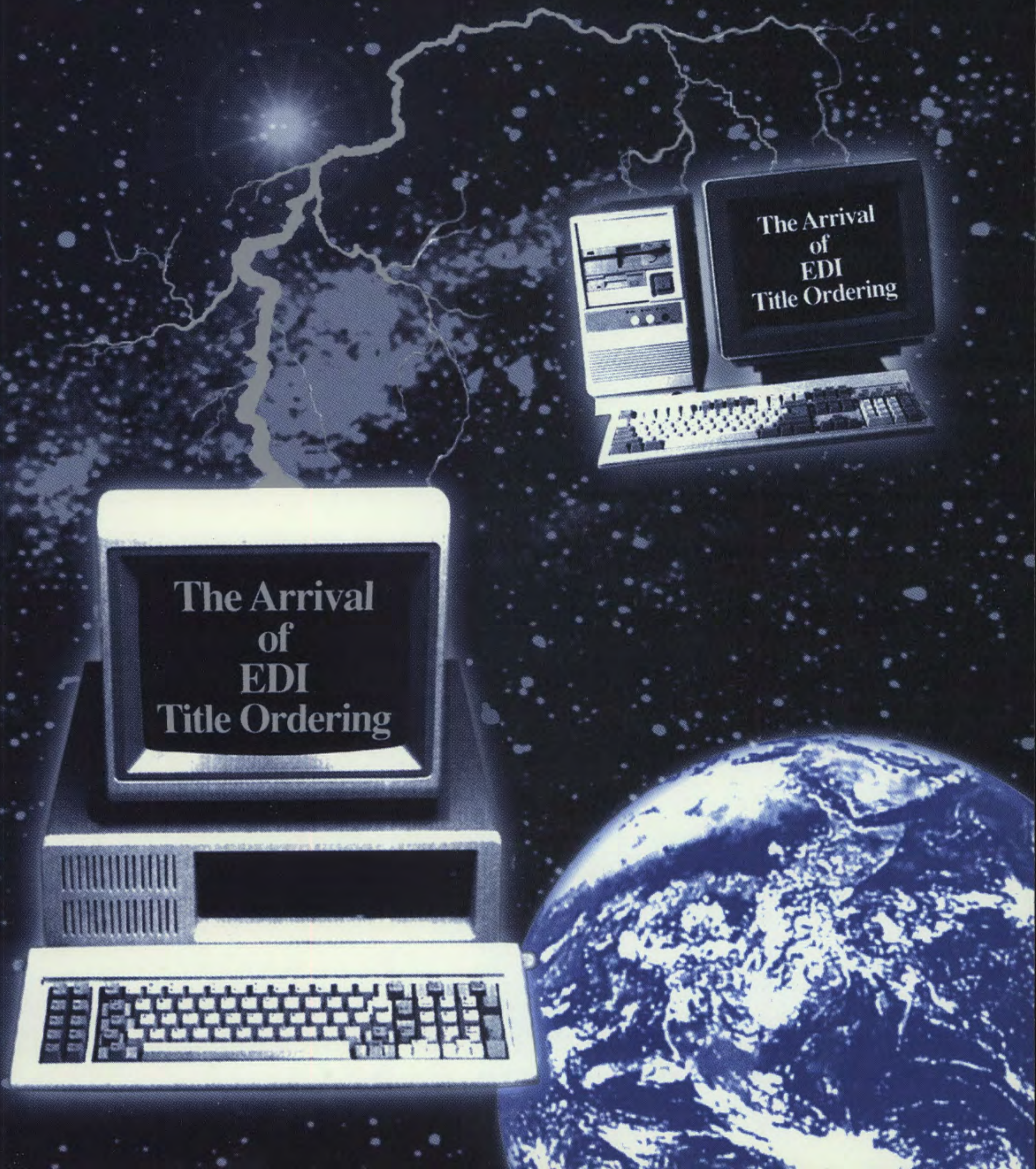
TITLE *News*

SEPTEMBER – OCTOBER 1993



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TITLE *News*

SEPTEMBER • OCTOBER 1993

Volume 72, Number 5

$5 per issue (member rate) $8 per issue (non-member rate)

On the Cover: Virtually unheard of in the title business until a few years ago, electronic data interchange (EDI) ordering of title services is making steadily-growing impact following its introduction in response to lender-driven activity to convert the mortgage process to electronic communication. Beginning on page 15, two articles by ALTA Land Title Systems Committee members discuss the arrival of EDI in the title industry while presenting a perspective from the viewpoint of the title manager. (Cover illustration by Oliver; design by Halford Design and Graphics)

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Title News is published bi-monthly by the American Land Title Association, 1828 L Street, N.W., Suite 705, Washington, DC 20036.

U.S. and Canadian subscription rates are $30 a year (member rate); $48 a year (non-member rate). For subscription information, call 1-800-787-ALTA. Send address changes to: *Title News*, circulation manager, at the above stated address.

Anyone is invited to contribute articles, reports and photographs concerning issues of the title industry. The Association, however, reserves the right to edit all material submitted. Editorials and articles are not statements of Association policy, and do not necessarily reflect the opinions of the editor or the Association.

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A MESSAGE FROM THE PRESIDENT-ELECT

Burt and Loni: The Latest News

Well, I got your attention. My article is about the National Association of Insurance Commissioners. Not as interesting, perhaps, as Burt and Loni, but very important to us title people.

When I first heard that the National Association of Insurance Commissioners was focusing on our industry, I was scared to death. It started with an attempt by the NAIC to severely limit dividends by insurance companies. Later, an NAIC title insurance sub-group was appointed and began asking questions, some of which seemed misdirected. In recent months, however, the process appears to be on track and the title industry could be improved for consumers and industry members alike.

The NAIC began the process by focusing on solvency issues relating to title insurers. The title insurance subcommittee has studied the differing state reserve requirements around the country and concluded that the rules should be standardized. A good idea. They will also require each underwriter to detail historical claims data so that adequacy of reserves can be tested. Another good idea.

The attitudes and ideas of the committee members have changed during the process. The members are willing to listen, and the title underwriter representatives have had some success in getting their points across and developing a better understanding of our business on the part of the NAIC.

The reason the underwriters were able to have a useful dialogue with the NAIC was that, prior to the discussions, an underwriter consensus was formulated. This required much compromise on the part of all of the underwriters. With the consensus, the group could speak clearly and with a single voice. Without this consensus, the NAIC representatives would have heard several competing opinions (as was the case in the early going) and chaos might have resulted.

The NAIC is now focusing on the agent side of the business. There are many issues. In my opinion, it is important that a similar consensus be reached. In an effort to do this, Mike Currier, chairman of the ALTA Abstracters and Title Insurance Agents Section, recently called a meeting in Dallas of some of the leading title agents from around the country. By accounts, this meeting was an excellent beginning. I urge all our agent members to do their part to support the efforts of their Section Executive Committee in working with the NAIC. Developing a consensus is important in working with regulators. They need to know what we want before they can truly weigh everyone's interest.

Look for my next installment, entitled, "Michael Jackson–The Latest News!"

Parker S. Kennedy

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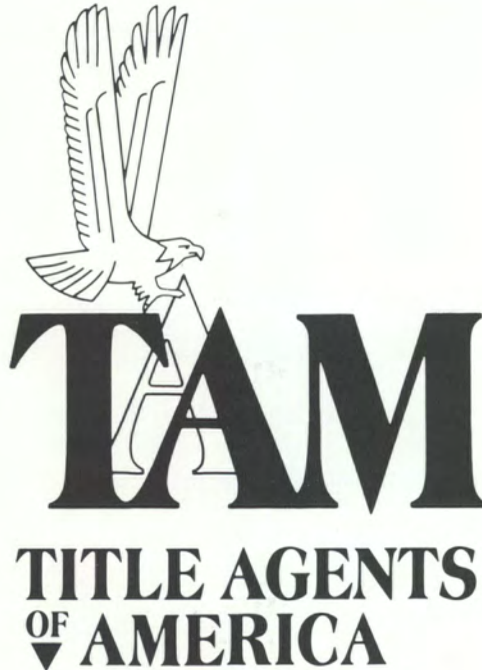

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LETTERS

Title News welcomes letters from readers that include commentary on articles or other material published in the magazine, as well as thoughts on other issues and topics of national concern to the title industry. Letters should be kept brief in the interest of space limitations. The editors reserve the right to determine which letters will be published, and to edit what is submitted as deemed appropriate. Address correspondence to Letters Editor, Title News, American Land Title Association, Suite 705, 1828 L Street, N. W., Washington, DC 20036.

Legal Costs–Another Side

RE: July-August, 1993 Article,
"Bringing Legal Costs Under Control..."

Sirs:

This letter reflects my 35 years experience as an agent in New York state.

I find difficulty with your article on claims that fails to recognize the two most costly factors in handling claims against agent's titles:

1. The company fails to utilize the agent's expertise and familiarity with the property and the parties and attorneys involved. We can often settle claims for a fraction of the litigation expense.

2. Companies tend to hire outside counsel and settle claims proportionate to the amount of premiums they receive from a firm. This increases the income of the underwriting at the expense of the profit margin attributed to the agent.

Ronald Goldsand
RG Agency
Peekskill, NY

Longtime Missouri Leader Succumbs

Word has been received of the death of Hugh B. Robinson, 72, former secretary and treasurer of the Missouri Land Title Association for 22 years and later president of the organization, at his home in Carrollton, MO.

Among his activities and honors is receipt of the MLTA Distinguished Service Award.

He first was employed by Carroll County Abstract Company in 1947, becoming owner of the firm in 1951.

During World War II, he served as a pilot in the Air Force.

Survivors include his wife, Wilma L. Robinson of the home.

The family suggests memorial contributions to the United Methodist Church or the American Cancer Society.

Butterworth Cited As UTEP Honoree

Hughes Butterworth, Jr., chief executive officer, Lawyers Title of El Paso, Inc., has been named University of Texas at El Paso distinguished alumnus for 1993-94.

He is a past president of the Texas Land Title Association and has been named Titleman of the Year by that organization.

Montana Visited

ALTA President Dick Oliver and wife Kitty took the advice of Horace Greeley and headed for Red Lodge to attend the convention of the Montana Land Title Association. The hat is a gift to the ALTA president from MLTA.

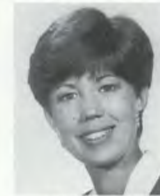
Iowa Abstracting Company Hits 100

The Abstract & Title Guaranty Company, Clinton, IA, has celebrated its completion of 100 years in business.

After incorporation in 1893, ownership of the company changed hands before Peter H. Petersen joined the firm in 1921. Later, Alfred E. Petersen became part of the organization and Robert J. Petersen joined the staff in 1954.

The Petersen family guided the company for over 60 years before Robert Petersen retired in 1985. Today, Abstract & Title Guaranty is a partnership owned by Mark C. Mallicoat and George C. Eddy, Jr., and has 11 employees.

CLTP Designation Goes to Anastasi



Anastasi

Anne L. Anastasi, vice president, T.A. Title Insurance Company, Hatboro, PA, is the first woman in Pennsylvania to receive the Certified Land Title Professional designation from the Pennsylvania Land Title Institute.

In her work with T.A. Title, she supervises branch operations and conducts seminars for the real estate and title industries. She was a speaker on the program for the Utah Land Title Association Convention earlier this year, and serves on a committee in her state that is charged with determination of fair and just fees for remote accessing of county records.

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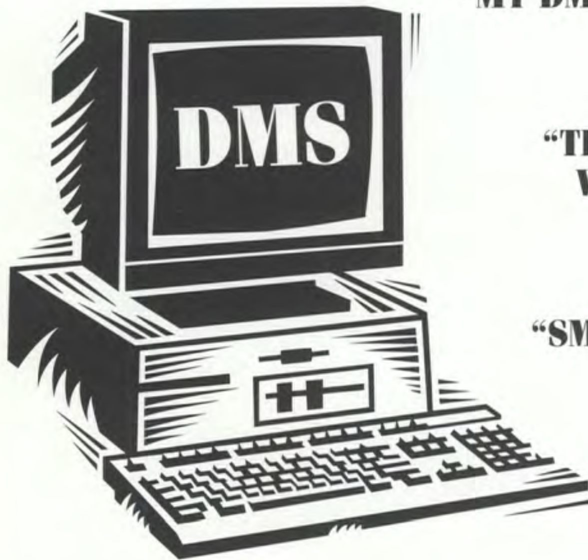

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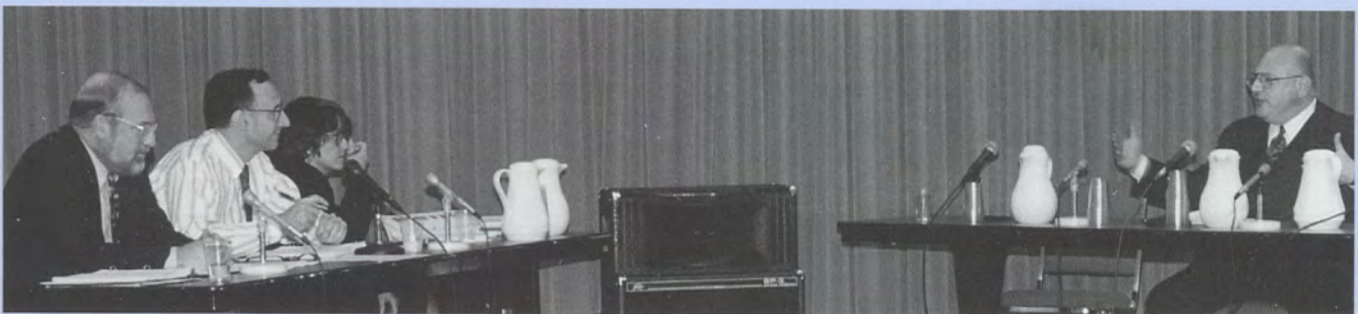
Industry Witnesses Call for RESPA Changes

Present federal requirements for advance disclosure of business relationships between settlement service providers do not benefit consumers and should be replaced with appropriate restrictions, title industry representatives said at recent hearings on RESPA conducted by the Department of Housing and Urban Development.

