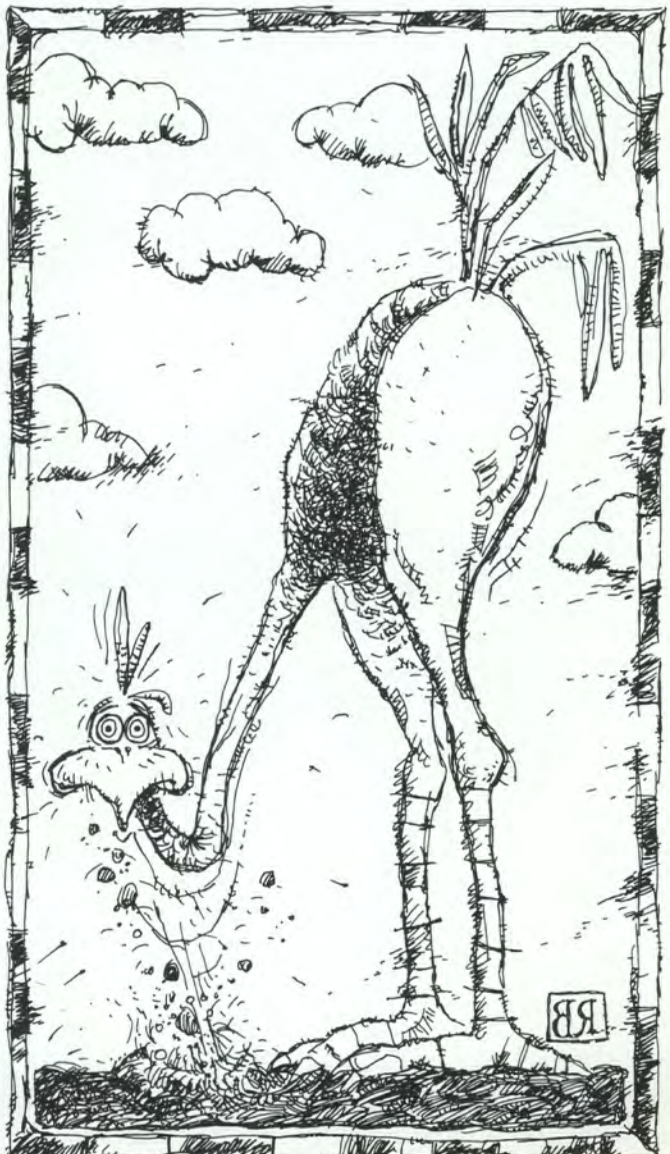
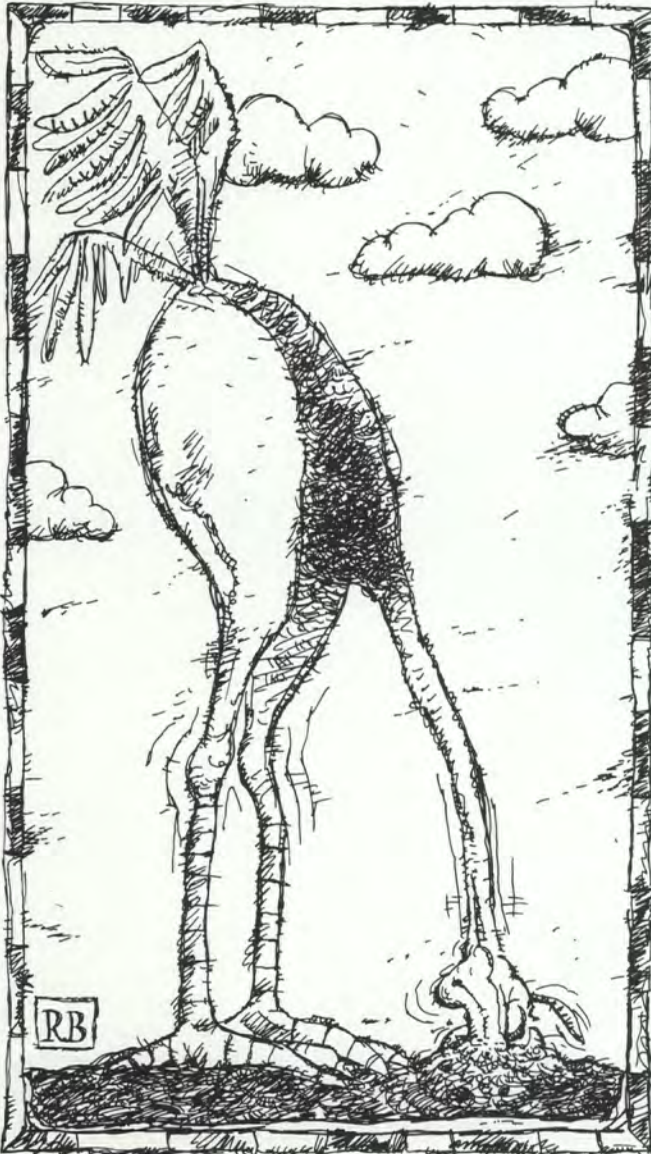
"If you educate your staff and make them aware of all aspects of a situation, you become better prepared to deal with the possibilities," the title executive said.

Although there is an economic side to the HIV/AIDS issue, recent data (see accompanying side bar on costs) suggest treatment of the disease may have a lesser impact on employee benefit costs than initially anticipated. Organ transplants, premature births, severe head injury treatment and rehabilitation, for example, can be more expensive. Claims related to HIV/

AIDS are not excluded from medical coverage under the ALTA Group Insurance Trust plans, but are considered on a case-by-case basis. More information can be obtained by writing GIT at 55 East Jackson, Sixth Floor, Chicago, IL 60604.

In the view of one senior title underwriter human resources executive, translating an effective HIV/AIDS policy into management action should revolve around a central theme: Being an equal opportunity employer that is humane in attitude while keeping the business moving.

"As a manager, you like your people to give you a no-surprise environment," she said. "By letting go of old ideas and accepting new information on HIV/AIDS, you can do a lot to create your own no-surprise place of work."



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Power Through Political Action

by Dan R. Wentzel

"Power Through Political Action" is the 1992 fundraising theme for the ALTA's Title Industry Political Action Committee (TIPAC). The TIPAC Board of Trustees as a group, are united behind the principle of a strong PAC supporting the achievements of the title industry's legislative goals. This article begins a series of features on TIPAC, which will hopefully answer many of the questions you might have about PACs, and why they have become such an important part of the political process.

Political action committees or PACs, as they are commonly known, were created as part of the post-Watergate campaign reforms. After investigations of the Watergate scandal uncovered massive "fat cat" contributions (including a \$2 million contribution by one individual to the 1972 campaign of former President Richard Nixon), Congress passed sweeping legislation to reform the methods by which federal campaigns were financed. In an effort to limit personal and corporate funding of political campaigns, Congress in 1974, enacted a law prohibiting corporate political contributions directly to Congressional candidates, and reduced the amount of money an individual could give to a candidate. Previously, corporate contributions could be deducted as business expenses.

Simultaneously, Congress sought to encourage continued individual involvement in both the political process and support of Congressional candidates. Recognizing that individuals may wish to be actively involved in campaigns outside their own district or state, Congress also established a mechanism to allow individuals with similar concerns to channel their funds to candidates with similar political perspectives or, to those who serve on committees considering legislation which they deemed important. Since as a practical matter, many individuals are only able to make small



personal contributions, the campaign reform legislation allowed individuals to join together in political action committees to pool their resources. By pooling their resources, those interested individuals could make a material contribution to designated members of Congress and therefore receive significant recognition. Because of the permanence of its existence, a PAC is likely to be more effective than those political committees established from time to time to deal with specific issues or specific campaigns. The fact that contributions are made to candidates in the name of the PAC fosters positive identification between the contribution and the connected industry. A history of support to a candidate fosters even more identification with the industry.

