

TITLE *News*

NOVEMBER-DECEMBER 1994



1994-95 ALTA President Mike Currier and family



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FEATURES

On the Cover: Relaxing at home in Carlsbad, NM, are recently installed ALTA President Mike Currier, along with wife Linnie and daughter Missi. Accompanying them are Tasha, Missi's horse, and Abbey, the family Springer Spaniel. Mike finds an abundance of leadership talent in the title industry that he strongly feels will be more than equal to the challenges that lie ahead. Please see the presidential profile beginning on page 18. (Photograph by Ron Przeslak, design by Halford Design and Graphics)

7 Points to Consider When Seeking E&O Coverage

By William W. Rice, III

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A MESSAGE FROM THE PRESIDENT-ELECT



As a non-technical user of computers, I am increasingly amazed at both the quality and quantity of information that is being passed along our electronic highways. While the actual mechanics of data transfer may be complex, the apparent ease with which these transfers are conducted justifies the widely held belief that we have only seen the first stages of a major technological revolution in business communications.

Notwithstanding the promise of the future in this fast moving area of wizardry, the current state of the art has enabled the nearly instantaneous exchange of information, including not only textual material but pictorial images and photographs as well. As a result of the progress that already has been made, today's technology has made it possible to direct multi-media presentations with movie-like quality to an intended customer target.

It requires very little technical knowledge or scientific acumen to realize that these electronic transfer techniques are ideally suited to respond to the informational demands of the settlement service industry which embraces title insurance and its related real estate products and services. I recognized this concept some time ago and initiated the Commonwealth/Transamerica Title move toward its present EDI leadership role.

It is not necessary to ask whether the entire industry will adopt EDI systems of one kind or another to provide better service in a market in which service is almost everything. The answer is obvious: this will occur as fast as our experts and our money can carry us. The important question is whether each of us wants to, or will have to, reinvent the same wheel in order to develop the vehicle we each need for our individual participation in the electronic marketplace.

To some extent, ALTA members already are involved in dialogues with customer groups and the secondary market to work toward the acceptance of a uniform format for electronic communication. All of us should support this effort. However, there are likely to be other areas of technical development in which the cooperation of the industry can reduce the time and expense required to move into the next century, and avoid the clash of methodologies which could furnish more confusion than assistance to the markets we are all trying to serve.

Cooperative research and exploration in this fascinating field should be an industry priority, not only to keep pace with the constant changes and improvements that seem to be evolving with a frantic velocity, but to find ways that we can, as competitors, work together for our mutual benefit without affecting competition or the ability of any one competitor to maintain an aggressive marketing position.

Herbert Wender

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Points to Consider When Seeking E&O Title Agent/Searcher Coverage

By William W. Rice, III

As the National Association of Insurance Commissioners draft Title Insurance Agent Model Act moves toward completion, the requirement remains that all title insurance agents, and those who supply searches to title agents, have errors and omissions coverage—continuing

As the National Association of Insurance Commissioners draft Title Insurance Agents Model Act moves toward completion, the requirement remains that all title insurance agents...have errors and omissions coverage...

as an integral part of the proposal. Given that many title insurance agents and searchers have never had to purchase an E&O policy, here are some points to consider when seeking this type of coverage.

The first aspect of E&O to address is the insurance company itself. Here are a number of questions that should be asked.

- How long has the insurer been in the title agent E&O market? The rationale for asking this question is to avoid placing your business with one of the many insurers that have been in and out of the title agent market over the past few years. Usually, a company en-

ters the business, underprices the product, then has a horrible loss to premium ratio, and finally leaves the market. You want to find an insurer committed to be in the title agent market for the long haul.