Testifying on behalf of the title industry were ALTA Past President Roger Bell, Illinois Land Title Association President Gregory Kosin, Washington Counsel Sheldon Hochberg and Nelson Lipshutz, consultant on title insurance to state regulators and others. During their testimony, it was pointed out that most consumers lack the knowledge of settlement services necessary for shopping on the basis of price, quality and service. The industry witnesses said the controversial RESPA regulations issued by HUD late last year threaten activity by individual states to enforce their consumer protection laws and regulations.

In their testimony, the industry spokesmen recommended amending RESPA to allow a competitor's right of action allowing an injunction to be sought against a violator of the act; limiting the amount of settlement business that can be referred by an affiliated entity; and withdrawal of language in the RESPA regulations suggesting HUD authority to pre-empt existing state consumer laws or regulations.

They also emphasized that title insurance represents a very small portion of the total cost of a settlement, meaning most of the room for competitive pricing is in lender charges and legal fees, and said there is no basis in current federal law for HUD evaluation of state law consumer protection as a basis for federal pre-emption, as implied by the agency in the current RESPA regulations.



Title industry representatives at the RESPA hearings held by HUD confer with Nicolas Retsinas (right), assistant secretary for housing, federal housing commissioner, in the photograph at top, left. They are, from left, Ann vom Eigen (ALTA legislative counsel), Roger Bell, Nelson Lipshutz, Sheldon Hochberg and Gregory Kosin. Kosin presents his testimony at top, right, as does Dr. Lipshutz in the photograph immediately below. Among those monitoring the hearings in the audience were Cathy Lancaster (bottom, left), Texas Land Title Association executive vice president. Titlewoman Amy Rhoe talks with vom Eigen during a break in the proceedings (bottom, right).

Federal Anti-Fraud Enforcement Against the Title Insurance Industry

By N. Peter Kostopulos, Esquire

The Criminalization Of Business Regulation

Over the last 10 years, corporate fraud in all forms has received a great deal of attention from federal investigators, prosecutors and the media. Companies of all sizes must be concerned with preventing fraud, in order to avoid increasingly severe enforcement actions by federal and state governments, and to avoid the possible financial demise of the company.

Fraud has cost the government billions of dollars, particularly fraud against federally insured financial institutions. In an effort to deter fraud, the government has sought to "criminalize" the regulation of business activities. This is especially the case with regard to the regulation of loan transactions involving federally-insured lenders and the federal agencies who insure those transactions, such as the Federal Housing Administration, HUD and the Veterans Administration.

The most common types of fraud cases brought by the government against the title insurance industry involve fraudulent real estate closings. As discussed more fully below, these cases principally involve "no money" down schemes and a variety of "strawbuyer" and quick "flip" schemes. To prevent such schemes from going undetected, Congress and regulatory authorities have increased the reporting requirements, certifications, and other duties imposed upon closing agents. Failure to comply with these obligations is punishable as a criminal offense, in addition to civil penalties and suspension and debarment. Indeed, one of the principal purposes for the certification requirement, now required of closing agents on every residential closing, is to hold corporate employees personally subject to the ultimate enforcement sanction -- going to jail -- for engaging in fraud or deliberately failing to take actions to prevent their buyers and sellers from committing fraud.

The government has been steadily engaged in improving its ability to detect and prosecute corporate offenders.

Commensurate with these changes in legal requirements, the government has improved its ability to detect fraud. Law enforcement resources have been beefed up significantly over the last decade. Most federal agencies, such as HUD and the VA, as well as the FDIC, are now staffed with investigators and auditors dedicated to investigating suspected fraud. In HUD alone, there are over 10 offices and several hundred employees involved in anti-fraud enforcement. The Department of Justice and the FBI have dedicated significant resources in Washington and in their numerous field offices to investigate business-related crime.

To assist law enforcement authorities in detecting fraud, Congress has made it easier and more profitable for "whistleblowers" to bring private suits against parties who have committed fraud against the government. Indeed, whistleblower suits have been brought against title insurance companies (mostly by lenders). Under the False Claims Act, whistleblowers, who report fraud to the government, can earn a reward of up to 30 percent of the damages recovered from a corporate defendant, plus reimbursement for attorneys' fees and costs.

Finally, the sanctions for fraud have been dramatically strengthened. The maximum statutory penalties for each criminal offense have been increased to $500,000 for corporations and $250,000 for individuals. The newly created Federal Sentencing guidelines for Organizations now require courts to impose fines upon corporations up to four times greater than the ill-gotten gains of the fraud, in addition to restitution and onerous, multi-year probationary supervision by federal authorities. The sentencing guidelines for individuals make it practically certain that corporate employees, particularly those serving in management who possess expert knowledge, authority and trust, will go to jail for crimes

The author is a former senior trial attorney in the Department of Justice Fraud Section, where he investigated and prosecuted individuals and corporations for various kinds of fraud against the government and financial institutions. Previously, his experience includes serving as assistant United States attorney for the Southern District of Florida, where his responsibilities included prosecuting a broad range of fraud cases. In 1990, he joined the law firm of Watt, Tieder and Hoffar, where he specializes in complex civil and white collar criminal litigation. He received his law degree from Georgetown University Law Center; his offices are in McLean, VA.

of fraud and deceit. Moreover, besides increasing criminal penalties, Congress has increased civil sanctions for fraud by imposing joint and several liability on corporate defendants for treble damages.

Corporate Liability for Fraud

The government possesses an impressive arsenal of enforcement remedies against companies and their employees. The federal government and, increasingly state governments, often prosecute corporate fraud under criminal, civil, and administrative laws and regulations. In fact, the government will frequently seek to maximize its advantage by instituting parallel criminal, civil and administrative proceedings against a company, which are extremely expensive and logistically difficult to defend, in order to enhance its remedies and place pressure on companies to settle or enter guilty pleas. Discussed below are the theories of liability that have been used by the government to prosecute companies for fraud under criminal, civil, and administrative laws.

Vicarious Liability of the Corporation For the Acts of Its Agents and Employees

One of the most significant enforcement policies adopted by the government toward the title insurance industry is its aggressive application of agency principles in prosecutions of corporate defendants. In this regard, the government has sought to hold title insurance companies and title agencies vicariously liable for the fraudulent acts of individual closing agents. In recent years, for instance, the government has brought suits against national title insurance companies based exclusively upon the allegedly fraudulent activities of closing agents, even though no employees of the title insurance company participated in, or even knew about, misconduct, and even where the closing agents were independently-owned or owned by corporate subsidiaries. *See, e.g., United States v. Lawyers Title Ins. Co., et al.*, (Federal District of Nevada)(closing agent was an employee of an independently owned title agency and the government conceded that the title insurer's employees had no involvement in the underlying misconduct); *United States v. Stewart Title Ins. Co., et al.* (Federal District of Western Oklahoma) (closing agent was employee of an independently owned title agency); *United States v. Fidelity National Title Ins. Co., et al.* (Federal District of Arizona) (closing agent was an employee of a wholly-owned subsidiary of the parent insurance company); *In re Minnesota Title Ins. Company*, (Federal District of Nevada) (closing agent was employee of company-owned branch office). In each of these cases, the government sought to hold the title insurer responsible for settlement activities of closing agents on the grounds that these agents were acting as agents of the title insurer in closing the loan transactions.

The government's principal agency argument is that the insurer's authorization to the title agency to issue title insurance also carries with it a grant of incidental authority to perform loan closings, which are allegedly necessary to effectuate the grant of express authority. The government argues that, in order for a title agency to sell title insurance, commercial realities require the agent to provide incidental services to its customers, including escrow and closing functions. Relying upon expert testimony, the government contends that escrow and closing services have become integral components of the business of selling title insurance, and that one is rarely performed without the other.

> *The most common type of fraud cases brought by the government against the title insurance industry involve fraudulent real estate closings.*

Cited by the government as proof of an agency relationship between the insurer and the closing agent are the closing protection letters typically issued by title insurers to lenders. The government contends that these letters constitute a representation that the closing agent is the title insurer's agent for the purpose of handling the lenders' funds at closing. The government has cited as authority for this proposition the case of *Escrow Disbursement Ins. Agency v. American Title & Ins. Co.*, 550 F. Supp. 1192, 1193 (S.D. Fla. 1982), which described such letters as:

> allegedly issued as a matter of routine to selected customers, usually commercial lending institutions, concern[ing] the underwriter's responsibility for the acts of the independent title agent or approved attorney. The basic purpose of the letter was stated to be to confirm for the prospective insured that the title agent or attorney is in fact an agent of the underwriter and to express the extent of the agency relationship.

Surprisingly, there have been few judicial opinions addressing the question of a title insurer's liability for the actions of its agent in connection with escrow or closing services. *Cameron County Sav. Ass'n v. Stewart Title Guaranty Co.*, 819 S.W.2d 600 (Tex. Ct. App. 1991); *Lawyers Title Ins. Corp. v. Frontier Title Co.*, No. 87-C-10872, 1989 U.S. Dist. LEXIS 4581 (N.D. Ill. April 24, 1989). Both of these cases involved wholly independent title insurance agents acting pursuant to agency agreements that expressly prohibited the title agent from conducting closings on behalf of the insurer. The two courts reached opposite holdings.

The *Cameron* case, an intermediate Texas state court decision, held that the closing agent was not an agent of the insurer for the purpose of conducting closings. The court held that the express limitation on the scope of authority provided in the agency agreement, combined with the intrinsic differences between the title insurance and closing functions and the fact that the closing agent did not hold itself out as an agent of the insurer, did not support a finding of implied authority. The government, however, has criticized the court's ruling as contrary to market realities and industry standards. The government contends that the court's statement of agency law, namely that implied actual authority can exist only with express actual authority, is wrong as a matter of law. No federal court has yet adopted *Cameron*, and the Justice Department can be expected to appeal any federal decision that does.

In contrast, the Federal District Court in *Lawyers Title* reasoned that the degree of control exercised by the underwriter over the agent supported a finding of implied agency. The court described the agency relationship between insurer and closing agent as follows:

> Lawyers Title contends that because Frontier maintained the escrow account in its own name and was contractually obligated not to use the name of Lawyers Title on the account, the escrow account falls outside the scope of the agency agreement. This argument is misplaced. An agency relationship is established by the manifest conduct of the parties. The distinguishing feature of an agency relationship is the principal's right to control the activities of the alleged agent. The agency agreement between Lawyers Title and Frontier gave Lawyers Title a significant measure of control over the escrow account. Lawyers Title had the authority to inspect Frontier's books and records, to require Frontier to maintain funds sufficient to cover all mortgage liabilities, compel Frontier to pay the mortgage liabilities whenever Frontier failed to comply with conditions established by

Lawyers Title. Under these circumstances, the agreement between Lawyers Title and Frontier arguably provided Frontier with the inherent authority to establish an escrow account on behalf of Lawyers Title.

*1989 U.S. Dist. LEXIS 4581 at *10 (citations omitted)*

The Government's Theories of Liability

As mentioned earlier, the most common risks facing a title insurance company arise from fraudulent real estate closings. The government's principal theories of liability for fraudulent closings are essentially two-fold. The first, and most important, theory is that the title insurer, through its agent, submitted false statements about the transactions to the lender and ultimately the government (FHA, HUD, or VA). The second theory is that the title insurer, again through its agent, facilitated transactions that constituted an "abuse" of the government's mortgage insurance program. The theories, described more fully below, can be prosecuted under both criminal and civil fraud statutes.