TIPAC provides power because campaign contributions are often the key to a member's election. Candidates are elected because they have name and issue recognition with the voting populace. This recognition is often based on the purchase of media time, which, in some areas can be prohibitively expensive. Senator Frank Lautenberg (D-NJ), for example, who bought New York City media time in his last re-election campaign, spent over \$6 million on his 1988 campaign.

TIPAC contributions represent a substantial amount of power, particularly in an election year. While TIPAC contributions do not "buy" votes, as a practical matter, many members of Congress pressed for

time and considering constituent service a high goal, are reluctant to meet with non-constituents who do not support their district or state legislative goals. TIPAC contributions open doors for ALTA representatives who might otherwise fall under the nonconstituent label and, therefore, not have their view heard on a key industry issue.

TIPAC can raise two kinds of money. Personal donations to TIPAC, e.g. written as personal checks, are commonly called "hard dollars" and can be used to contribute directly to candidates for campaign use. Corporate donations to TIPAC or "soft dollars" can be used to finance fund administration costs, such as fundraising materials, mailing costs, and other items of overhead, but cannot be donated directly to political campaigns.

TIPAC is administered by a nine member board. The TIPAC Chairman serves on the Government Affairs Committee, to provide linkage between TIPAC's political contributions and the ALTA's legislative agenda and current legislative developments. The Board is balanced between underwriters and agents, and has broad geographic representation. It is presently composed as follows: Mike Currier, Guaranty Title Company, NM; J. Herman Dance, Gold Coast Title Company, FL; Martin S. Evans, Gateway Title Company, CA; Charles H. Foster, Jr., Lawyers Title Insurance Corporation, VA; Gerald L. Lawhun, Western Title Company, Inc., NV; Richard L. Pollay, Chicago Title Insurance Company, IL; Herbert Wender, Commonwealth Land Title Insurance Company, PA; and Lawrence M. White, First American Title Insurance Company, CA. The TIPAC Board not only approves fundraising goals, it also reviews contributions to candidates. TIPAC State Trustees, ALTA members who volunteer to help in each state, also assist in fundraising efforts while ALTA professional staff administer this effort. Ann vom Eigen is the ALTA legislative counsel, and serves as TIPAC director. Sherri-Lynn Minor, ALTA legislative assistant, actually administers TIPAC.

TIPAC is entering its 19th year of support for ALTA's federal legislative efforts to safeguard title insurance industry issues raised in the United States Congress. Our industry is facing close Congressional scrutiny on issues ranging from bank sale of title insurance to "reform" of McCarran-Ferguson's system of state regulation of insurance. With new legislative challenges facing us in this election year, we need to increase TIPAC donations in order to exercise our political power.

In 1991, the ALTA expended substantial time on legislative efforts seeking the prohibition on bank sale of title insurance and fighting efforts to repeal McCarran-Ferguson. ALTA members supported this effort by contributing \$39,335 in personal funds to TIPAC in 1991. The 1991 top fundraising states were California, \$7,775; Illinois, \$3,395; and Kansas, \$3,020. Chicago Title Insurance Company, First American Title Insurance Company, and Commonwealth Land Title Insurance Company were the top fundraising companies. Lawyers Title Insurance Corporation and Title Insurance Company of Minnesota each raised over \$1,000 for TIPAC. Western Title Company in Reno, NV was the top fundraising title insurance agency. TIPAC expenditures for contributions to candidates for the U.S. House of Representatives and the United States Senate totaled \$31,125 in the first session of the 102nd Congress. Eight corporate sponsors helped defray the costs of operating the PAC by donating \$22,275 in soft dollars.

What's new for TIPAC in 1992?

At their first meeting this year in January, the TIPAC Board devoted considerable time to possible revisions in the fundraising campaign. The Board will be taking four major steps to increase TIPAC awareness; more publicity and recognition of those in-

dividuals and companies who support the PAC; special awards for top TIPAC fundraisers; solicitation of a larger number of individuals and companies in the title insurance industry; and an increased emphasis on state trustee campaigns.

As mentioned above, I will be reporting on TIPAC developments (within legal constraints) on a regular basis. This will include TIPAC financial reporting, fundraising events, political profiles, election updates, and Congressional developments. **Capital Comment** will also report TIPAC developments.

You can expect to see coverage of TIPAC events at the Mid-Year Convention in the May-June issue of **Title News**. TIPAC will also be host to a special "TIPAC-member only" reception on Thursday, March 26th at 5:30 p.m. to be held at the Stouffer Mayflower Hotel during the ALTA Mid-Year Convention.

To increase recognition of top contributors, TIPAC color-coded dated lapel pins will be awarded to members of the Chairman's Club (\$500), the Gold Club (\$350), and the President's Club (\$200). Those 1992 TIPAC contributors attending the ALTA Mid-Year Convention in Washington and the Annual Convention in Hawaii will receive TIPAC badge stickers which will be color-coordinated with TIPAC's contribution classification system. TIPAC contributors will also receive (while supplies last), a **102nd Congressional Directory**, revised and updated to reflect last year's Congressional elections and retirements.

We will be expanding the solicitations for TIPAC's soft dollar administrative and operational fund this year to all ALTA underwriters and the large agent group. While TIPAC soft dollar contributions have so far, been able to cover administrative costs, I have asked Ann vom Eigen to increase efforts to

assist worthy candidates in their fundraising efforts. Last year, TIPAC served as host at meetings for several members of Congress. We hope to host more fundraising events in 1992.

We also hope to reinvigorate the state trustee system. Various TIPAC board members will serve as regional chairpersons to lend assistance when needed, to state trustees, and to assist the fundraising efforts in each state. Your state land title associations typically invite a representative of the ALTA Board of Governors to speak on national title insurance issues during state conventions. We hope ALTA Board members will support TIPAC State Trustees, (or other designated representatives) in discussing fundraising efforts on behalf of TIPAC in that state.

This article has presented the major developments in the 1992 TIPAC campaign. If you are interested in helping us in this effort to raise funds to increase your political voice, please volunteer to serve on the Title Industry Political Action Committee. Just call Ann vom Eigen at the American Land Title Association at 1-800-787-ALTA. Currently, TIPAC State Trustees are needed in the District of Columbia, Kentucky, Montana and New Jersey. TIPAC will definitely be busy this election year, but we have outlined a good fundraising campaign which will yield results. ALTA's legislative power is a direct reflection of the size of our PAC. Your support will help build our legislative presence and our political action.



The author is chairman and chief executive officer of North American Title Company in Walnut Creek, California, and co-chairman of its affiliated title insurer, North American Title Insurance Company. He is also current 1992 TIPAC chairman and member of the Abstracters and Title Insurance

Agents Section Executive Committee. The author received his Bachelor of Arts in Business Administration from the University of Washington in Seattle.

A Vision of Paradise: The 1992 ALTA Annual Convention— Maui

by Leigh Vogelsong,
ALTA director of
Meetings and Conferences

M Maui No Ka Oi—Maui is the Best! This phrase is used wholeheartedly by those who have been lucky enough to visit this beautiful island. Judging from the calls received at ALTA, many of you already are anxious to discover this Hawaiian paradise during the ALTA Annual Convention, October 14-17, 1992. To further assist you in your planning, here are answers to some of the most frequently asked questions about the islands.