- Is the insurer a mono-line or multi-line insurer? A mono-line insurer is established to write only one type of insurance (title agent E&O) and, once again, will not be moving in and out of the title agent E&O market based upon changing conditions. Also, you could face from a multi-line insurer price increases based upon poor experience in another line of insurance—such as medical malpractice. On the positive side, a multi-line insurer can absorb losses on title agent E&O coverage if it is profitable on other lines.
- If the E&O insurer is a rather small company, you should inquire into the reinsurance amounts and companies involved. A very credible E&O insurer could have reinsurance treaties with shaky companies.
- You should inquire concerning the operating status of the insurer. Specifically, a determination should be made concerning whether the insurer is operating as an admitted insurer or a surplus lines insurer. A surplus lines insurer will require the insured to pay a special surplus lines tax. Also, in most states a broker is required to receive a number of declinations from other insurers offering the product before the surplus lines insurers can be approached. If your broker is using a surplus lines insurer, you should ask to see the other declinations.
- You should inquire into the experience the insurer, the directors, and

staff have with the title industry and insuring title professionals. This experience is important in assuring that the underwriting criteria and coverages are correctly developed. You should insure that the underwriting criteria were not developed for attorneys or some other professional line but truly reflect the unique nature of the title business. Incorrectly developed underwriting criteria can in the future lead to large losses and higher premiums.

- Ascertain whether or not the E&O insurer is committed to the title industry. Are they a member of ALTA? Do representatives of the insurer attend the ALTA conventions? Do they exhibit at the ALTA conventions? Do they require their insureds to maintain membership in ALTA?
- An area that is often overlooked when selecting an E&O insurer is the claims handling expertise of the firm. Is the insurer utilizing claims counsel who is highly experienced in professional liability/errors and omissions insur-



The author is president of Title Industry Assurance Company, the errors and omissions risk retention group designed exclusively for ALTA members, and is president of Great Valley Abstract Corporation, Wayne, PA. He currently is president of the Pennsylvania Land Title Association, and is the first title insurance agent to achieve that honor. In addition, he has served on the ALTA Board of Governors and Abstracters and Title Insurance Agents Section Executive Committee. At present, he is a member of the ALTA Government Affairs Committee and is Pennsylvania state trustee for the Title Industry Political Action Committee.

ance defense, and also is knowledgeable concerning the title industry? If the insurer is not, you could pay unnecessary amounts in claims and deductibles.

Examine Coverages

In addition to a close look at the E&O insurers, the coverages offered should be examined, specifically:

- Can the insured choose among abstracting, title agent, and escrow closing coverages? Are the coverages priced differently?
- If you currently have an E&O policy, do you have prior acts coverage? That is, does your current policy cover you for errors made prior to the inception of the policy? If yes, how far back are you covered? Some insurers offer three years of prior acts coverage, while others offer unlimited prior acts coverage. The date which sets the limit into the past for your prior acts coverage is called the retroactive date and is usually found on the policy declarations page or in an endorsement.

Past President Dies In Iowa Hospital



Harold F. McLeran, 91, a native and lifelong resident of Mt. Pleasant, IA, who served as ALTA president in 1957-58, died at a hospital there. He was a past president of the Iowa Land Title Association and a retired attorney.

His love of travel and trains was well known among his friends and acquaintances. Over the years, he made the trip to ALTA conventions by train whenever the opportunity allowed.

Locally, he served three terms as county attorney and served one term as councilman for the city of Mt. Pleasant. He also was attorney for Iowa Wesleyan College and was a longtime trustee for that institution. In addition, his community service included the presidency of the county board of education and serving as a director of the Mt. Pleasant Chamber of Commerce.

He was an active outdoorsman, serving on the local county conservation board, and was a past president of the Southeast Iowa Council of Boy Scouts.

Survivors include a daughter, a son, five grandchildren and a sister.


- If you do not currently have errors and omissions insurance, most carriers will not offer you prior acts coverage. However, some will allow you to build prior acts coverage as you stay in their program for a period of time without claims. Some will even grant you unlimited prior acts coverage after a specified claims free length of time in their program.

Additional Items

Additional items that may be important to you are:

- Are there a variety of limits and deductibles available? If you never write a title policy (or do an abstract) on a property valued over \$100 thousand, you probably do not need a \$1 million policy.
- Will the insurer write title agent coverage for a law firm without requiring an additional lawyers professional liability policy? You do not want your E&O insurer defending claims for incorrect wills, etc.
- Does the E&O insurer offer an Extended Reporting Period (ERP)? The ERP provides an additional time period, at a cost to you, for claims to be reported after your policy has been

terminated. This can be an important protection.