The False Statements Theory

False statements by closing agents most typically challenged by the government are those made about earnest money deposits and closing funds. These statements are usually made in the HUD-1 Settlement Statements, escrow receipts, and other closing documents prepared by the agent. Typically, the closing agent is alleged to have represented that deposit monies or closing funds were received from the buyer, when, in fact, these monies were never received. In other cases, the government has challenged false statements by closing agents regarding the source of the funds, namely, representations that the buyer provided closing funds when, in fact, another party (most often the seller) provided the funds.

According to the government, the agent's submission of false documents constitutes a basis to infer that the agent joined a scheme with the buyer and other participants to defraud the government and the lender. Once the government has proved that the closing agent has herself made false statements, the closing agent can be held liable for the false statements made by other participants in the scheme. Such liability can arise even if the closing agent was not aware of the false statements of other parties. The law does not require that a conspirator be apprised of every act of every other conspirator to be held responsible for those other acts. The law requires only that the acts of other conspirators be within the foreseeable scope of the scheme to which the closing agent knowingly joined. Thus, for instance, the closing agent can be held liable for false statements made by the buyer in the loan application even if the closing agent has never seen the application. Since the filing of the loan application is foreseeable, false statements therein can be imputed to the closing agent.

Additionally, conspiracy law imputes liability to the closing agent for otherwise legal closing activities, such as the preparation of closing instructions, issuance of title insurance, preparation and recordation of deeds, disbursements of funds. These otherwise innocent acts are deemed fraudulent inasmuch as they are deemed to facilitate the fraudulent scheme. The theory is that the agent performed the legal acts knowing that they served to effectuate a transaction which had an illegal purpose.

...it is more important than ever that companies increase their efforts to detect and prevent fraud from arising...

The "Abuse" of the Mortgage Insurance Program Theory

The government's second, and less important, theory of liability is that the title company, by and through its agent, facilitated transactions that constituted an "abuse" of the mortgage insurance program. This "abuse" theory is aimed at conduct that does not necessarily involve making false statements, but allegedly violates the regulatory intent of the mortgage insurance program. Under this theory, the government often challenges so-called "strawbuyer" schemes, under which properties are "flipped" from the borrowers back to the developer or, in some instances, to third parties. In these cases, the "flipping" generally occurred almost immediately after the initial closing and was allegedly known by the closing agent. In most of these cases, the HUD-insured financing was transferred by means of assumptions or other devices, such as "wrap mortgages." The government typically alleges that the agent and, hence, the title company, knew that the properties were being "flipped" and that the HUD-insured financing was being transferred simultaneously.

In these cases, the purported liability of the title company arises from the closing agent's knowledge that the buyers and seller were executing a "strawbuyer" scheme. According to the government, the closing agent knows that these properties were "flipped" immediately back to the developer or to third parties in most cases. This knowledge often arises because the agent has closed the simultaneous transactions and recorded the deeds for the parties. Based upon this alleged "guilty knowledge," the title company, by and through its agent, is alleged to have conspired with the seller and buyers in these transactions.

Money-Laundering

While there have been very few prosecutions of real estate professionals for money-laundering to date, this type of prosecution should be expected in the future, and title agencies should be on guard because of the extremely severe penalties associated with these offenses. The depositing of loan proceeds that have been obtained by fraud may expose a title company to severe criminal and civil sanctions for money-laundering. See, Money-Laundering Act of 1986, 18 U.S.C. Secs. 1956 and 1957. Violations of the money-laundering statute can result in imprisonment of up to 20 years and in the imposition of a fine of the greater of $500,000 or twice the value of the property involved.

Under this statute, a closing agent can be prosecuted if the agent has participated in a scheme to fraudulently obtain a loan, for example, by lying about receiving a downpayment, and deposits the loan proceeds into the agency's escrow account. In such cases, the government almost always prosecutes the company and the closing agent for the underlying fraud offenses as well.

A money-laundering offense can arise even if the closing agent did not participate in the underlying loan fraud. The statute prohibits a person from depositing monies that the depositor knew were derived from illegal sources. Thus, under this statute, a criminal offense can arise even if the depositor (the closing agent) never made a false statement and provided only legitimate services to the client. The criminal intent arises by virtue of the agent's acceptance of money known to have been derived illegally, often referred to as "tainted money." Thus, a closing agent, and the title agency, can be prosecuted under the money-laundering statute where the closing agent simply knows that the borrower has obtained the loan by fraudu-

lent means.

Just as alarming is the fact that, under the Money-Laundering Act, the government possesses broad authority to seize the assets of a company which has been either indicted or convicted of fraud violations. Moreover, under the civil forfeiture provisions of the act, the government may seize assets of a defendant company traceable to illegal conduct upon mere proof by a "preponderance of the evidence." 18 U.S.C. Sec. 982. Courts have held that it is not a violation of due process for the government to use these forfeiture provisions to freeze the assets of a defendant suspected of mail and wire fraud, even before the defendant had been indicted by a grand jury. See, e.g., United States v. Real Property known as 16899 S.W. Greenbrier, 774 F. Supp. 1267 (D.Or. 1991).

Administrative Liability

A title insurance company and title agents risk administrative action if its agents and employees engage in fraudulent conduct. The most serious of these are suspension and debarment.

HUD and VA regulations provide that a company may be suspended or debarred from participating in the mortgage insurance program for a variety of reasons. A title company may be suspended or debarred for committing fraud in connection with loan closings. Suspension and debarment of companies are typically referred to by HUD as a "withdrawal of approval" to do business with HUD. Suspension from public contracting is for a temporary period pending completion of the investigation or proceeding that provided the grounds for suspension. Debarment is a bar from government business for a period of time reflecting the seriousness of the offense. Suspension or debarment would exclude a title company or title agent from issuing title insurance on government-insured loans or from conducting any business with the government.

Federal Sentencing Guidelines

Once a company is convicted of any federal criminal statute, a federal judge is required by law to apply the sentencing guidelines. 18 U.S.C. Sec. 3551. The Sentencing Guidelines for Organizations, which were instituted in November 1991, provide principally for the imposition of a fine, over and above restitution and probation.

In calculating the fine, the judge will first determine a base fine consisting of the greater of 1) pecuniary gain to the company by the illegal conduct; 2) pecuniary loss to the victim to the extent the loss was caused intentionally or recklessly; or 3) an amount determined by a special offense table geared to offense levels for particular crimes. In loan fraud cases, the courts are likely to determine the company's gain or the victim's loss by the amount of the loans in question, regardless of whether the loans went into default. These "losses" can be quite large in most real estate fraud schemes because these schemes usually involve a series of loans, rather than a single loan.

After taking into account several factors, such as the involvement in or tolerance of criminal activity by authorized personnel in the company, the corporation's past criminal record, and the implementation of an effective program to prevent and detect violations of law, the judge may multiply the base fine by a factor ranging from .05 to 4. For example, the judge may impose a $10 million fine in a case where the base fine was computed at $2.5 million and the nature of corporation's conduct required the base fine to be multiplied by 4. As mentioned above, the $10 million fine is paid by the corporation in addition to any restitution that may be ordered by the sentencing court.

...the government will frequently seek to maximize its advantage by instituting parallel criminal, civil and administrative proceedings against a company.

The judge may depart from the minimum and maximum fines which result from the application of the factor, by deviating either above or below those fines. In determining the ultimate fine to be imposed, the judge will consider certain factors, such as substantial assistance to the government's investigation efforts; the remedial costs as compared to the gain of the defendant from the illegal conduct; the presence of an effective compliance program; and exceptional organizational culpability.

Though the outlook for a corporation with a conviction may appear grim, the corporation does have avenues available to reduce significantly the scope of the fine to be imposed. If companies of all sizes implement compliance programs to prevent and to detect violations of federal law prior to any wrongful conduct occurring, such a program can weigh greatly in the corporation's favor in reducing the fine.

Elements of An Effective Compliance Program

The guidelines set forth seven elements that an effective compliance program should address. A company's compliance program must cover each of these elements in order for a court to determine that the company has exercised due diligence in seeking to prevent and to deter corporate crime. *See*, U.S. Sentencing Commission, Guidelines Manual (Nov. 1991), Sec. 8A1.2, commentary at n. 3(k) (1-7).

First, a company must develop a written corporate code of conduct that establishes standards and procedures for its employees and agents in areas in which the company might incur criminal liability. The scope of a code will vary according to the size and sophistication of the company, the line of business conducted by the company and the regulators of the company, if any. At a minimum, it should contain provisions addressing accurate accounting and recording of transactions, particularly the faithful reporting of all down payments and closing funds paid to the closing agent. The code should also address the protection of corporate assets and the assets of its customers and suppliers, the filing of appropriate government forms, a means for detecting questionable payments, gifts, and political contributions and the monitoring of conflicts of interest.

Next, a corporation must designate an individual for overseeing compliance with the code. The individual must be a "high-level employee," meaning an individual such as a director or an executive officer, who has substantial control over the organization or who has a substantial policy-making role.

Writing a code and assigning a compliance officer are not enough, however. The firm must also refrain from delegating discretionary authority to those employees exposed to situations presenting an opportunity to engage in illegality. As such, background checks and annual reviews of employees in sensitive positions which typically offer the opportunity to violate the law should be conducted by the compliance officer. Such positions include those employees involved with closings accounting procedures and with negotiating in any manner with the government.

Companies must also train their employees regarding the substance of the law,

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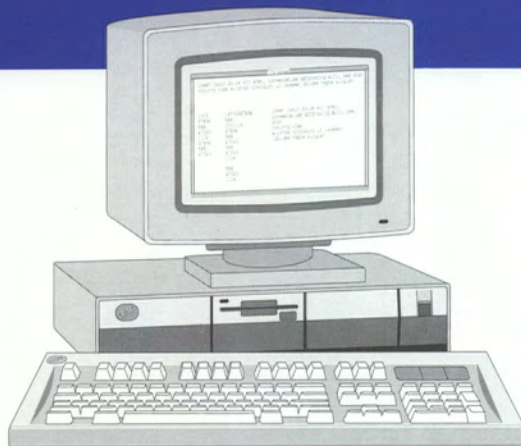

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The Arrival Of EDI Title Ordering

By Frederick H. Hemphill, Jr.

The sky is falling!

Wolf!

The British are coming!

Get ready, title industry–here comes EDI! (EDI?)

Both folklore and history are replete with examples illustrating the importance that timely concern holds for survival. Suspicion and a willingness to sound the alarm are familiar attributes that many of us have inherited from previous generations. Cervantes said it memorably: forewarned is forearmed.

Overall, this vigilance has been well justified. The wolf did arrive, British soldiers showed up to menace our colonial forefathers at Lexington and Concord–then returned years later to scorch Washington more than the hottest Congressional debate. And so on.

But what about EDI–electronic data interchange–in the title industry? This area of automation technology was virtually unheard of in our business until a few years ago. Now, EDI title ordering capability is about to be implemented by an increasing number of title companies around the country, be-

cause of competition and because lender customers want it.

Despite some wisdom in mistrusting the unfamiliar, at least initially, ALTA development of EDI for use at the industry level should be viewed as a positive. Prompt action by our Association has allowed us to become partof an effective overall response to a strong initiative from the lending community that promises to substantially change the way real estate loans are handled. In all likelihood, this lender-driven move would have taken place whether or not we decided to be part of the action.

By joining with lenders in the endeavor now under way, we are helping develop an EDI format that is workable for title companies–one that will better serve our customers with improved accuracy and efficiency. And, yes, lender advocates consider EDI a major advancement over FAX ordering for reasons which include the fact that there is no need to re-key data.

Industry-level EDI ordering capability is now available from ALTA after completion of initial development work this year.

The way to get ready for it is not by heading for the trenches, but by turning to education and adaptation as we recognize its inevitability.

Now for some background. Just what is EDI and where did it come from?

Basically, EDI is technical jargon for computer-to-computer exchange of data. It is not new technology: K-Mart, Sears, Wal-Mart and the transportation industry are examples of longtime users that have found electronic ordering offers major advantages over other methods of data transmission.

EDI attracted the operative interest of the real estate lending community much more recently. Some three years ago, the Mortgage Bankers Association of America requested that ALTA join with that organization in developing an appropriate industry-level EDI format for ordering title services. ALTA agreed to the idea, and the task was assigned to our Association Land Title Systems Committee, which created a special MBA liaison subcommittee for the project. I was appointed chairman of the subcommittee and have continued in that position.

As work has progressed, the ALTA-MBA EDI effort has attracted growing attention from additional leaders in the lending community, as well as from title people. In May, Federal National Mortgage Association Vice Chairman Franklin D. Raines was a guest speaker during the ALTA Federal Conference in Washington. Included in his remarks were the following statements.

"EDI will provide us with a common data format, making it easier for all industry players to communicate....industry working groups have finalized credit reporting and MI standards for EDI and work is under way on appraisal standards and loan application standards.