Where are we going?

The Convention will be held at the Hyatt Regency Maui and the Maui Marriott Resort. The hotels are located in the Kaanapali Beach resort area, about four miles from the old whaling town of Lahaina. The Hyatt Regency Maui occupies 20 acres of landscaped gardens and waterways affording views that stretch from the lush, West Maui Mountains to the nearby islands of Lanai and Molokai. The Hyatt is the site for all committee meetings, the Spouse/Guest Brunch, special luncheons, and the Annual Banquet. The Maui Marriott Resort is ideally situated on the beachfront adjacent to the Hyatt Regency. The Marriott features lush tropical landscaping, a dramatic open air lobby and unbroken vistas of nearby islands. The Marriott is the site for the ALTA registration desk, general sessions, exhibits and educational sessions. Both properties are deluxe resorts located on the beach.

Sleeping rooms have been reserved for ALTA at both resorts. These room blocks will be held until August 25, 1992. After this date rooms will be on a space available basis.

What events are scheduled during the Convention?

All active and associate members of ALTA will receive a complete calendar of events, other convention information and registration/reservation forms by the end of April, in plenty of time to reserve one's room and make airline reservations.

In addition to a full program of informative sessions, many activities will be available during leisure time: water sports, tours to Maui's major points of interest, an ALTA golf tournament, or just enjoying the sunny beaches. The schedule of activities appears at the end of this article.

Individualized pre and post travel to other islands—Kauai, Oahu, and the Big Island—is planned for those who would like to extend their stay in Hawaii. Several deluxe neighbor island hotels are available at special ALTA rates from October 10-14 and from October 18-21.

What are the sleeping room rates, and to what dates do they extend?

Hyatt Regency Maui—		Maui Marriott Resort—	
Terrace	\$170	Mountain/Golf View	\$156
Golf/Mountain	195	Mountain/Ocean View	168
Ocean front	235	Ocean View	183
Deluxe Ocean	260	Ocean Front	208

These rates are in effect from October 8 to October 22, 1992.

How can I make all necessary travel arrangements and register for the Convention?

Travel Planners, Inc. (TPI), has been designated to coordinate all reservations and

Convention registration. They will assist you with hotel reservations, airline reservations (special contract airfares on American Airlines, Delta Air Lines and United Airlines are available), car rental reservations, and any pre or post-Convention trips you may be considering. In addition, Travel Planners will be handling Convention registration, so all your forms will be sent to just one address. TPI address and phone number: GPM Building, Suite 150; San Antonio, TX 78216; 1-800-531-7201.

How do I get from here to there?

All flights land in Honolulu, the central arrival and departure point in Hawaii. Some flights fly direct to Maui, but with a brief stopover in Honolulu. If your flight does not continue on to Maui, you may fly on either of two commuter airlines—Hawaiian or Aloha—from Honolulu. The major airport on the island of Maui is the Kahului Airport, located about 45 minutes away from Lahaina. Taxi fares are approximately \$40 one-way. A smaller commuter airport is located in Kapalua, about a 10-minute drive from the hotels. Taxi fare to and from Kapalua is approximately \$10, but flights are less frequent than into Kahului. Due to the somewhat limited availability of taxis, especially if you are arriving later in the evening, you may wish to consider renting a car during the meeting. Or, you may purchase roundtrip transfer service through Travel Planners. Weekly car rental rates are very reasonable, and Travel Planners will be happy to assist you with reservations.

What should I wear?

Hawaii is a more casual setting for conducting business than most convention sites, and your wardrobe should be planned accordingly—especially since the temperature averages from 75 degrees to 85 degrees, with temperature tradewinds.

For the education and business sessions, slacks, shirts/blouses, or casual dresses are appropriate. The key is comfort, and you will probably see more Aloha shirts and resort wear than coats and ties.

Individual sponsors of hospitality functions may have their own wardrobe guidelines, which we assume they will share with you ahead of time.

The Annual Banquet, normally a black-tie-optional event, also calls for a more laid-back approach this year. Sport shirts or Aloha shirts, slacks, sport coats and summer dresses will be quite acceptable. No ties are necessary. If you have a desire to go native, "Hawaiian formal" is an option: white shirt, white pants, white shoes, red sash about the waist (for men).

For ALTA Convention-related questions or to request a copy of the Maui Convention brochure (available after April 15), call the ALTA Meetings Department at 1-800-787-ALTA. For further hotel or travel arrange-

ment questions, call Travel Planners at 1-800-531-7201 for assistance.

Look forward to seeing you there—Aloha!

Schedule of Activities 1992 Annual Convention Maui, Hawaii

Tuesday, October 13

Convention Registration
Committee Meetings
Affiliated Association Officer Seminar

Wednesday, October 14

Convention Registration
Committee Meetings
Lender and Life Counsel Meeting
Past Presidents Luncheon
Board of Governors Meeting
First Time Convention Attendee Mixer
Exhibits Open
Ice-Breaker Aloha Reception

Thursday, October 15

Convention Registration
New Member and Recruiter Breakfast
Exhibits Open
General Session

Friday, October 16

Convention Registration
Exhibits Open
Spouse/Guest Brunch
ALTA Educational Sessions
Golf Tournament

Saturday, October 17

Convention Registration
Exhibits Open
General Session
TIPAC Luncheon
Annual Banquet



Lahaina Harbor, Maui

Photo credit: Hawaii Visitors Bureau.
Photo by Anthony Anjo.

Education Cuts Losses— Send an Employee to an Educational Seminar

by Patricia L. Berman
ALTA director of Education

Even in difficult financial times, employee education is worth every dollar spent. Although this is true in all types of business, educated employees are especially important in the title industry. The better informed and educated an employee is, the less likely errors will occur which can in turn, result in claims and losses. As an ALTA Education Committee member recently said, "It's simple—education cuts losses."

To assist ALTA members along these lines, the Education Committee sponsors title employee (as well as title customer) seminars throughout the country. In 1992, three seminars have been planned—two in the Spring and one in the Fall. Brief profiles are included below. Discussion leaders will provide expertise in subject areas designated, covering regional variations as applicable.

Westchester, New York—April 27

"What Do You Mean I Can't Close?!!—A Seminar on Real Estate and Title Insurance Issues in the 90s" is the Monday, April 27, program to be held at the Westchester Marriott Hotel. Jointly-sponsored by LTI and the New York State Land Title Association, the targeted audience includes title industry employees and "customers," i.e., attorneys engaged in the practice of real estate law and mortgage bankers. Announcements will be mailed in March to ALTA members in Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

Tentative program topics include:

Dealing with the Federal Deposit Insurance Corporation.

1990 ALTA Policy Forms and New York Endorsements.

"Closings from Hell"—members of a panel on problems will lead round table discussions.

Banking, Creditor's Rights and Real Estate Workouts.

Seattle, Washington—May 6

"Title Insurance in the 90s—Update and the Issues" is a full day program planned on Wednesday, May 6, at the Seattle Sheraton Hotel and Towers. This customer group seminar, jointly planned and sponsored by the Education Committees of ALTA and the Washington Land Title Association, is tar-

geted for attorneys and Washington State Limited Practice Officers. Title industry employees, however, certainly can benefit from the subject matter. Applications are in the process for continuing education credit for attorneys and LPOs. Announcements will be mailed in March to ALTA members in Idaho, Montana, Oregon, and Washington.