These are just a few of the things suggested for you to look at before renewal or initial purchase of an E&O policy. 

Elinore Fromhold Dies in Philadelphia

Word has been received of the death of Elinore M. Fromhold, widow of ALTA Past President Fred B. Fromhold, at a Philadelphia hospital. Her late husband served as president of the Association in 1981-82 and formerly was chairman and chief executive officer for Commonwealth Land Title Insurance Company.

Survivors include a daughter, two sons, a sister, and 13 grandchildren. One son, Michael J. Fromhold, currently is vice president and regional counsel for First American Title Insurance Company, Valley Forge, PA.

Merger Announced For Lawyers, ATG

Lawyers Title Corporation, holding company for Lawyers Title Insurance Corporation, has announced an agreement of merger with Dallas-based American Title Group, Inc. (ATG), which has title and closing operations in Dallas, Fort Worth, San Antonio and Austin.

ATG also has a Texas title underwriter subsidiary, Title Insurance Company of America, Dallas. All of the aforementioned operating units now operate as a wholly owned subsidiary of Lawyers Title under the ATG name. Jack W. Evans remains as chairman of the ATG board of directors and Michael D. Richards, previously president of American Title of Dallas, is now the president of ATG.

According to the announcement, American Title Company of Houston, the Houston title agency operation of ATG, and other non-title related assets are not part of the merger. But the Houston agency continues as an agent of the Dallas underwriter and Lawyers Title.

ATG is the largest privately held title insurance holding company in Texas with some 80 closing offices, according to Lawyers Title. The acquired ATG operations generate approximately \$60 million in annual revenues, it was stated in the announcement.

Honor from ASAE For LTI Workshop

The ALTA Land Title Institute "Closings from Hell" interactive workshop has won an Award of Excellence in Education Certificate of Achievement in the Innovative Education Program category in an annual competition sponsored by the American Society of Association Executives.

In LTI's entry, the closings workshop program was cited for its enthusiastic reception by ALTA members as a learning tool that mixes entertainment through a skit with education on real issues--in a format allowing audience participation.

The workshop program was offered at two ALTA regional seminars and the Association's 1994 Mid-Year Convention (please see the May-June *Title News*). In addition, LTI produced a starter kit for distribution to regional and state title associations interested in staging their own individual "Closings from Hell."



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This new video kit provides a
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Part 1

Covers the historical background of metes and bounds,
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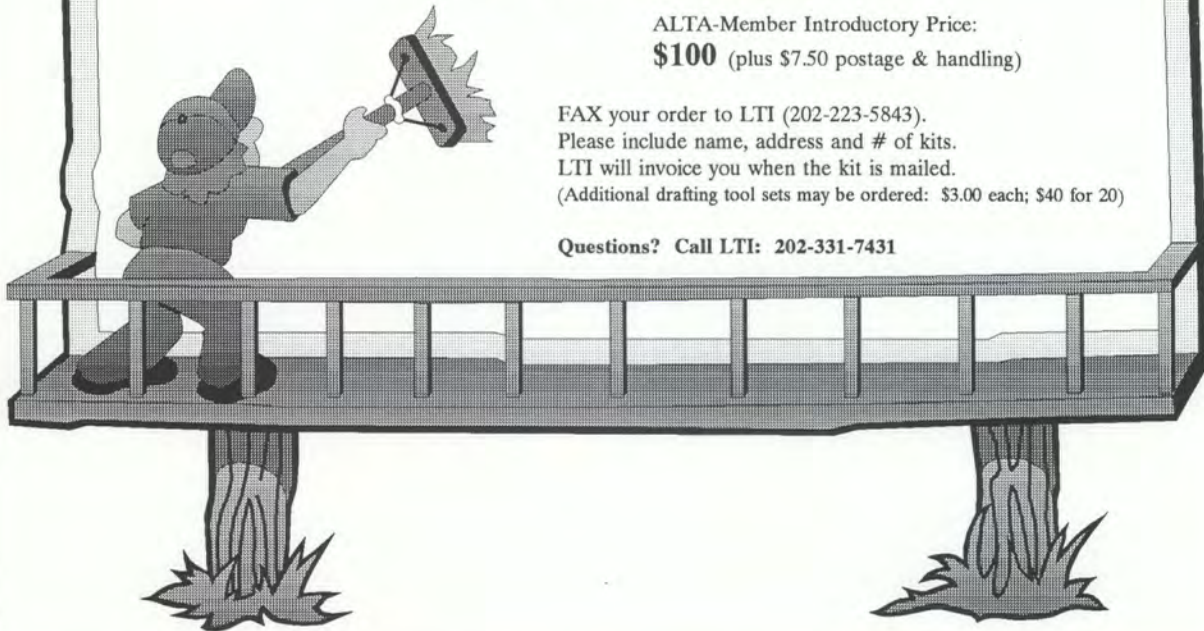
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Balanced Budget, Reserves Ceiling, Realigned Dues Level ALTA Objectives