"And, of course, your industry is working to develop standards itself. An electronic interface will certainly make it easier for title insurers to communicate with other industry players and will provide access for lenders as well as other industry members who need to order a title.

"I can't emphasize enough to you the importance of moving toward an electronic standard. We're going to be doing everything we can over the next five years to move all of our communications within the mortgage industry to an electronic basis, and it's very important that all the players sign up for the EDI standard.

"And those who don't sign up, I think, are very rapidly going to find themselves behind the power curve in terms of the direction that the industry is moving."

Prompt action by our Association has allowed us to become part of an effective overall response to a strong initiative from the lending community...

Words to keep in mind. Now, what will you–as a title executive–need for EDI implementation in your business environment?

- You must know something about the standard used for data exchange and what goes into preparing data for transmission, as well as the actual exchange
- You must know how to reach a business agreement with the other party (your EDI "trading partner") on what data to exchange and what protocols and standards to use
- You must understand the opportunities for incorporating electronically-received data into your computer, and for operations procedures that excludes re-keying of data

First, the standard.

Progress Slow After Quick Start

Work on an EDI standard for ordering title services proceeded swifty at first within our MBA liaison subcommittee. We gathered title services order forms from numerous agents and underwriters throughout the country. While most of them were on a single sheet of paper, we quickly found that the number of universal data elements was relatively small, while regional variations were many. This meant that *all* of these data elements had to be included in the EDI standard, and that there had to be a mechanism for omitting unnecessary elements.

There was no loss of momentum when we went to our MBA counterparts for their concurrence on these data elements. After all, title people and mortgage bankers have a natural EDI "fit" since each has a mutual interest in providing the other with essential information required for completing the title insurance order.

But our rate of progress slowed to a crawl when we entered the arcane world of the public EDI standard we were trying to harness for title services. Our subcommittee encountered a new, glacial dimension when we became involved with American National Standards Institute (ANSI) X12.

ANSI provides oversight and acts as a clearing house for a multitude of standards affecting all areas of commerce. One subset of these standards is related to automation and includes various communication protocols. The specific national computer protocol used for EDI is designated X12. It has been used for many years by a variety of entities including those mentioned earlier, as well as the automotive and paint industries, for example. Adding to our immediate interest was the fact that the Department of Housing and Urban Development was taking steps to move to the X12 standard.

The advantages of using a standard like X12 are fairly obvious:

- It is easier to reach agreement with a "trading partner" if there is an existing standard recognized as acceptable by both your industries
- It is easier to add a new "trading partner" if you have an existing EDI relationship that involves using a standard
- Acknowledging the existence of a standard helps "trading partners" resist the temptation to modify their data exchanges in nonstandard ways
- Using a standard that spans many industries means there are numerous technical consultants and vendors in

the marketplace who know how to implement EDI with the use of X12–and their prices are determined by a much larger market than even the title and real estate lending industries combined

- And, of course, a standard means much less EDI design work must be done by the "trading partners"

On the other hand, we also soon discovered that adapting to the ANSI standard had accompanying disadvantages.

The book containing all of the different data elements already recognized under X12 (the "data dictionary") already is thicker than most metropolitan area telephone books. Not surprisingly, the ANSI technical standards committee vigorously resists any attempt to create a new data element if an existing one can be adapted.

Thus, a standard "name" field for the EDI format is used for buyer, seller, title company, lender, etc., with the use identified through creation of new "codes," something the ANSI committee would allow. Some of these multiple uses were easy to identify, but we often found ourselves being sent away to do more research on whether some obscure field known only to a few could be adapted to perform a function for which we had proposed a new field.

Some of our more interesting discussions in this area of the project involved the various ways the title industry provides legal descriptions. As an example, for metes and bounds descriptions, we were asked if, for survey bearings or directions, we could use a field whose description was "direction in which vehicle is traveling."

We also found that X12 groups data elements into segments and employs "loops" (iterations) to use the same segment for different purposes. Our ALTA/MBA 11 pages of different data elements thus became a terse, 1 1/2 page "transaction set" in X12 terminology. Since the ANSI technical standards committee meets only a few times each year, shaping our data elements into an acceptable format stretched out over an inordinately long period of time.

So, where does all this leave us? The ALTA-MBA "transaction set"–referred to in earlier communications to the ALTA membership as the Real Estate Title Insurance Services Order Form–has been cleared by the technical standards committee and has been submitted to the ANSI membership for voting by mail. As previously indicated, those of us on the subcommittee are optimistic that we will have ANSI approval in the near future.

With the recent completion of our trading partner agreement...the EDI title services ordering package now (is) available from ALTA to members who send in a written request.

"Short Cut" Alternative

For those in the title industry and elsewhere who may be interested in implementing the Order Form before the anticipated receipt of ANSI approval, there is an alternative. This alternative has a relatively low risk of being substantially changed by the voting process now taking place. Available on written request from the ALTA office is the Order Form in its "flat file" format, along with the ANSI X12 "transaction set" in its more compact form, which is what we expect to be approved.

By "flat file," it is meant that all possible data elements are laid out in their logical sequence without resorting to the "loops" that allow the ANSI format to be more compact–but also more difficult for the layman to understand.

The "flat file" can be used as a basis for discussion with a lender "trading partner" on what data you would find mutually beneficial for exchange, since the "flat file" has been agreed to by both ALTA and MBA. Also, the "flat file" and the accompanying ANSI "transaction set" can be used to discuss individual title company technical requirements with staff, a consultant, or a vendor of EDI software.

Translation and Mapping

Chances are that most title managers will need some technical help, since EDI can be fairly complicated. But, since the task can be broken down into several components, you can determine how much help you need and what kind.

Communicating with a business partner using EDI is not unlike communication among diplomats at the United Nations. For a diplomat from country X to communicate with one from country Y, he may have to pass his thoughts along to a translator who speaks languages X and Z–who in turn speaks in language Z to another translator fluent in Z and Y.

The ANSI X12 standard for EDI can be thought of as the common or standard language Z as represented in this example. It follows that one of the tasks you will need performed in the EDI process is "translation"–taking data in your computer that you want transmitted and putting it into a properly formatted X12 message. The complementary function is receiving X12 messages, stripping off the administrative components and preparing the data to be put into your computer files.

There are many vendors who "speak" ANSI X12, who can provide you with computer software for taking a specifically formatted list of data elements and converting it into a completely formatted X12 message.

But, going back to our United Nations analogy, this may be like using a translator who is proficient in language Z and understands all the words in language X, but does not really understand the content or nuances of the conversation. He may be accurate and proficient, but it may require the diplomat from X to put everything in writing, double spaced and bound on the top edge. To get it in that format, the diplomat from X may use an administrative assistant to help him organize his thoughts and put them in the required format.

In EDI, the process just described is called "mapping," and involves extracting specific data that you desire to send from the proper case and organizing it in the proper sequence to be translated and sent. And the companion process is to identify the data elements in incoming messages and route them to the right fields in the proper case.

EDI vendors also can be hired to perform "mapping" functions. But you may have a system administrator or computer programmer on staff who can do this more

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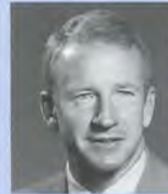

The author is chairman of the ALTA Land Title Systems Committee subcommittee charged with developing an electronic data interchange (EDI) format for ordering title services; the project is a joint activity with the Mortgage Bankers Association of America. He is senior vice president and chief information officer for Lawyers Title Insurance Corporation, with offices in Richmond, VA. Previously, he served as vice president–management information systems for Continental Financial Services there and before that spent 22 years in the Marine Corps, where he attained the rank of colonel. He received his engineering degree from Yale University and later earned a master's degree in computer science from the U. S. Naval Postgraduate School.

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EDI Can Be Effective - - If Implemented Thoughtfully

By Paul Sakrekoff

Opening a title insurance order is accomplished by phoning, faxing, mailing or messengering--which then leads to phone tag, busy FAX machines, delayed mail and additional messenger costs. In addition to all of this, you are still required to re-key the order into your title open order system and other systems.

Enter EDI (electronic data interchange), the most painless way to get an order. Or is it?

EDI can be very effective if you implement it with some forethought. Utilized correctly, the net result will be a timely, inexpensive, reliable and machine readable title open order.

There are some things to consider before embarking on an EDI adventure: getting the necessary cooperation from your customers as well as that of your own employees; eliminating bottlenecks and re-engineering the work flow (taking advantage of the technology once it's in place, to save even more money and give better service by changing certain details in the flow of production).

Getting Customer Cooperation (Putting The Ball in Their Court)

You've held all the top-level meetings and have succeeded in getting the operations management and computer gurus together, as well as having the lawyers work out a trading partner agreement. So where's the sytem?

Probably bogged down in committee meetings. The lawyers can't complete the trading partner agreement until the data fields are defined, and the fields can't be defined until your production department gives parameters to the computer programmers.

And the only direction the top-level executives gave to production was: "This will save us money and give us better service. Now go do it."

It's like the old anecdote. How do you eat an elephant? One bite at a time.

So start small. Many times, the technical and production staff, on both the customer and the title company sides, don't quite know what to do with EDI. Give them a chance to explore it as a pilot or prototype project. (This also gives everyone involved a chance to experience EDI in a low volume, non-threatening manner, as opposed to a mission-critical environment). So get that PC or terminal in and running at your customer's site for test purposes.

If simply getting another $500 FAX machine would accomplish the same thing...you aren't utilizing EDI effectively.

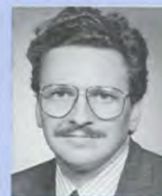
When the top-level executives come to your department and ask, "What's going on with that money-saving, better service, E...something-or-other project?," you can say, "The ball's in their court--we're waiting for them."

Eventually, you will put the system into the first production, high-volume, mission-critical environment. That's called beta testing. When everything is running reasonably well, nail down the trading partner agreement with the lawyers and have the computer systems people clone the system out to other units, departments, offices, customers or whatever.

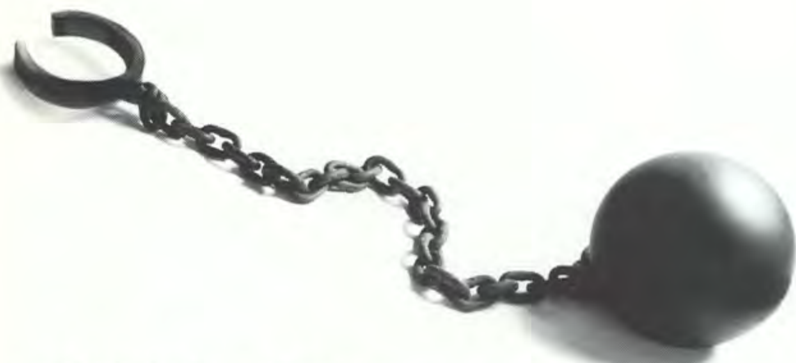
Employee Cooperation

Even in this day and age, automation phobia abounds. As we all know, there is a certain amount of debugging that goes on during the prototyping and beta testing. This can cause implementation problems if you provide a system for testing to an individual who does not have the time, patience or understanding to work through the hoops. This person may create an internal hostility toward the system before it ever gets from prototype to beta test stage.

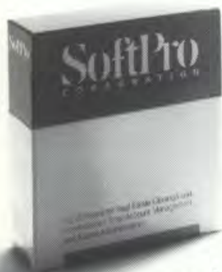
Rather than stick the system in 14 title units at one office, you'll want to conduct some preliminary fact finding. Who has a PC at home? Who seems intuitive as to the value of time and the money saved by such a system once it works? Who's under 25 and has no preconceptions about the way



The author is chairman of the ALTA Land Title Systems Committee. He spent five years in the aerospace industry and management information systems consulting before joining World Title Company, a large independent title insurance agent in the California market, as MIS director some three years ago. World Title employs approximately 600 persons in 15 offices located in nine counties. One of his initial assignments at the title agency was to design and implement three different electronic data interchange formats for various customers. Primary EDI customers of World Title include mortgage bankers, foreclosure trustees and escrow companies. He is a graduate of the University of Southern California.



"MY PEOPLE ARE ON THE BALL. THEY DON'T NEED CLOSING SOFTWARE."



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things have been done, or about using PCs and terminals? Who has a VCR at home that's not still blinking "12:00" since it arrived?

Let that person be the guinea pig. Give that individual the prototype. Once the bugs are worked out and those in all the other title units see the system's productivity value, they'll be bugging you ("How come I don't have one of those things on my desk so my volume and service level can get better, too?"). Simply apologize, try not to laugh, and give them what *they* want.

Eliminating Bottlenecks

Any task being performed that is not automated in the production flow is a bottleneck. Use integrated software in all of your internal departments so there are no bottlenecks.