Tentative program topics include:

Fraud and Forgeries.

Dealing with the Resolution Trust Corporation.

Title Endorsements and Exotic Coverages.

Foreign Investment in U.S. Real Estate.

Multi-State Transactions and the Effects of Forfeitures, Environmental Issues, and Bankruptcy.

Nashville, Tennessee—September 11

Plans are in the preliminary stage for the program agenda for the Thursday, August 29 seminar at the Stouffer Nashville Hotel. Again, a state title association is joining in the sponsorship—this time the Tennessee Land Title Association. Announcements will be mailed this summer to ALTA members in Alabama, Kentucky, Mississippi, and Tennessee.

Possible program topics may include:

Fraud and Forgeries.

Dealing with the Resolution Trust Corporation.

Multi-State Transactions and the Effects of Forfeitures, Environmental Issues, and Bankruptcy.

Any ALTA member employee or other title professional is more than welcome to register for an ALTA Land Title Institute seminar. Please feel free to contact Pat Berman, ALTA director of Education, for details about these learning events. (ALTA's member toll free telephone number is 1-800-787-ALTA.)

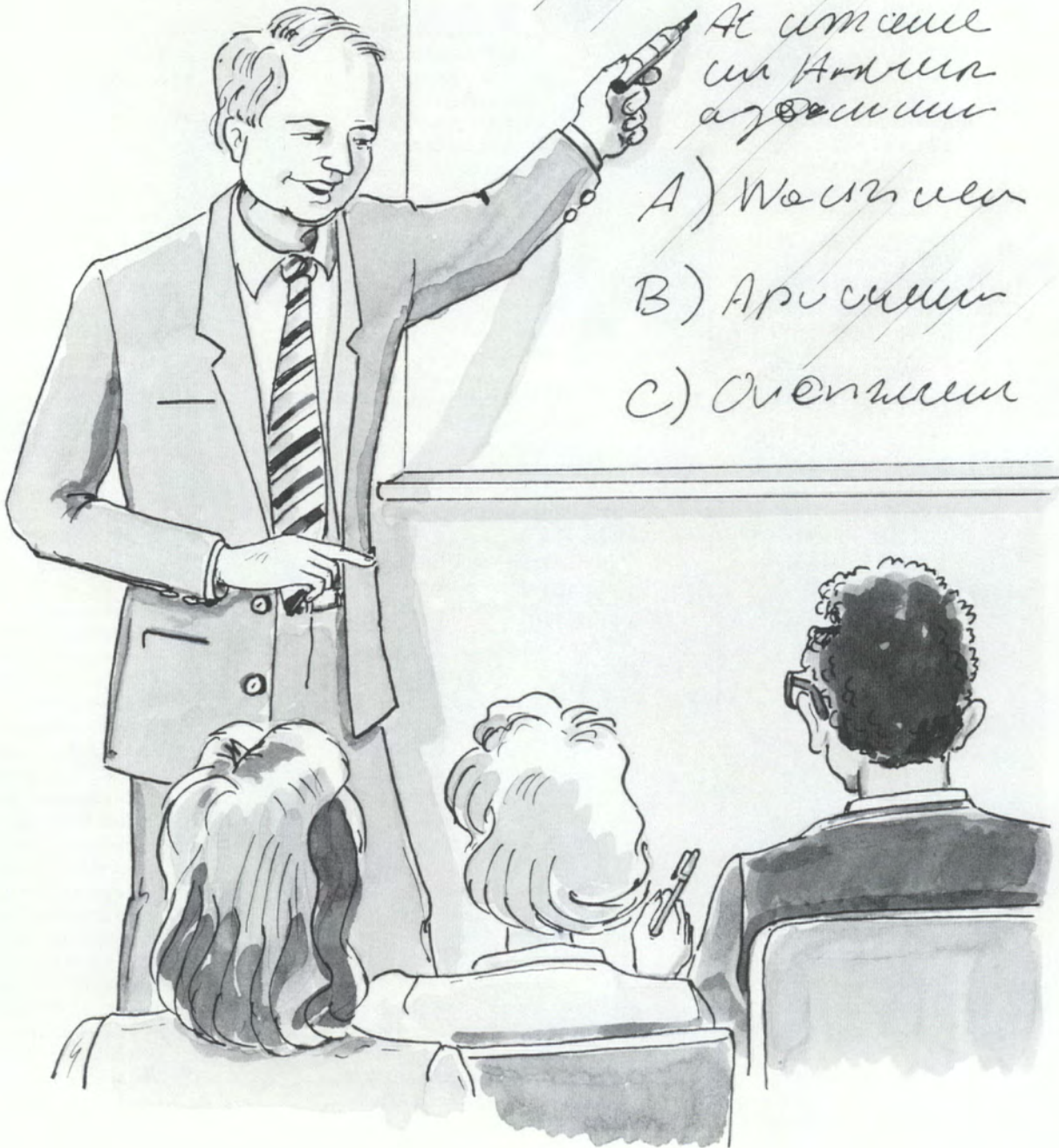
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Title
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At uncease
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agitation

A) Noisiness

B) Apocryphal

C) Overzealous



NAMES IN THE NEWS



Davis

The Honorable William Grenville Davis, of Brampton, Ontario, Canada, has been appointed to the board of directors of **The First American Financial Corporation**. He also will serve on the board of **First American Title Insurance Company**, principal subsidiary of **First American Financial**.

Davis, the former premier of Ontario, is counsel to the law firm **Tory Tory DesLauriers & Binnington**. He also serves as chairman of the board of Bramalea Limited, one of Canada's foremost developers. He is a board member of 11 major Canadian companies, including Ford Motor, Seagrams and the Canadian Imperial Bank of Commerce.

Davis had a 26-year political career in Ontario, including nine years as minister of education and 14 years as premier, a similar post to a United States governor.

After attending the University of Toronto and Osgoode Hall Law School, **Davis** was called to the bar in 1955. He also holds honorary degrees from eight Ontario universities. In 1982, **Davis** was sworn in as a member of the Privy Council by Her Majesty Queen Elizabeth the Second. In 1986 he was invested as a Companion of the Order of Canada, one of Canada's highest honors, and in 1987 was among the first 20 recipients of The Order of Ontario award.

The election of **Davis** increases the parent company's board from 13 to 14 members. **Davis** replaces long-time board member **Gregor G. Peterson**, who resigned in



Pins



Kelley

1991 after 30 years on the board. **Stanley L. Bauer**, with 24 years of service to the company, also retired from the board during 1991.

Donald A. Pins of Glendale has retired from his position as president of **First American Title Company** of Los Angeles and regional vice president of the parent firm, **First American Title Insurance Company**, according to **Parker S. Kennedy**, president of **First American Title**.

Thomas M. Kelley, a resident of Santa Ana, has been selected to succeed him. **Pins** has served as president of the Los Angeles subsidiary since 1983, and regional vice president of Los Angeles County for the parent company since 1985. Last year he was given additional regional responsibility for San Diego County.