By David R. McLaughlin
ALTA Vice President-Administration

...there will be an even greater emphasis on quality and commitment of service to the membership.

ALTA financial objectives targeted by the Board of Governors as we move into 1995 include a balanced operating budget, a ceiling on reserves, and a more even provision of dues revenue by underwriter and abstractor-agent members.

As the operations of your Association gear up for 1995, there will be an even greater emphasis on quality and commitment of service to the membership. Helping devise this service is a new ALTA office database that will completely automate programs previously requiring manual functions in part. The establishment of affinity programs along the lines of the new ALTA overnight mail program will provide cost saving opportunities for members.

The accompanying charts provide an overview of present ALTA revenue sources and expenditure levels. As indicated, the Association for the coming year anticipates revenue of \$3,019,370 and expenses of \$2,949,370. The anticipated surplus of \$70,000 provides a small cushion and brings a balanced operating budget near.

If a surplus is realized in 1995, it will be transferred to the Reserve Asset Fund, which currently has a balance of \$4,334,865. The Board expects ALTA operating cash and reserve balances to reach the currently defined limit, a combined level of \$5 million, before the end of the 1995 fiscal year. This figure is viewed as a strong reserve that will be available should a financial emergency arise.

At present, it appears that the Association will complete 1994 with an operating deficit of some \$180,000, which is considerably less than our budget estimate. The annual audit of the Association's financial records will take place at the end of the year to assure that expenditures are in line

with Board directives and the best interests of ALTA members.

During the past quarter century, underwriter members have consistently paid 62 to 68 percent of the ALTA dues total, with abstractor-agent members picking up the balance of 32-38 percent. Certain realignments now under way in the Association dues structure are expected to move the allocation closer to 50-50.

In authorizing expenditures for 1995, the Board has approved yet another agenda for pro-active ALTA involvement in leading national issues of the title industry. These include another ALTA Federal Conference, financial support of travel for lobbying visits to Washington in connection with high priority issues, and financial assistance for activity with the National Association of Insurance Commissioners Title Insurance Working Group that is focused on development of a formula to establish minimum statutory reserves for title insurers, along with model legislation for regulating title insurers and agents.

Also approved by the Board is exploration by ALTA staff of possibilities for measures outside the dues realm that will expand revenue sources while providing additional member benefits.

Concentration on recruiting and retention has brought a gradual increase in membership to the present total of 2,212 over the past two years. Efforts are under way to expand this number and increase overall ALTA strength. The support of every member is important in this initiative, and ALTA staff stands ready to assist you in any way possible. As you receive your 1995 invoice for ALTA dues, remember that your continuing involvement is a critical investment in your future—and the future of your industry. 📌

**Exhibit 1
1995 ALTA Approved
Income & Expense Budget**

General Fund Income

Dues.....	\$2,404,990
Investment Income-Operating.....	24,000
Membership Processing Fees.....	4,680
Conventions.....	478,700
Title News.....	48,000
Directory.....	47,000
Product Services.....	12,000
Other Income.....	0