> *Some day, this electronic capability will be as familiar, and as prolific, in the title industry as FAX machines are today.*

If simply getting another $500 FAX machine would accomplish the same thing as having the order show up in a machine readable format, you aren't utilizing EDI effectively.

Don't let one department sit on the orders and then hand stacks of them to the next department all at once. Make certain that, as their part of the order is completed, they move that order on to the next department immediately.

Track your own interdepartmental service level. Just because you receive your customer's orders at the speed of light doesn't mean you'll give them any better service or that you'll return the orders that much faster. Make sure you return the title order number as part of the very first open order transaction. Your customer will see a dramatic change simply by pre-loading a block of title order numbers to be returned with every EDI open order. As fast as the customer transmits, they will receive the title order number.

To help things out internally so that the service level of the EDI orders is consistently better, a simple yet effective tool is to load the EDI printers with different colored-paper. Then, instruct everyone to first com-

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Uniform Partnership Act Changes Offer Improvement for Title Insurers

By John Goode

The Revised Uniform Partnership Act ("RUPA" or "the act") was approved by the National Conference of Commissioners on Uniform State Laws at its annual conference in the summer of 1992. While the act is of primary interest to business lawyers, it potential impact on real estate lawyers was recognized by the participation in the drafting process of representatives of the Real Property, Probate and Trust Law Section of the American Bar Association, the American College of Real Estate Lawyers and, in the person of the author, the American Land Title Association.

The existing Uniform Partnership Act ("UPA"), which is in effect in practically every state, has presented a number of problems to real estate lawyers. Primary among these problems is the very nature of a partnership. Is it a legal entity or is it merely an association of individuals or other entities carrying on a particular business? The UPA contains the following definition: "A partnership is an association of two or more persons to carry on as co-owners of a business for profit."

The author is a member and past chairman of the ALTA Liaison Committee with the Commission on Uniform Laws, and participated as ALTA observer in the drafting of the Revised Uniform Partnership Act. He is vice president–general underwriting counsel for Lawyers Title Insurance Corporation, Richmond, VA, and serves as vice chairman of the Virginia Bar Association Real Estate Section. Previously, he served as ALTA advisor to the National Commission regarding the Uniform Planned Community Act, the 1980 revision of the Uniform Condominium Act, and the Uniform Marital Property Act.

Although the UPA provides that "any estate in real property may be acquired in the partnership name," this has not ended the debate. In fact, the history of the UPA clearly indicates that it is a compromise between the entity and aggregate theories of partnership. There has been endless debate as to whether the property is actually vested in partners even though it is "in the partnership name." This becomes important in the situation where a partner in an existing partnership leaves and a new partner is substituted. Does this amount to the creation of a new partnership and, if so, is a deed required in order to vest title in the new partnership?[1]

It would appear that the provisions relating to real property and title issues are a great improvement over the old UPA...

Other questions under the UPA include whether the partnership has the ability to sue and be sued in the partnership name. This would affect, among other things, the practice of title examiners in searching for judgments. Other questions which have arisen involve the authority of less than all the partners to bind the partnership, the formation and recharacterization of what appear to be other legal arrangements into partnerships, and whether a deed to A and B trading as XYZ Company results in the acquisition of the property "in the partnership name."

The effect of the act on limited partnerships, and its applicability to joint ventures, were discussed by the drafting committee and are addressed in a greater or lesser degree in the act or its official comments. These and other aspects of RUPA are discussed in this article.

Nature of a Partnership

What is the nature of a partnership? RUPA clearly states in Section 201 that "a partnership is an entity." The comment states that "RUPA unequivocally embraces the entity theory of the partnership..."

"Giving clear expression to the entity nature of a partnership is intended to allay previous concerns stemming from the aggregate theory, such as the necessity of a deed to convey the title from the 'old' partnership to the 'new' partnership every time there is a change of cast among the partners. Under RUPA, the partnership agreement may permit such a change of partners without a dissolution. The result in cases such as *Fairway Development Co. v. Title Insurance Co.*, 621 F. Supp. 120 (N.D. Ohio 1985), which held that the 'new' partnership did not have standing to enforce a title insurance policy issued to the 'old' partnership, may be avoided." Accordingly, the adoption of RUPA should eliminate the need to issue so called "Fairway" endorsements in most instances.

Section 203 states that "property transferred to or otherwise acquired by a partnership is property of the partnership and not of the partners individually." The concept of holding as a "tenant in partnership" as contained in Section 25 of the UPA has been dropped. The "doing business as" problem has been solved in Section 204,

which states that "property is partnership property if acquired in the name of...the partnership" and goes on to provide that "property is acquired in the name of the partnership by a transfer to...one or more partners in their capacity as partners in the partnership, if the name of the partnership is indicated in the instrument transferring title to the property."

The comment to Section 202 includes the following statement with regard to joint ventures: "Relationships that are called 'joint ventures' are partnerships if they otherwise fit the definition of a partnership. An association is not classified as a partnership, however, simply because it is called a 'joint venture.'" Therefore, it would appear that title insurers will have to continue their current practice of ascertaining that a particular "joint venture" is in fact a partnership before agreeing to show title vested in the joint venture. However, if a joint venture elects to file a statement of partnership authority, which is discussed below, this would greatly assist a title insurer in determining that the joint venture is, in fact, a partnership.

In an effort to clarify that shared appreciation and other participating mortgages do not result in a partnership between the borrower and the lender, Section 202(c)(3) states that "a person who receives a share of the profits of a business is presumed to be a partner in the business, unless the profits were received in payment...(v) of interest or other charges on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future ownership of the collateral, or rights to income, proceeds, or increase in the value derived from the collateral..."

Partnership Authority

A question that has plagued title insurers during the recent economic recession has been the second guessing of actions taken on behalf of both general and limited partnerships by those partners supposedly charged with the management thereof. While RUPA, in Section 301, follows the general rule found in the UPA that each partner is an agent of the partnership for the purpose of its business including the transfer of property held in the partnership name by a single partner, in Section 303, it borrows from Georgia and California law the concept of a statement of partnership authority which may be filed specifying various details called for in the statute including "the names of partners authorized to execute an instrument transferring real property held in the partnershipname."

This section goes on to state that "a grant of authority to transfer real property held in the name of the partnership contained in a certified copy of a filed statement of partnership authority recorded in the office for recording transfers of that real property is conclusive in favor of a person who gives value without knowledge to the contrary, so long as and to the extent that a certified copy of a filed statement containing a limitation on that authority is not then of record in the office for recording transfers of that real property..."

The presumption operates only so long as and to the extent that a limitation on the partners' authority is not contained in another recorded statement. Third parties are deemed to know of a recorded limitation on authority of a partner to transfer real property held in the partnership name. While neither the holding of property in the partnership name nor filing a statement of authority is mandatory, the drafting committee believes that the benefits flowing from these two methods will encourage their use. While Section 105 of RUPA provides for the central filing of statements rather than local filing, the draftsmen felt that to bind third parties in connection with the transfer of real property, a statement of partnership authority should also be filed locally in the land records. RUPA also allows for the filing of a statement of denial of authority.

> ***Primary among these problems is the very nature of a partnership.***

Another problem that title insurers frequently confront is when the definition of a partnership can no longer be met because all of the partnership interests are acquired by one person. Section 302(c) of RUPA provides that if "a person holds all of the partners' interests in the partnership, all of the partnership property vests in that person. The person may execute a document in the name of the partnership to evidence the vesting of the property in that person and may file or record the document." This provision would seem to eliminate a possible gap in the chain of title that can occur under the UPA.

In dealing with transactions involving partnerships, title insurers frequently have to determine parties required to execute various documents such as indemnities. Under the UPA Section 15, partners are jointly liable for debts and obligations of the partnership. Section 306 changes the rules so that partners are liable jointly and severally for *all* obligations of the partnership unless otherwise agreed by the claimant or provided by law.

However, under Section 307, a judgment creditor of a partner may not levy execution against the assets of a partner to satisfy a judgment based on a claim against a partnership except in limited circumstances such as a writ of execution being returned unsatisfied or the commencement of an involuntary bankruptcy proceeding against the partnership. Therefore, it would appear that good practice would still require the execution of documents such as indemnities by both the partnership and the partners individually if the indemnitee wishes to be able to proceed against the individual partners without hindrance.

Dissociation

Articles 6, 7 and 8 of RUPA deal with a partner's dissociation from a partnership and provide a much more detailed road map than does present law covering both the continuation of the business when a partner dissociates and the winding up of the partnership business. A new concept introduced into RUPA is the recognition in the statute itself of the fact that general partnerships sometimes convert to limited partnerships and vice versa. This is covered in Sections 901 and 902. Section 903 provides that when such a conversion takes place, the converted partnership is the same entity that existed before the conversion. This should eliminate the need for a conveyance in this situation.

Another concept not generally found in present partnership statutes is the provision (Section 904) allowing the merger of partnerships. This covers both general partnerships and limited partnerships and the statute sets forth in detail what must be the plan of merger. Section 905 provides that all property owned by each of the merged partnerships or limited partnerships vests in the surviving entity. Section 906 provides for the filing of a statement of merger and states that real property of the surviving partnership or limited partnership, which before the merger was held in the name of another party to the merger, is property held in the name of the surviving entity upon recording a certified copy of the statement of merger in the local land records.

An interesting question is whether RUPA applies to limited partnerships. Section 202(e) provides that a partnership created under RUPA is a general partnership, and the partners are general partners of the partnership. The comment states that a limited partnership is not a partnership under this definition. However, Section 1105 of the Revised Uniform Limited Partnership Act would appear to make RUPA applicable to limited partnerships "in any case not provided for" in RULPA. Because of this approach, it would appear that limited partnerships could avail themselves of certain aspects of RUPA, such as the statement of partnership provision which would be very beneficial to those dealing with partnerships involving real property, including title insurers. However, since RULPA was adopted in most jurisdictions prior to the adoption of RUPA, it may be necessary for those states to go back and make it clear that Section 1105 applies to RUPA and not to the old UPA.

There have been criticisms of the Act in certain quarters including the American Bar Association, particularly with reference to dissolution and winding up. However, certain changes have been drafted to satisfy the ABA's concerns and were due to be voted on in the summer of 1993. One of the leading authorities on partnership law in the United States, Professor Larry Ribstein, of George Mason University, in Fairfax, VA, has criticized a number of provisions of the act.

At least until such time as ABA has affixed its final stamp of approval on RUPA, it is unlikely that it will be introduced in any significant number of jurisdictions. Montana and Wyoming adopted RUPA in 1993 without waiting for ABA approval. Notwithstanding the concern expressed by some, it would appear that the provisions relating to real property and title issues are a great improvement over the old UPA and its enactment will make life easier for title insurers.

[1] Jeremy Goldstein and John Goode, "Entity and *Aggregate Theories of Partnership: The Need for Clarification," Lawyers Title News* (November-*December 1989), pp. 16-20 reprinted from Probate and Property*, a journal of the American Bar Association.

★★★★

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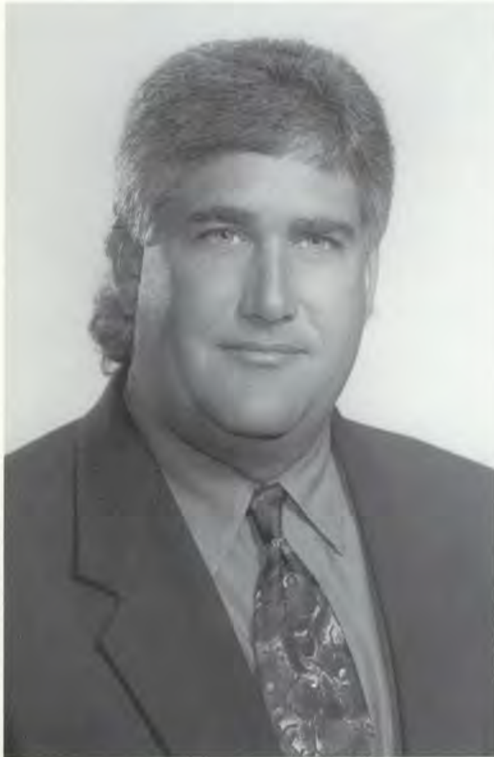

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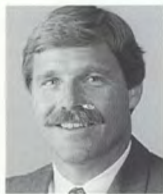
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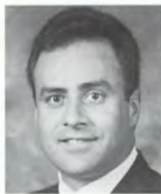
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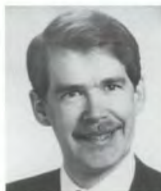
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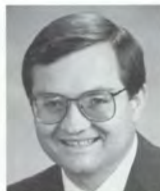
Ripp

Thomas A. Klemens has been elected vice president-chief financial officer, First American Financial Corporation and First American Title Insurance Company, Santa Ana, CA, replacing **Jack H. Derloshon**, who retired for health reasons after 33 years with the company.