Pins joined **First American** as assistant vice president of administration in 1964 when the company was founded as **Los Angeles Land Title Company**, became vice president four years later and senior vice president in 1977. **Pins** was promoted to executive vice president in 1981. An active member of the Building Industry Association of California, **Pins** is also a past director of the Home Builders Council and a member of the National Association of Home Builders. **Kelley** has been head of **First American's** national claims department in the Santa Ana headquarters since 1979. Ironically, it was **Pins**, a family friend, who introduced **Kelley** to **First American**. **Kelley** began working for **First American** as a searcher in 1972 while working on his juris

doctor from Western State University College of Law. Upon passing the California Bar Exam in 1976, he transferred to the legal department. He was named a vice president in 1981. **Kelley**, a native of Nebraska, received a bachelor's degree from the University of Nebraska in 1971. He is a member of the American, California and Orange County Bar Associations. **Kelley's** position in the legal/claims department will be filled by **Albert Rush** who was hired in 1982 as an assistant claims counsel. He was appointed vice president-claims counsel in 1986. **Rush** had 10 years of experience in private practice when he joined **First American**. He obtained both his bachelor's degree in international relations and his juris doctor from the University of Southern California. He is a member of the California and Orange County Bar Associations.

William G. Zaenglein Jr. has retired from his position as corporate counsel of **The First American Financial Corporation** and its principal subsidiary, **First American Title Insurance Company**, according to **D.P. Kennedy**, president of **First American Financial**. **Mark R. Arnesen** has been promoted into the position. **Zaenglein** will continue to work with the company on a consultant basis and is temporarily retaining his capacity of corporate secretary until a replacement is determined. **Zaenglein** joined **First American** as corporate counsel in 1969 and became a vice president of the title insurance subsidiary in 1971. Six years later he was ap-



Rush



Zaenglein



Arnesen

pointed secretary. Before his association with **First American**, he was with Lear-Siegler Corporation and then Northrop Corporation, both in Anaheim, California.

Zaenglein is a graduate of Yale University where he received his bachelor of arts in 1952 and J.D. in 1955. He is a member of the California Bar, Federal Bar, District of Columbia Bar and Central District of California Bar. He is also a member of the Orange County Bar Association and the American Society of Corporate Secretaries and is listed in Who's Who in American Law.

Arnesen has worked closely with **Zaenglein** since being hired by **First American** in 1979 as an assistant counsel. He was promoted to associate counsel in 1982, and made a vice president of **First American Title** in 1989. **Arnesen** received his bachelor's in economics from the University of California, San Diego, in 1974, and his juris doctor from Yale Law School in 1977. Between graduation and joining **First American**, he was an associate with a law firm in Los Angeles.

Allen J. Exelby has been named state manager of New Jersey for **First American Title Insurance Company**, according to Regional Vice President **Michael F. Frederick, Jr.** **Exelby** will continue in his capacity as vice president-state manager of Delaware and national accounts representative for the region which comprises Pennsylvania, Delaware and New Jersey. **Exelby**, who allocates his time between offices in Wilmington, and Iselin, NJ, is responsible for business development



Exelby



Barnard

and maintaining a network of agents in both states. He transferred to the East Coast in 1990 from Washington State where he had been vice president-Pierce County manager. The 14-year title veteran had also held positions as assistant manager and title officer with the company's Washington operation.

R. Michael Barnard has joined **Commonwealth Land Title Insurance Company** as account manager. Based in the company's new north Indianapolis office, he is responsible for business development in northern Marion County, Indiana. **Barnard**, who has 21 years of industry-related experience, most recently served as account manager for another national title insurer in Indianapolis. He holds a bachelor of science degree in business administration from Indiana University in Bloomington. A member of the Metropolitan Indianapolis Board of Realtors (MIBOR), **Barnard** was named the Board's 1990 Affiliate of the Year. He also was named 1989 Affiliate of the Year for MIBOR's Northside Marketing Division. **Barnard** is a member of the Indiana Mortgage Bankers Association. He also is a faculty instructor for the Indiana Salesman and Broker Licensing Program, teaching at the ERA Real Estate Institute and for Indiana University's Real Estate Certification Program. **Anna S. Crawford** has been promoted to assistant vice president at **Commonwealth**. Based in the company's Hartford, Connecticut office, **Crawford** also serves as marketing representative. She is responsible for ser-



Crawford

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vicings attorney agents in Hartford, New London, Tolland and Windham Counties. She is a member of the Connecticut Mortgage Bankers Association. **Arlene**

Wasserman Dickson has been promoted to county manager at **Commonwealth**. Based in the company's Oxnard, California office, she is responsible for company operations in Ventura County. **Dickson** has 24 years of experience in the title insurance industry, five of them with **Commonwealth** in the mid '70s when she assisted in the opening of the Oxnard office. She rejoined **Commonwealth** in 1991. Before that, she served as operations manager for another national title insurer in Camarillo, CA. **Dickson** is a member of the Ventura County Escrow Association and the Los Angeles/Santa Barbara Building Industry Association. **Jody Loukota** has joined **Com-**



Dickson



Loukota



Nunes

monwealth Land Title Insurance Company as residential/commercial sales representative in Indiana. Based in the company's new north Indianapolis office, she is responsible for servicing residential real estate offices and commercial developers and brokers in the metropolitan Indianapolis area, specializing in Hamilton and Marion Counties. **Loukota**, who has nine years of industry-related experience, most recently served as assistant vice president and sales representative for a local Indianapolis title agency. Before that, she served as advertising representative for a major real estate company in Indianapolis. **Loukota** is a member of the Metropolitan Indianapolis Board of Realtors' Commercial/Industrial Division and the board's Hamilton County and Marion County divisions. **Mary Ann Nunes** has joined **Commonwealth** as branch man-

ager for the company's new St. Cloud, Minnesota office. She is responsible for office operations and business development in the Minnesota counties of Benton, Sherburne and Stearns. **Nunes** most recently served as manager for the title and closing department of Zapp Abstract and Title Company, a Minnesota-based title agency whose assets were acquired by **Commonwealth** on November 1, 1991. Before that, she served as an escrow officer for a local title agency in St. Cloud. She has 14 years of related experience. **Nunes** earned her bachelor of arts degree at St. Cloud State University. She is an affiliate member of the St. Cloud Board of Realtors and a member of the St. Cloud Chamber of Commerce and the St. Cloud Downtown Association. **Gloria B. Prinz** has been appointed director of marketing for northern Virginia at **Commonwealth**. Based in the company's Fairfax office, she is responsible for business development throughout northern Virginia. **Prinz**, who joined **Commonwealth** in 1987, most recently served as attorney agent account executive for **Commonwealth's** Ft. Lauderdale, Florida, office. Before that, she served as senior sales representative for another national title insurer in St. Petersburg, FL. **Prinz** is a member of the Virginia Mortgage Bankers Association, the Northern Virginia Building Industry Association, the Fairfax Chamber of Commerce and Commercial Real Estate Women (CREW). **Ellen Record** has joined **Commonwealth** as assistant vice president and Indianapolis branch manager. Based in the company's west Indianapolis office, she is responsible for the management of the west office and the newly opened north Indianapolis branch.



Prinz



Record

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Record, who has 15 years of industry-related experience, most recently served as manager for another national title insurer in Indianapolis. She is currently pursuing a bachelor of arts degree at St. Mary-of-the-Woods College in Indiana. **Record** was named 1990 Affiliate of the Year for the Northside Marketing Division of the Metropolitan Indianapolis Board of Realtors. **Dennis J.**

Tornabene has been appointed San Diego County manager at **Commonwealth Land Title Company**. Based in the company's San Diego office, he is responsible for all company operations throughout San Diego County. **Tornabene**, who is a company vice president, joined **Commonwealth** in 1991 as Ventura County manager. Before that, he served as executive vice president for the Glendale, California agency of another national title insurer. He has more than 15 years of experience in the title insurance industry.

Tornabene earned his bachelor of science degree at De Paul University in Chicago. He is a member of the National Association of Home Builders.

Myron L. Sizer has been appointed National title officer for **Transamerica Title Insurance Company's** National Title Services (NTS) division. Based in the Seattle NTS office, he is responsible for assisting customers with title and escrow services nationwide. **Transamerica Title's** NTS division provides specialized title services for large commercial, multisite and interstate real estate projects. **Sizer**, who has more than 14 years of experience in the title insurance industry, most recently served as title



Kruger

officer in the Seattle office of **Commonwealth Land Title Insurance Company**. **Linda A. Kruger** has been appointed assistant vice president and county manager at **Transamerica Title Insurance Company**. Based in the company's Steamboat Springs, Colorado office, she is responsible for escrow and title operations in the Colorado counties of Routt and Jackson.

Kruger, joined the company in 1976 and most recently served as assistant vice president and county manager for the company's Colorado Springs, office. She has 16 years of experience in the title insurance industry. **Kruger** attended the University of Colorado at Colorado Springs and is a member of the Colorado Association of Certified Closers.

Lawyers Title Insurance Corporation announces the appointment of **Shelley N. Cholak** as assistant claims counsel in the company's Midwestern and Rocky Mountain states regional office in Chicago. **Cholak** joins **Lawyers Title** with five years of experience in the title insurance industry.

She previously worked for Chicago Title Insurance Company as a title examiner, a regional commercial and industrial sales assistant and claims counsel. A graduate of the University of Illinois, in Chicago, where she received B.A. and M.A. degrees, **Cholak** received a J.D. degree from DePaul University College of Law, also in Chicago. **Richard Crane** has been appointed regional systems administrator in the company's regional office in Richmond, Virginia.

Crane joined **Lawyers Title** as a field systems consultant at National Headquarters, also in Richmond, in 1986. Previously he worked as an account executive at AT&T in Richmond. **Crane**



Cholak



Crane



N. Moore

graduated from Hampden-Sydney college, Hampden-Sydney, Virginia, with a B.S. degree and from the University of Virginia, in Charlottesville, with a M.Ed. degree. **Nancy M. Moore** has been appointed regional systems administrator in the company's regional office in Lakeland, Florida. **Moore** previously was director of computer resources at All Children's Hospital in St. Petersburg, Florida. Prior to her position there she was a PC systems analyst with Goldome Savings Bank, also in St. Petersburg. She attended the University of Nebraska, in Omaha, and earned a B.A. degree in management and marketing at Eckerd College, in St. Petersburg. **Moore** is a Novell 286 system manager and a Netware 386 system manager and holds a Novell Netware Service and Support Certification. **Steven R. Moore** has been appointed assistant vice-president—regional sales manager in the company's regional office in Lakeland, Florida. **Moore** joined **Lawyers Title** last year as state sales manager in Lakeland. Prior to that he was district marketing manager for American Title Company, in Tampa, and state sales manager for Goldome Bank, in St. Petersburg. He received an A.A. degree from Florida State University, in Tallahassee, and a B.A. degree from the University of South Florida, in Tampa. **Moore** is a member of the American Management Association. **Joseph S. Petrillo** has been promoted to vice-president—regional counsel in the company's regional office in White Plains, New York. **Petrillo** has been with the company since 1985, when he was employed as state counsel in White Plains. He previously was assistant vice-president—associate title counsel for Tigor in New York City.



S. Moore



Petrillo



Tornabene



Sizer

He graduated from Iona College in New Rochelle, New York, with a B.A. degree and from George Mason University Law School, in Fairfax, Virginia, with a J.D. degree. He is a member of the Real Property Section of the Westchester County Bar Association and is a member of the New York and Virginia Bar Associations.

Conestoga Title Insurance Co. has promoted three executives to new management positions at its home office in Lancaster, Pennsylvania.

Taamar (Tommi) A. Herbert has been named vice president-agencies. She holds a BS Degree in Business Administration from Bowling Green State University and is a licensed title agent. **Herbert** will be responsible for the analysis and improvement of agency operations and reviewing of office procedures for **Conestoga's** network of approximately 65 agencies. She joined the firm in 1987. **Mark S.**

Korman has been promoted to senior vice president, **Korman** holds a BS Degree from California University of Pennsylvania and has obtained the designation of Association Land Title Professional, the second highest professional designation of the Pennsylvania Land Title Association. He will continue to supervise the Development Department at **Conestoga** and assume more responsibilities in company operations throughout its states of Pennsylvania, Maryland and Delaware. He has been with the company since 1984. **John M. Nikolaus** has been named vice president-marketing. He holds a BS Degree in Business Administration from Millersville University, and also is a licensed title agent. **Nikolaus** is responsible for overseeing agency-level marketing ef-



Herbert



Korman



Nikolaus



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Underwriter



forts and the expansion of **Conestoga's** network of policy-writing agencies throughout its marketing areas. He joined the firm in 1988.

The Lancaster/Palmdale/Antelope Valley office of **World Title Co.** has appointed 12-year title industry veteran **Frank S. Donato** as a marketing representative. **Donato** will be jointly responsible for the Antelope Valley region's resale, developers and real estate markets. Prior to joining **World Title** he was a marketing representative for Fidelity National Title, responsible for directing the opening of the company's Palmdale branch.

Metropolitan Title Company has announced several promotions: **Ann Kipley** was recently promoted to assistant vice president of **Metropolitan Title Company**. She has been employed with **Metropolitan** as Human Resources director since June, 1989. **Kipley** graduated with a Bachelor's degree from Michigan State University in 1989 and expects to receive a Master's degree in Labor & Industrial Relations from MSU in 1992. **Dennis Lintemuth** has been promoted to vice president. He has been employed by **Metropolitan** since February, 1988. His prior employers include: Fireman's Fund Mortgage Corporation and Century 21 Lintemuth & Mason. **Lintemuth** has been a trustee at McPherson Hospital the past 11 years and currently holds the position of treasurer. He is a graduate of Western Michigan University. **David Weaver** was also recently promoted to assistant vice president. Prior to joining **Metropolitan Title** in August, 1991 he was employed by Grand Valley Title Company as CEO in Grand Rapids, MI and by Chicago Title Insurance Company as assistant vice president in



Donato



Kipley



Lintemuth



Weaver



Yeagle

various management capacities in Indiana and Illinois. He is a graduate of St. Francis College and Indiana University School of Law. **Tamara Yeagle** has been promoted to vice president of **Metropolitan Title**. Her responsibilities include managing the automation systems for the companies' 18 branch offices along with many other management responsibilities at **Metropolitan Title's** state headquarters located in Howell.

Yeagle has been employed with **Metropolitan Title Company** since July, 1979. She is currently serving on the Board of Directors for the Howell Chamber of Commerce.

Gerald W. Daly has joined **Greater Illinois Title Co. (GIT)** as an account representative in the company's Loop office at 120 N. LaSalle St., Chicago, Illinois. **Charles K. Papp**, senior vice president, said **Daly** will be responsible for sales and business development in the downtown and near north side areas. **Daly** replaces **Maria Howe**, who has been reassigned to the company's Oak Lawn office in a similar position. A graduate of Roosevelt University, **Daly** brings to **GIT** a financial services and banking career that spans 23 years. Formerly, he was an assistant vice president with Household Commercial Financial Services and a vice president and manager of the real estate division at Boulevard Bank.