Klemens replaces **Derloshon** as a member of the ALTA Title Insurance Accounting Committee.

Klemens previously was vice president-controller for First American and is replaced in that position by **Max O. Valdes**, formerly assistant controller. **Paul W. Knutson**, previously senior financial analyst for the company, has been named vice president-assistant controller.

Robert G. Meckfessel, Chesterfield, MO, has been promoted to Missouri regional vice president for First American,

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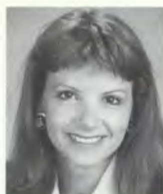
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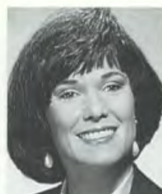
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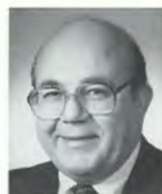
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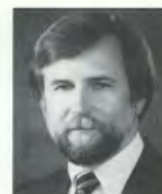
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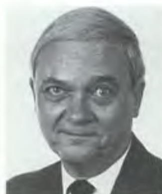
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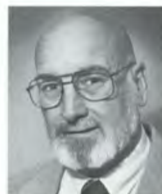
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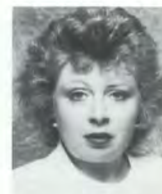
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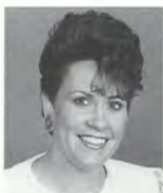
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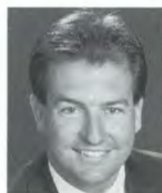
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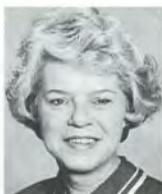
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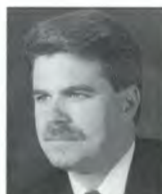
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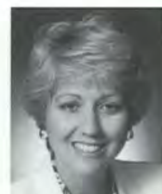
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with responsibility for activity in that state and in Kansas.

James M. Costello, Plainfield, IL, also has been promoted to regional vice president.

John Bethell, First American's vice president-state manager, Wisconsin, has been named to that position for Michigan and is replaced in the Wisconsin vice presidency by **Marvin P. Ripp**, former Wisconsin state counsel. **Kathy J. Lucido** has been promoted to Dane County (WI) manager and will be based in the Madison state office, where she replaces Bethell.

Eric P. Jacobs has been promoted to assistant vice president-automated systems, Santa Ana.

Also, **Nancy M. Pettus**, vice president-personnel counsel, Santa Ana, has been appointed vice chair, Labor & Employment Law Committee, American Bar Association.

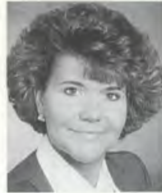
Gust J. Totlis has joined Chicago Title and Trust Company, Chicago, as chief financial officer, replacing **Robert B. Scherer**, who has been named senior vice president of strategy and development. **Totlis** previously was executive vice president and chief financial officer, Star Banc Corporation, Cincinnati.

Also at Chicago Title and Trust, **Thomas J. Marthaler**, assistant vice president and portfolio manager/analyst, has been promoted to vice president.

Chicago Title Insurance Company announces the promotion to vice president of **Benjamin L. Grant**, resident vice president and associate regional counsel, Dallas. Also named vice presidents are **Patrick N. Whitney**, former assistant vice president, Rosemead, CA, and **Lynda M. Aird**, formerly resident vice president and agency coordinator, Cleve-

Randolph

King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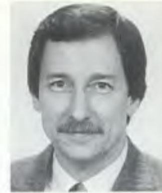
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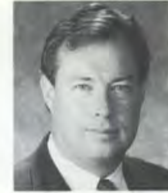
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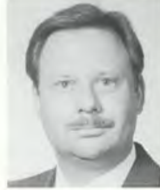
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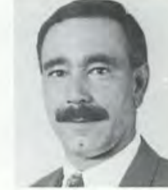
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land. **Patricia Ayers** has been named resident vice president, Pittsburgh.

Laura Leister, **James Nagle** and **Robert Burgess** have been appointed assistant vice president, respectively, in Cleveland, Boston, and Birmingham, AL.

David J. Holl has been named senior counsel for the company, Philadelphia. **Sarah Dunphy** has been appointed state agency manager, Hartford, CT.

In Florida, **Ron Skraban** has been named southeast area agency manager, West Palm Beach, while **Grover Ellis** and **Mary Tarpley** have been appointed to assistant vice president, Orlando, and **Betty Anderson** and **Lola Campbell** have been named escrow manager, Melbourne. **Chris Allio** has been appointed southeast area accounting officer, West Palm Beach.

In Atlanta, **Erika Meinhardt** has been named Georgia state manager and remains assistant vice president; **Joyce Harper** has been appointed claims counsel and **Donna F. Rowland** is now title officer.

Dennis Rodgers and **Douglas Rusk** are new assistant vice presidents in Champaign and Naperville, IL, respectively, while **Corey Barker** has been named manager of residential closing, Chicago Loop. **Christopher Valentine** has been appointed title operations officer, Chicago. **Mary Curran** is now senior human resources representative and **Cathy Collins** has been named Florida/Caribbean operations accounting officer, both Chicago. **Ruth Hadsell** has been named senior escrow officer and **Darlene Bellis** assistant escrow officer, Vernon Hills, while **Pamela Hitzemann** has been named assistant escrow officer, Aurora.

Jerome Leugers is now Indianapolis metro area manager. **Christine Behlmann** has been appointed resident vice president and office manager, St. Louis.

Thomas Barton and **Robert Narucki** have been named managers for the company, Toms River and Union, NJ, respectively. In New York **Benedict Sandler** has been appointed branch manager, Syracuse and Oswego, while **Frederick Stevenson** is now Oswego branch manager. **John Monacelli** been appointed vice president and branch manager, Painesville, OH. **Regina Furbee** and **Linda Green** are new assistant vice presidents, Cleveland. In northern Virginia, **Eric Taylor** has been appointed commercial counsel, McLean, and **Todd Fisher**

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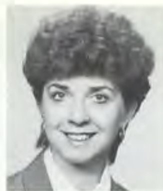
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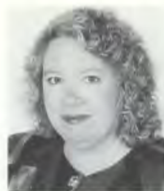
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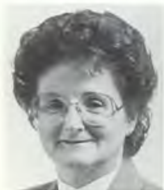
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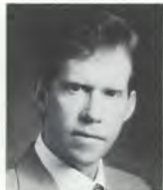
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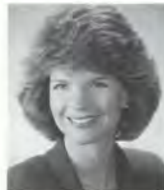
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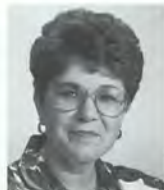

Piper

Anderson

Musser

Ronan

Hamilton

has been named account executive, Tysons Corner.

James M. John has been appointed executive vice president of sales and marketing, Continental Lawyers Title Company, wholly owned subsidiary of Lawyers Title Insurance Corporation headquartered in Pasadena, CA. Lawyers Title has named **S. Scott Steagall** vice president–director of internal audit at Richmond, VA, corporate headquarters, where **Alison S. Pantele** has been named lender services coordinator. **Jane S. Atkins** has been named branch manager, Lynchburg, VA.

Other appointments announced by Lawyers Title include **James V. Keenan**, regional systems administrator, White Plains, NY; **Linda J. Rehak**, branch manager, Dayton, OH; **Susan L. Randolph**, branch manager, Roswell, NM; and **Timothy A. King**, area sales manager, New Orleans.

Sharon Parsley has been elected president of Genesis Data Systems, Inc., Englewood, CO, a subsidiary of Lawyers Title. Previously, she was executive administrator, Lawyers Title of Cincinnati, longtime agent of the company.

Steven E. Howarth has been promoted to senior vice president and general auditor for Commonwealth Land Title Insurance Company and its affiliate, Transamerica Title Insurance Company, Philadelphia.

In Dallas, **Roderic A. Faris** has been promoted to vice president for Commonwealth and **Durk Price** has been named senior vice president for the company's subsidiary, Commonwealth Land Title Company of Dallas.

In Phoenix, **John P. Golab** has been promoted to vice president and state counsel and **Victor R. Rzepecki** has been promoted to state chief title officer for the companies, while **Diane R. Flaaen** has been named associate counsel.

Donald C. Weigel, Jr., has been promoted to vice president and state manager for the companies with offices in New York City; **James W. Smith**, Orlando, has been promoted to Florida state manager for both organizations; and **Charles O. Hinman** has been named assistant vice president and branch manager for Commonwealth, Buffalo.

Rick Waaramaki has been named vice president and continues as county manager following Commonwealth's acquisition of the Sacramento County (CA) operations of TA Title Company; he has 21 years of title insurance experience and previously served as vice president and county manager for TA Title there since 1987.

Promoted to assistant vice president by Commonwealth are **Brenda L. Miller**, who remains as branch manager, Titusville, FL; **Patricia L. Neu**, who is branch manager, Fort Pierce and Stuart, FL; and **David M. Gabel**, who heads the commitment/policy department, Mobile, AL, office. **Leah Morgan** has been promoted to escrow branch manager, Transamerica Title, Sedona, AZ, and **J. Paul Rieger, Jr.**, has joined Commonwealth as commercial settlement attorney, Baltimore.

Ann McLaren has been named assistant vice president and county manager for Commonwealth's recently opened office in Olympia, WA, where **Judy Piper** and **Shannon Anderson** have been named escrow manager and escrow closer, respectively. **Patti G. Haines** has joined the company as settlement/sales representative, Lancaster, PA.

Robert F. Musser has been promoted to vice president–underwriting and **James J. Ronan** has been named New Jersey marketing representative, Conestoga Title Insurance Co., Lancaster, PA.

Allyson Rattikin Grona has been named marketing representative for Rattikin Title Company, Fort Worth, TX.

Maureen A. Dalton has been named senior vice president and **Michael A. Holden** vice president, Guaranty Land Title Insurance, Inc., Columbia, MO. **Dan Olsen** has been promoted to assistant vice president and title production manager, Columbia office.

Danielle Rowland has joined First Land Title Company, Fort Wayne, IN, as marketing coordinator.

Janey Madding has been named branch manager, underwriting office, Investors Title Insurance Company, Charlotte, NC.

Jeffrey Snyder has been appointed senior appraiser and **Sherry Hamilton** has been promoted to escrow officer, Fidelity Title and Guaranty Company, Winter Park, FL.

Pat L. Wilson, chief financial officer, Alamo Title Insurance of Texas, San Antonio, has been elected president of the Texas Society of Certified Public Accountants.

Joseph R. Reppert has been named chairman and **William F. Adair** vice president, human resources, for SMS Real Estate Information Services, Costa Mesa, CA.

NEW MEMBERS

WELCOME!

ALTA proudly welcomes its newest members and sincerely thanks those members responsible for their recruitment. The recruiters noted in parentheses have now qualified for membership in the ALTA Eagle's Club and are eligible for the "Recruiter of the Year" prize.

ACTIVE

Alabama

North Alabama Title Co., Inc., Winfield, AL.

Professional Land Title, Inc., Gulf Shores, AL. (Recruited by Rich Curd and Doug Dolan, Capital Professional Insurance Managers, Chevy Chase, MD.)

The Title Group, Inc., Birmingham, AL. (Recruited by John Casbon, First American Title Insurance Co., New Orleans, LA.)

Arizona

Yavapai Title Co., Prescott, AZ. (Recruited by Marty Althoff, First Southwestern Title Agency, Chandler, AZ.)

Yuma Title Agency, Yuma, AZ.

Arkansas

North Arkansas Abstract & Title Co., Inc., Yellville, AR. (Recruited by James R. Drake, Drake Land Title Co., Warsaw, MO.)

Florida

Anclote Title Services, Tarpon Springs, FL.

Beta Title Co., Fort Meyers, FL. (Recruited by Malcolm Morris, Stewart Title Guaranty Co., Houston, TX.)

Gainseville Title & Abstract, Inc., Gainseville, FL.

Realty Title of Central Florida, Winter Park, FL.

Illinois

Attorneys' National Title Network, Inc., Chicago, IL. (Recruited by Richard J. Patterson, Connecticut Attorneys Title Insurance Co., Rocky Hill, CT.)

Indiana

Marshall County Title and Guaranty Co., Inc., Plymouth, IN.

Kansas

Kansas Title Insurance Corp., Olathe, KS.

Louisiana

First South Abstracting, Inc., Alexandria, LA.

Southern Title, Inc., Harvey, LA. (Recruited by Rich Curd and Doug Dolan, Capital Professional Insurance Managers, Chevy Chase, MD.)

Maryland

Advantage Title, Inc., Gaithersburg, MD.

Massachusetts

Mitchell J. Barosin Title Examination, Salem, MA.