Specialized Management Support, Inc. (SMS) has named **Jeff Hecht** to position of vice president, Management Information Systems. **Hecht** will be responsible for overseeing all of the company's information systems and technical operations, including turnkey systems and mainframe software development. In addition,



Hecht will manage the company's data processing centers in Costa Mesa and San Jose, California; Seattle, Washington; and Chatham, New Jersey.

Hecht, a graduate of Arizona State University, has been with **SMS** for 5 years and most recently held the position of manager of Micro Systems Programming and Quality Assurance. Prior to joining **SMS**, **Hecht** held the position of Software Development manager at The Coding Factory, a custom programming company. Before that, he was a Systems Analyst at American Diversified and was responsible for the analysis of all financial systems. **Zenon Wegrowski** has been named manager of Technical Services at **SMS**. In addition to managing the PC hardware maintenance services for **SMS'** substantial customer base in Southern California, **Wegrowski** will have the responsibility for overseeing the PC system integration, installation, and ongoing support services of hardware for all customers nationwide. Previously, **Wegrowski** was branch manager for NEC Technologies, Inc. where he was successful in reducing service backlogs by 75% and reducing customer response time by 60%. Before that, he worked as a district manager at Intelogic Trace, Inc. and was also district manager at TRW, Inc., Customer Service Division.

NEW ARRIVALS

North American Asset Development Corporation and First American Title Insurance Company announced today the regulatory approval of a jointly owned title insurance company.

North American Asset has purchased a 50 percent interest in a First American subsidiary, First American Aircraft Title Insurance Company, which will enable both companies to profit from policies issued by that entity. The issuing agent will be North American Asset's subsidiary, North American Title Company.

Subsequent to the acquisition, the name of First American Aircraft Title Insurance Company was changed to North American Title Insurance Company. Under the terms of the purchase agreement, First American will reinsure all policies written by North American Title Insurance Company over \$750,000. Within the next 60 days, North American Title



Company will begin issuing policies underwritten by North American Title Insurance Company. Previously the company has issued policies of other title insurers in the state.

Gross revenues on policies issued by North American Title Insurance Company are expected to exceed \$40 million in its first year of operation. This amount is expected to increase as North American's contracts with other title insurers expire and it moves toward an exclusive ar-

angement with North American Title Insurance Company.

North American Title Insurance Company will not issue title insurance for aircraft. Aircraft policies now will be issued through another First American owned subsidiary, Southwest Title and Trust Company in Oklahoma City, Oklahoma.

North American Title Company operates in 17 counties in Northern and Southern California. In 1991, a group headed by Dan R. Wentzel, North American's chairman and chief executive officer, purchased North American from Glendale Federal Bank.

The management of North American Title Insurance Company will include representatives of both companies. Gary B. Beeny, president of North American, will serve as president of the newly renamed title insurer.

"We are very pleased to be associated with this fine company and to have the opportunity to share in their success," added Parker S. Kennedy, president of First American Title.

1992 AFFILIATED ASSOCIATION CONVENTIONS

April

- 23-25 Oklahoma, Sheraton Kensington Hotel, Tulsa, OK
- 30-May 3 Palmetto (SC), Marriott Resorts at Hilton Head, Hilton Head Island, SC

May

- 2-5 Iowa, Collins Plaza Hotel, Cedar Rapids, IA
- 7-10 Texas, Radisson Plaza, Fort Worth, TX
- 14-15 Tennessee, Edgewater Hotel, Gatlinberg, TN
- 14-16 New Mexico, Inn of the Mountain Gods, Ruidoso, NM
- 27-31 California, Westin La Paloma, Tucson, AZ
- 30-June 2 New Jersey, Williams Hospitality House, Williamsburg, VA

June

- 4-6 Arkansas, Holiday Inn Convention Center, Fort Smith, AR
- 4-6 Colorado, Antlers Inn, Colorado Springs, CO

- 11-12 South Dakota, Yankton Inn, Yankton, SD
- 11-14 New England, Chatham Bars Inn, Chatham, MA
- 14-16 Pennsylvania, Hershey Hotel, Hershey, PA
- 25-27 Oregon, Valley River Inn, Eugene, OR

July

- 9-11 Illinois, Paremorquett Hotel, Peoria, IL
- 16-18 Utah, Deer Valley, Park City, UT
- 22-25 Michigan, Tree Top Glenn Resort, Gylser, MI

August

- 6-9 Indiana, Hyatt Regency Hotel, Indianapolis, IN
- 13-15 Idaho, (TBA), Coeur D'Alene, ID
- 13-15 Minnesota, St. Paul Hotel, St. Paul, MN
- 13-15 Montana, Park Inn (Formerly Yogo Inn), Lewistown, MT
- 13-15 North Carolina, Omni Hotel, Charleston, NC
- 19-21 Wyoming, Little America, Cheyenne, WY
- 20-22 Kansas, Holiday Dome, Topeka, KS
- 21-23 (tentative date), Indiana, (TBA)
- 30-Sept. 2 New York, Ramada Renaissance, Saratoga Springs, NY

September

- 3-5 Dixie, Opryland, Nashville, TN
- 10-12 Missouri, Westin Crown Center, Kansas City, MO
- 15-18 Nebraska, New World Inn, Columbus, NB
- 16-18 Nevada, (TBA), Lake Tahoe, NV
- 17-19 North Dakota, Town House Hotel, Grand Forks, ND
- 18-20 Maryland, Princess Royal, Ocean City, MD
- 20-22 Ohio, Sheraton Suites, Cuyahoga Falls, OH
- 23-26 Washington, Tye Motor Inn, Olympia, WA
- 25-26 Wisconsin, Radisson Hotel, LaCrosse, WI

November

- 1-4 Florida, The Ocean Grand, Palm Beach, FL
- 5-7 Arizona, Harrah's Del Rio Hotel and Casino, Laughlin, NV

December

- 4-6 (tentative date) Louisiana, (TBA)

NEW ALTA MEMBERS

The names listed in parentheses are recruiters who have now qualified for membership in the ALTA Eagle's Club and are eligible for the "Recruiter of the Year" prize.

ACTIVE

Alabama

Facts—Title Service, Inc., Boaz, AL (Recruited by Bruce S. Bobo, Lauderdale Abstract Co., Florence, AL.)

Illinois

Law Title Insurance Co., Inc., Aurora, IL.
North American Title Corp., Crystal Lake, IL.
Prairie Title, Inc., Oak Park, IL.

Iowa

Pocahontas Title Co., Pocahontas, IA.

Kansas

Strecker Title Agency, Inc., Pittsburg, KS. (Recruited by Barbra Gould, Ford County Title Co., Inc., Dodge City, KS.)

New Mexico

Territorial Title of Las Vegas, Inc., Las Vegas, NM.

New York

First Richmond Abstract Corp., Staten Island, NY. (Recruited by Brian Reardon, General Abstract Corp., Staten Island, NY.)

Oregon

Rogue River Title Co., Grants Pass, OR.
Security Title & Escrow Co., Newport, OR.

Pennsylvania

B & A Abstracting, Mercersburg, PA.

Virginia

Dominion Title Agency, Inc., Roanoke, VA.
Falcone Title and Escrow, Inc., Fairfax, VA.

Washington

Security Title Guaranty, Inc., Moses Lake, WA.
Stewart Title Co. of Kitsap County, Inc., Silverdale, WA.

ASSOCIATE

Indiana

David M. Powlen, Barnes & Thornburg, Indianapolis, IN. (Recruited by Roland E. Garipey, John Hancock Mutual Life Ins. Co., Boston, MA.)

Iowa

Brent G. Harstad, Attorney at Law, Toddville, IA. (Recruited by Charles L. Juhl, Benton County Title Co., Vinton, IA.)

Louisiana

Stephen J. Broussard, Newman, Mathis, Brady, Wakefield & Spedale, Metairie, LA. (Recruited by Louis G. Dutel, Jr., Dutel Title Agency, Inc., New Orleans, LA.)

Massachusetts

Donald E. Vaughan, Peabody & Arnold, Boston, MA.

New York

Joseph Philip Forte, Thacher Proffitt & Wood, New York, NY. (Recruited by William Dunn, Clark, Klein & Beaumont, Detroit, MI)

Texas

David A. Shuttee, Pulliam & Shuttee, P.C., Dallas, TX.

Virginia

David C. Culbert, Hazel & Thomas, P.C., Leesburg, VA.

Pricey Prize Offered To Recruiters

Interested in recruiting new members to ALTA? Here's your incentive! This year's top recruiter will be awarded a framed print, signed and numbered, by noted Hawaiian artist B.H. Freeland. The rendering depicts "Afternoon Shadows at Kapalua," a picturesque Hawaiian golf course overlooking a serene ocean. The artwork was chosen to complement almost any office decor. With soothing shades of green and blue, this limited edition print is certainly as attractive as it is valuable. The prize will be awarded to this year's top recruiter in Maui, at the ALTA Annual Convention, October 14-17.

Thus far, this year's top recruiter slot is held by a member for recruiting only two new members. There is still plenty of time to get in the running and win the prize!

**A recruiter is defined as an ALTA member designated by the applicant as having recommended membership and becomes effective at the applicant's time of acceptance into the Association.*

Dubois County Abstract & Title Co. Celebrates 100th Anniversary

Dubois County Abstract & Title Co., Inc. is celebrating their 100th anniversary of the business.

Their office records indicate that the business was founded in 1892, as "Wilson Bros., Insurance and Abstracts," by George R. & William A. Wilson. Their interest in the abstract office was purchased by John E. McFall, attorney and abstracter. John's son, William Shelby McFall, also an attorney, took over the business from his father, and operated it until his death in 1956.

Lenore Huls Stempley, who had been Mr. McFall's secretary for 20 years, up to the time of his death, purchased the files from his estate, and operated it as Dubois County Abstract & Title Company.

Stempley, a past president of the Indiana Land Title Association, continues

in the business today as secretary-treasurer of the Corporation.

Her son, Darryl W. Huls, currently on the Board of Governors of the Indiana Land Title Association, has succeeded her as president and general manager. He studied abstracting and title insurance as a part of one of his undergraduate degrees.

The office has evolved over the years from 100% abstracting in its beginning to 1% abstracting, and 99% title insurance and title searches. Huls admits, "We're due for a name change."

The company has grown to a current total of seven full and part time employees to serve customers who purchase or mortgage real estate valued from \$1,000.00 residential lots, to \$12,000,000.00 shopping centers.

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CALENDAR OF MEETINGS

1992

- March 25-27** ALTA Mid-Year Convention, The Mayflower Hotel, Washington, DC
- April 27** ALTA-NYSLTA Educational Seminar, Westchester Marriott, Tarrytown, NY
- May 3-5** Title Counsel Meeting, Hyatt on Capitol Square, Columbus, Ohio
- May 6** ALTA-WLTA Educational Seminar, Sheraton Seattle Hotel, Seattle, Washington
- May 22** Group Insurance Trust Meeting, Salashan Lodge, Gleneden Beach, Oregon

- June 4** ALTA Board of Governors Meeting, The Broadmoor, Colorado Springs, Colorado
- June 4-5** Title Insurance Executive Conference, The Broadmoor, Colorado Springs, Colorado
- September 11** ALTA Educational Seminar, The Doubletree Hotel at Commerce Place, Nashville, TN



NEW ADDITIONS

Fidelity Title and Guaranty Company of Florida, announces the opening of a new branch office in Oviedo. The Oviedo Office is the fourth opened by **Fidelity Title** to serve a growing Central Florida market. **Scott F. McKee**, manager-closing services, stated that with the opening of the Oviedo Office, **Fidelity Title** will now be able to serve the growing Oviedo area more efficiently. **Fidelity Title** now has closing offices in Longwood, Orlando, South Orlando, and Oviedo.

* * *

Zenith Abstract Company, Inc., announced the opening of an office at 1495 Alan Wood Road, Conshohocken, PA 19428. The new office will be the fifth which **Zenith** has opened in the last three years. **Carolyn Wheeler** will serve as manager of the office. She has been employed in the title insurance industry for the past 15 years. **Zenith** will continue to operate its

offices in Center City Philadelphia, South Philadelphia, Woodbury, New Jersey and Haverford, Pennsylvania. **Zenith Abstract Company, Inc.**, is headquartered at 401 Lewis Tower Building, Philadelphia, PA 19102.

October 14-17 ALTA Annual Convention, Hyatt Regency Maui and Maui Marriott, Maui, Hawaii

1993

March 24-26 ALTA Mid-Year Convention, The Westin Peachtree Plaza, Atlanta, Georgia

October 13-16 ALTA Annual Convention, Marriott's Desert Springs Resort and Spa, Palm Desert, California

1994

April 11-13 ALTA Mid-Year Convention, Scottsdale Princess, Scottsdale, Arizona

September 21-24 ALTA Annual Convention, Walt Disney World Dolphin, Orlando, Florida

ANTICIPATION

continued from page 7

The RTC Announcement

On January 24, 1992, the RTC responded. The contact persons for the signatories were invited to attend a meeting at the RTC. We did not know what to expect. From ALTA's perspective, we were very pleased with the announcement of the RTC's intent, the key provisions being that the RTC would not assert the consent statute in connection with *lien* interests and would not assert a federal right of redemption in receivership capacity.

FDIC representatives attended the RTC meeting. They would not commit to following an identical course but left all present with the impression that they would adopt a very similar policy statement. Following the meeting, FDIC representatives asked ALTA to obtain some state law information, which was provided.

The FDIC Meeting

ALTA staff were most pleased to have been invited to a March 25 meeting with senior staff of the FDIC. The meeting was limited to representatives of Fannie Mae, Freddie Mac, HUD and ALTA. The purpose of the meeting was for the FDIC to outline and discuss preliminary policy "concepts" that the FDIC staff has developed in conjunction with the RTC. Staff told us that these concepts were fluid and subject to approval by the FDIC Board of Directors, which has sole authority to establish policy for the FDIC.

Presently, because the policy concepts are still so preliminary and the lag time between the preparation of this article and the distribution of the magazine so long, it would be inappropriate to do more than state that the FDC *currently* intends to enforce the consent requirement through a notice procedure and to apply that procedure to lien as well as to fee interests. We also can say that FDIC and RTC staff appear to support various mechanisms that would

reduce the instances in which notice would be required. However, given the fluidity of the situation, we will wait to discuss specific terms until the policy is final. ALTA staff is consulting with members of the ALTA Forms Committee for assistance in evaluating the effect of the current proposals on title insurance operations and will provide technical suggestions to the FDIC and RTC.

It is unclear at this point whether the two organizations, which are now independent of each other, will issue a joint policy statement or separate statements. We understand that the agencies are committed to establishing "consistent" policies. As soon as we hear anything definite on this subject, we will make the information available to the membership. Please call ALTA if you have any questions.



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