Judy A. Dalrymple, Pittsfield, MA. (Recruited by Rich Curd and Doug Dolan, Capital Professional Insurance Managers, Chevy Chase, MD.)

Nelson & O'Connell Title Co., Inc., Worcester, MA. (Also recruited by Rich Curd and Doug Dolan, Capital Professional Insurance Managers, Chevy Chase, MD.)

T.C. Associates, Inc., Upper Marlboro, MD. (Also recruited by Rich Curd and Doug Dolan, Capital Professional Insurance Managers, Chevy Chase, MD.)

Michigan

Landmark Title Services, Inc., Brighton, MI. (Recruited by Danny Buchman, Stewart Title Guaranty Co., Auburn Hills, MI.)

Northern States Title Corp., Saginaw, MI. (Recruited by Edson Burton, Chicago Title Insurance Co., Southfield, MI.)

Minnesota

Certified Abstract & Title Co., Inc., Albert Lea, MN. (Recruited by Tony Faust, Old Republic Title Insurance Co., Minneapolis, MN.)

Landmark Title, Inc., Eagan, MN. (Recruited by A.L. Winczewski, Jr., Chicago Title Insurance Co., Bloomington, MN.)

Missouri

Carter County Abstract & Title Co., Van Buren, MO.

New Jersey

Abstractors Title Agency, Inc., Old Bridge, NJ.

Axco Abstract, Inc., Morristown, NJ. (Recruited by Louis Meyer, NIA Title Agency, Inc., Paramus, NJ.)

Eastern Title Agency, Inc., Eatontown, NJ. (Also recruited by Louis Meyer, NIA Title Agency, Inc., Paramus, NJ.)

Southern Counties Title Agency, Inc., Turnersville, NJ. (Recruited by Richard A. Cecchettini, Old Republic Title Insurance Co., Minneapolis, MN.)

New Hampshire

Sentinel Title Services, Inc., Portsmouth, NH. (Recruited by Richard Dickson, First American Title Insurance Co., Concord, NH.)

New York

Ontario Title Agency, Inc., Victor, NY.

North Dakota

The Title Company, Fargo, ND. (Recruited by John Korsmo, Cass County Abstract Co., Fargo, ND.)

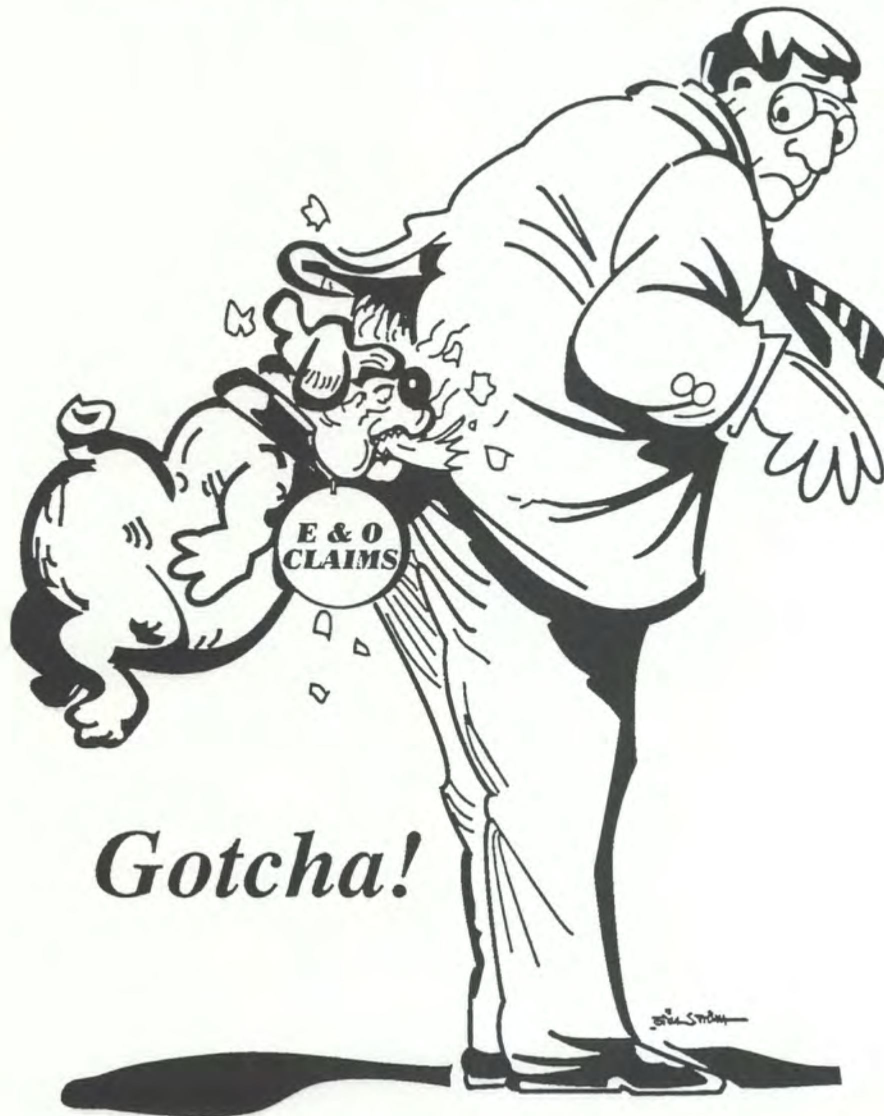
Ohio

Aaronwood Title Agency, Inc., Massillon, OH. (Recruited by William J. Zabkar, Ohio Bar Title Insurance, Columbus, OH.)

Tennessee

Belle Meade Title & Escrow Co., Nash-

Title Agents & Abstracters E&O Insurance Program



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TN. (Recruited by Robert R. Croley, Tennessee Valley Title Insurance Co., Knoxville, TN.)

Lehman Title, Inc., Brentwood, TN. (Also recruited by Robert R. Croley, Tennessee Valley Title Insurance Co., Knoxville, TN.)

Texas

Tyler County Abstract Co., Woodville, TX. (Recruited by Rich Curd and Doug Dolan, Capital Professional Insurance Managers, Chevy Chase, MD.)

Virginia

Cornerstone Title & Escrow, Inc., Fairfax, VA. (Recruited by Rich Curd and Doug Dolan, Capital Professional Insurance Managers, Chevy Chase, MD.)

Shaffer Title & Escrow, Inc., Virginia Beach, VA.

TitleCert Services Corp., Fairfax, VA. (Recruited by Sandee Bozzuto, Security Title Insurance Co., Fairfax, VA.)

Wisconsin

Wisconsin Abstract & Title Co., Inc., Cedarburg, WI. (Recruited by Richard A. Cecchettini, Old Republic Title Insurance Co., Minneapolis, MN, and Malcolm Morris, Stewart Title Guaranty Company, Houston, TX.)

ASSOCIATE

Arkansas

Fred E. Briner, P.A., Benton, AR.

California

David C. Doyle, Baker & McKenzie, San Diego, CA. (Recruited by John L. Hosack, Esq., Tobin & Tobin, San Francisco, CA.)

Income Shelter Corp., Occidental, CA.

R. Gregory Litster, Imperial Bank, North Hills, CA. (Recruited by Michael Lowther, World Title Co., Burbank, CA.)

North American Mortgage Co., Petaluma, CA. (Recruited by Richard Oliver, Smith Abstract & Title, Inc., Green Bay, WI.)

Wes Pac Reconveyance, Inc., Newport Beach, CA.

Florida

Robert K. Jordan, Stroock, Stroock & Lavan, Miami, FL. (Recruited by Jerome Calica, Continental Real Estate Co., Miami, FL.)

Frank A. Shepherd, Esq., Popham, Haik, Schnobrich & Kaufman, Ltd., Miami, FL. (Recruited by Stephen R. Romine, Hunton & Williams, Norfolk, VA.)

Louisiana

George L. Celles, Kyzar & Celles, Natchitoches, LA. (Recruited by John Casbon, First American Title Insurance Co., New Orleans, LA.)

James P. Dore', Borron, Delahaye, Edwards & Dore', Plaquemire, LA. (Also recruited by John Casbon, First American Title Insurance Co., New Orleans, LA.)

Charles K. Watts, Seale, Smith, Zuber & Barnette, Baton Rouge, LA. (Recruited by Richard H. Himes, Jr., United General Title Insurance Co., Brentwood, TN.)

Massachusetts

Patricia Ann Sullivan, John Hancock Mutual Life Insurance Co., Boston, MA. (Recruited by Martin Gottlieb, John Hancock Mutual Life Insurance Co., Boston, MA.)

Minnesota

Frederic W. Knaak, Rauenhorst & Carlson, Roseville, MN. (Recruited by Joel M. Holstad, National Title Resources Corp., White Bear Lake, MN.)

Mississippi

Fred E. Ross, Jr., Beach, Luckett & Ross, Jackson, MS. (Recruited by John Casbon, First American Title Insurance Co., New Orleans, LA.)

New York

Thomas J. Hall, Esq., Hall & Hall, Esqs., Staten Island, NY.

Virginia

Daniel H. Borinsky, Nichols, Bergere, Borinsky & Zaurig, P.C., Lake Ridge, VA.

Susan M. Pesner, Gordon, Estabrook, Yeonas & Pesner, P.C., McLean, VA. (Recruited by Nancy White, Stewart Title Guaranty Co., Fairfax, VA.)

Washington, D.C.

Sean M. Hanifin, Ross, Dixon & Masback, Washington, D.C. (Recruited by William W. Rice, III, Great Valley Abstract Corp., Wayne, PA.)

It's As Easy As A-L-T-A

Getting in touch with the American Land Title Association has never been easier! Now, through the use of a Toll-Free telephone number, members can get fast answers and speedy solutions to daily dilemmas. Best of all, the number is easy to remember! Just call 1-800-787-ALTA and the courteous and helpful ALTA staff will gladly assist you.

Whether yours is a solution or a problem, a criticism or a complement, the ALTA staff is anxious to hear from you! Remember, dial 1-800-787-ALTA to obtain your Association's assistance. Help is easily attainable!

1993 AFFILIATED ASSOCIATION CONVENTIONS

September

8-10 **Nebraska**, Ramada Inn (Downtown), Lincoln, NE

9-11 **Dixie**, Perdido Beach Resort, Orange Beach, AL

9-12 **Maryland/DC/Virginia**, Hershey Lodge, Hershey, PA

16-18 **Missouri**, Holiday Inn, St. Joseph, MO

16-18 **Nevada**, (To be determined)

16-18 **North Dakota**, Holiday Inn, Bismarck, ND

19-21 **Ohio**, The Lafayette, Marietta, OH

23-24 **Wisconsin**, Wyndam, Milwaukee, WI

29-Oct. 2 **Washington**, Skamania Lodge, Stevenson, WA

October

31-Nov. 3 **Florida**, Saddlebrook Resort, Westley Chapel, FL

November

10-12 **Arizona**, The Mirage, Las Vegas, NV

ANTI-FRAUD ENFORCEMENT
continued from page 13

the liability which can be imposed on employees and the corporation for their illegal conduct, and all other issues addressed in the code. Companies should also keep a record of the attendees of these informational sessions and the substance of the matters covered. Less formal steps to communicate company policies can be taken by distributing guidelines and the corporate code on a regular basis. Care should be taken to indoctrinate employees into the compliance program as they are hired.

Additionally, the company must periodically monitor the effectiveness of the compliance program to ensure that the company is capable of detecting illegal or unethical activities. Such monitoring can include on site inspections of documents, interviews with relevant personnel, and setting up a reporting system through which illegal conduct by any employee can be reported.

Once implemented, the standards and the code must be consistently enforced through appropriate disciplinary mechanisms. Employees who commit serious offenses should be terminated, and individuals responsible for negligent failure to detect offenses should be disciplined in a manner which will prevent such negligence in the future.

Finally, after an offense has been detected, the company must act to address the specifics of the offense and to correct the problem which caused the offense. Full disclosure to and cooperation with government investigators can only weigh in the corporation's favor at sentencing, should a conviction result.

Anti-Fraud Enforcement In The 1990s

Although it is difficult to predict the government's future enforcement priorities, two things are certain. First, the number of anti-fraud enforcement actions will increase. The government has been steadily engaged in improving its ability to detect and prosecute corporate offenders. The large increase in enforcement personnel virtually guarantees an increase in the number of investigations and, most probably, convictions.

The other certainty is that sentences in the coming decade will be much more severe than they have been in the past. Multimillion dollar fines and increasingly onerous operating requirements will become the norm as the courts begin to sentence companies under the recently instituted corporate guidelines. Additionally, the government can be expected to greatly increase the number of treble-damage civil suits against businesses suspected of fraud against the government, and to step up the number of suspensions and debarments. For the foregoing reasons, it is more important than ever that companies increase their efforts to detect and prevent fraud from arising. For the companies who fail to do so, the price will be steep and the future fraught with risk.

ARRIVAL OF EDI
continued from page 17

effectively. Or, your software vendor may perform this function. As EDI use becomes more widespread in our industry, look for title insurance software vendors to offer a module that does both "translating" and "mapping" as options.

Hardware and Communication

While dealing with bits, bytes, baud rates, modems and the like can be intimidating and confusing for the title manager, determining the physical communication requirements for EDI usually is a relatively easy task. You and your trading partner will decide on your method of communication (dial-up telephone line, leased line, packet switching network, etc.), and this will often determine the speed of your data communication (baud rate), which in turn helps in the choice of modems and other communication equipment. There are many local vendors to help you with these, or you may already have someone on staff who knows how to set your system up to communicate.

Trading Partner Agreement

Whether you share the enthusiasm of our lender friends concerning EDI or have a less sanguine view, you will have numerous matters to negotiate and agree to with your trading partner. As in most business negotiations, it is prudent to memorialize what is decided in a written agreement.

EDI represents a formidable challenge to the uninitiated but also offers tremendous potential for future business relationships.

As part of the ALTA-MBA EDI project,our Systems Committee has undertaken the development of a trading partner agreement that can be used as desired by title executives. Our group has examined several existing trading partner agreements from different sources before developing a final version.

With the recent completion of our trading partner agreement, all three items comprising the EDI title services ordering package now are available from ALTA to members who send in a written request. Once again, the completed package includes (1) the "flat file," (2) the ANSI "transaction set," and (3) the trading partner agreement.

Your written request should be sent by mail or FAX to Gary Garrity, American Land Title Association, Suite 705, 1828 L Street, N. W., Washington, DC 20036. The Association FAX number is (202) 223-5843.

EDI: Challenge and Opportunity

EDI represents a formidable challenge to the uninitiated, but also offers tremendous potential for future business relationships. Through education, planning and prudent execution of those plans, you can position your organization to realize that potential cost effectively.

There are title companies that have actively moved into EDI, and more will follow. As an example, please see the accompanying article by Systems Committee Chairman Paul Sakrekoff on EDI implementation, based on his experience already logged in a very competitive market.

EFFECTIVE EDI IMPLEMENTATION
continued from page 20

plete the orders with the different-colored paper. Eventually, when your whole production environment is properly integrated--interdepartmentally and to the customer--you can then stop artificially giving preferential treatment to the EDI orders and make it seem as though your service level has gone up for those orders.

The goal is to eventually return the policy, electronically, to your customer's system, where it will be separated into its component parts. For instance, a mortgage documentation preparation system needs the legal and vesting information not to be re-keyed, but to appear automatically imbedded in the mortgage documents.

Throughout the entire real estate trans-

action, a name, address and Social Security number might be re-keyed up to 30 times. Obviously, this is a waste of time, money and manpower. We could capture this information at the real estate broker office and continue feeding the same keystrokes to the mortgage credit company, appraisal company, title insurance company, escrow company, lender company, and lender service organizations such as delinquent tax operations and flood insurance companies. Other "downstream" institutions, such as HUD, Freddie Mac or the foreclosure company can get these same keystrokes from the lender company.

Re-Engineering The Workflow

The first thing you do with a computer system is imitate the manual environment (typewriters, pen and paper, calculators). Once you have properly imitated the manual environment electronically, you can stop doing business as usual.

When the order arrives from the customer, automatically open an order in each department: the title plant (legal and vesting), the title unit, sales and marketing (to track open versus closed orders), in payoff (for loan payoffs), and in escrow.

I remember one vendor who, at the request of operations management, imitated the archaic, manual paper flow and generated a manifold from the open order to be distributed by hand to each department. The systems vendor didn't understand why we would want to build such ineffiency into the system, but the customer is always right, so he did it for the title operations management anyway.

Eventually, everyone stopped waiting for their part of the manifold to show up. Once it was electronically transmitted from the customer into our system, the order was simultaneously available in every department so that all our people needed to do was look up new orders on the system and start work on them immediately.

Caveat emptor (unauthorized re-engineering): We have an EDI system that is used for TSGs (trustee sale guarantees), which feeds directly into several different customer foreclosure systems. One of the several EDI exchanges that happens during the life of a TSG done on this EDI system is getting the 10-day letters out within 10 days for notification of the trustee sale. Normally, we FAX the letters to the customers and they re-key them.

With EDI, we key the information and it's automatically transmitted to the customer system for immediate printing and mailing of the certified 10-day letters–right from the customer foreclosure system. What an ideal use of EDI in title insurance services! We now have the ability to directly transmit time-sensitive information into the customer system from information we already were keying on our system, instead of producing the information on paper and sending by FAX to the customer for re-keying into the customer system.

Since the field lengths for automated addressing of the certified letter and envelope were a standard five lines, 35 characters, it was not possible to fit the entire name of a living trust, which might go on for a paragraph or more.

The people on the foreclosure software side were accustomed to abbreviating the names to fit. But we now were being asked to edit these fields for the 10-day letters, while assuring the accuracy of the names in the trustee sale guarantee; i. e., it's o.k. for the customer to abbreviate the information per common practice in the industry of the customer--but, would we want to transmit the information abbreviated as part of the customer's 10-day letters? Clearly not. It was the customer's job to edit the names to fit in the fields, not ours.

So, a new type of bottleneck arose. The solution was to have our underwriting counsel develop an underwriter-approved list of abbreviations for us to use. Then, the customer merely had to print the letters and envelopes with no editing necessary. Then everyone involved was happy–title agency, title underwriter, foreclosure company, lender and trustee.

And so, EDI marches on. Someday, this electronic capability will be as familiar, and as prolific, in the title industry as FAX machines are today. Efficiencies attainable with proper use of EDI will eventually mean that its implementation will be mandated by various entities upstream and downstream from the title company. As this happens, the title company that has gone through the learning process will have greater assurance of continued viability in the Twenty-First Century.

Clossin Elected Indiana President

J. David Clossin, Indianapolis, was installed as 1993-94 president of the Indiana Land Title Association during the organization's annual convention.

Other new officers are Danny D. McAfee, Auburn, first vice president; Cynthia King, New Castle, second vice president, and Robert E. Blough, Greenwood, secretary-treasurer.

Newly-installed governors are: Frank A. Antonovitz, South Bend; Lori L. Critchfield, Fort Wayne; Donald J. Davids, Elkhart; Daryl W. Huls, Jasper; Ann Marvel, Martinsville, and Melinda Blue Schantz, Rensselaer.

New Videos Cover Land Descriptions

Shooting is planned for next year on a new, two-part Land Title Institute video on land descriptions entitled, "This Land Is My Land–*That* Land Is *Your* Land," following completion of script development through the ALTA Education Committee.

Scheduling of the land descriptions videos is the first LTI production of this type since completion of the organization's two settlement videos, which at this writing have registered a combined sale of more than 1,000 copies.

The first segment of the land descriptions videos will provide an overview, with examples and exercises in the second production. Content is being designed for use by title people throughout the country.

More than 100 orders have been received for the committee's 46-minute VHS color video on developing title employee training programs, which was edited from its presentation during the 1993 ALTA Mid-Year Convention. Price for the employee training video, including postage and handling, is $25 per copy.

In another activity, work has been completed for the new LTI Course 2, which includes advanced correspondence study on subjects ranging from title transfer, land descriptions and record systems to abstracting and examination, title underwriting, title claims and reinsurance.

The new course is structured for those including students who already have completed LTI Course 1, recent law school graduates and title employees with several years of work experience.

More information on these and other educational offerings can be obtained by calling LTI in Washington, DC, at 202-331-7431.

Conestoga Certified For Ohio Issuance

Conestoga Title Insurance Co., Lancaster, PA, has been certified by state regulators for the issuance of title insurance in Ohio.

In addition, Conestoga currently engages in agency operations in Pennsylvania, Maryland, Delaware and New Jersey.

Title News Offering Classified Ads

Title News now offers "Marketplace," a classified advertising section for reaching the nationwide land title industry audience. The department features placements on situations wanted, help wanted, for sale and wanted to buy.

Basic format for the section is single column, text advertising placements. A box may be placed around an ad for an extra charge, and there is a discounted rate for three or more consecutive placements in the magazine. **Made-up** examples are shown below to provide an idea of style.

Rates for situations wanted or help wanted ads are $80 for first 50 words, $1 for each additional word, 130 words maximum (per insertion rate drops to $70 for first 50 words plus $1 for each additional word, for 3 or more consecutive placements). For sale or wanted to buy ads have a rate of $250 for 50 words, 130 words maximum (per insertion rate drops to $225 for 50 words, $1 for each additional word for 3 or more consecutive placements).

Placing a box around an ad costs an extra $20 per insertion for help wanted or situations wanted, $50 per insertion for sale or wanted to buy.

Those desiring to place classified advertising in the new "Marketplace" department should send ad copy and check made payable to American Land Title Association to "Marketplace–Title News" care of the Association at Suite 705, 1828 L Street, N. W., Washington, DC 20036.

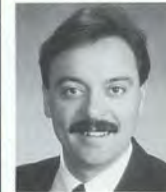
Sample: Help Wanted
LEAD ABSTRACTER wanted for three-county Kansas operation. Must be certified or comparably qualified. Send resume to *Title News* Box H-326

Sample: Situations Wanted
COUNTY MANAGER for northwestern title underwriter branch seeks competitive opportunity with improved growth potential. Excellent fast track record, references. Write *Title News* Box E-418.

Sample: Sale
TITLE PLANT for sale, Florida location. Microfilm, documents and tract books cover county for over 50 years. Computerized posting. *Title News* Box S-135

Sample: Wanted to Buy
WANTED TO BUY: Used SOUNDEX system, needed by Indiana title agency. Particulars in first letter. *Title News* Box B-247.

Idaho Association Elects Wonacott


Wonacott

Greg Wonacott, American Land Title Company, Boise, has been elected president of the Idaho Land Title Association during the organization's annual convention.

Elected district vice presidents for ILTA are John Weigand, First American Title Company, Pocatello; Mary Preston, Clearwater County Title Company, Orofino; and Robert DeBolt, Security Title of Boise.

Mary Lou Panatopolous, First American Title Company, Twin Falls, was named chair of a new professional standards committee charged with reviewing industry practices throughout the state.

CALENDAR OF MEETINGS

1993

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

1994

April 11-13 **ALTA Mid-Year Convention**, Scottsdale Princess, Scottsdale, AZ

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

1995

April 5 - 7 **ALTA Mid-Year Convention**, The Westin Resort, Hilton Head, SC

October 18-21 **ALTA Annual Convention**, Loews Anatole Hotel, Dallas, TX

1996

October 16-19 **ALTA Annual Convention**, Westin Century Plaza Hotel, Century City, CA

Dixie Association Installs Burgess

Robert E. Burgess, III, Chicago Title Insurance Company/Ticor Title Insurance Company, Birmingham, AL, has been installed as 1993-94 Dixie Land Title Association president during the organization's annual convention.

Other newly-installed DLTA officers and governors: Mary D. Pull, Southland Title Company, Atlanta, president-elect; Rowan H. Taylor, Jr., First American Title Insurance Company, Jackson, MS, vice president; Dale P. King, Lawyers Title Insurance Corporation, Atlanta, secretary-treasurer; Watson Williams, Realty Title Company of Mobile (AL), director at large; Ed Covington, Birmingham Title, Walter E. Davis, Old Republic National Title Insurance Company, Atlanta, and Bill Blakely, Mississippi Valley Title Insurance Company, Jackson, MS, respective directors from Alabama, Georgia and Mississippi, and James Larry McDaniel, Trinity Title Insurance Agency, Inc., Decatur, GA, immediate past president.

Mary Pull was named DLTA Title Person of the Year, and was cited for her contributions in title education and other areas.

Among the featured convention speakers were ALTA Governor Joseph M. Parker, Jr., Lawyers Title of North Carolina, Raleigh, and Lawyers Title President Janet A. Alpert, Richmond, VA.

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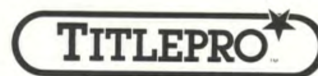
We at Titlepro extend our sincere thanks to all of our customers for the confidence you have shown in us. We look forward to keeping your trust by continued improvements in our product, training, service, and support.

Happy 10th Birthday TITLEPRO and Professional Abstract.

Ten years ago, Frank Card, owner of Professional Abstract in Camp Hill, PA, ordered the very first Titlepro system. Frank started with an old, pre-PC, multi-user system with two workstations. Over the years, we've helped him stay current with the most cost-effective technology and software. Today, Frank has a successful title firm with the newest, fastest Titlepro system, and eight workstations. We know that Frank's success is due to his industriousness, and to the hard work of manager Holly Keller and her staff. But they are gracious enough to insist that credit also be given to the organization and efficiency their employees enjoy because of Titlepro.



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