Total Income \$3,019,370

General Fund Expense

Legal & Professional Services.....	\$375,000
Conventions.....	430,520
Committees.....	188,450
Public Relations.....	35,000
Rent - Occupancy.....	226,000
Personnel - Salaries.....	810,200
Personnel - Benefits.....	136,460
Personnel - Pension.....	103,940
Travel.....	169,000
Telephone.....	24,400
Postage.....	65,500
Supplies.....	11,000
Computer/Word Processor.....	25,000
Duplicating.....	10,000
Title News.....	58,000
Directory/Manual.....	31,500
Bulletins.....	56,000
Dues & Subscriptions.....	6,400
Insurance.....	29,000
Audit.....	16,000
Product Services.....	27,000
Miscellaneous.....	9,500
State Leg. & Reg. Fund.....	10,000
Depreciation (non-cash).....	65,000
Lobbying Tax.....	30,000

Total Expense \$2,949,370

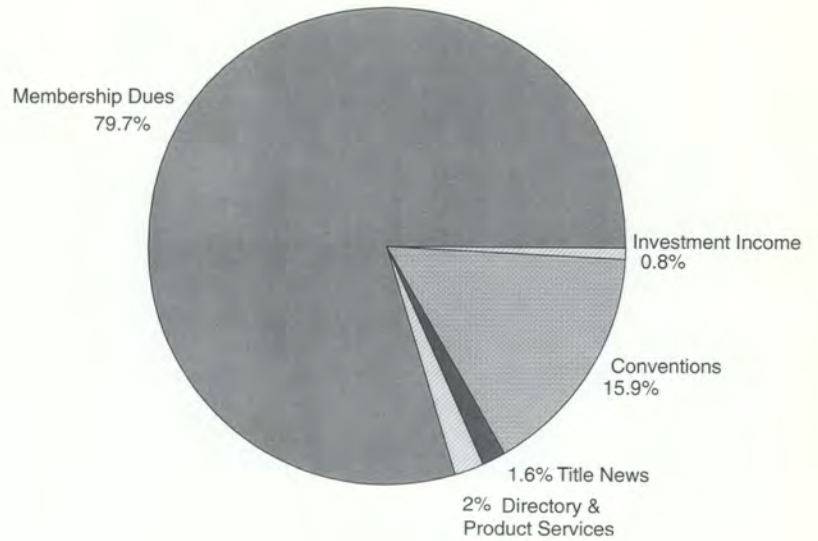
General Fund Income

Over Expense \$70,000

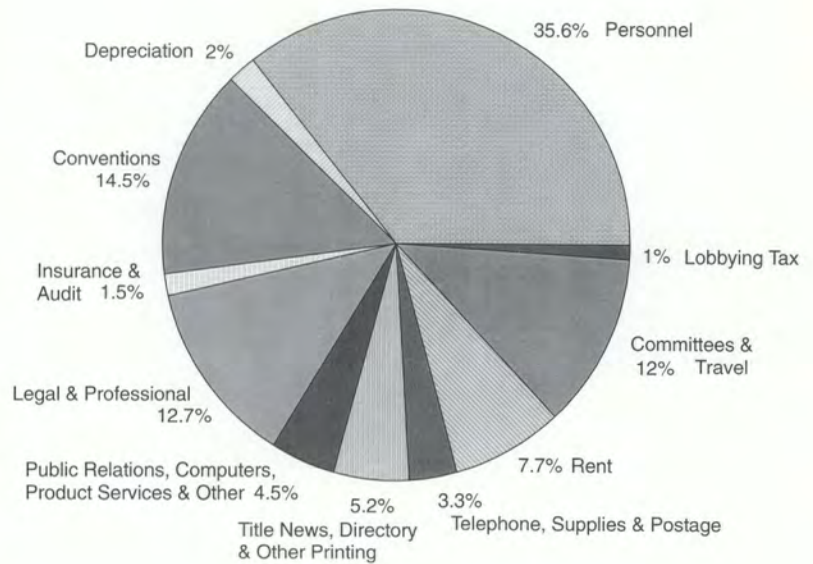
TIPAC Admin. Fund Income \$32,000

TIPAC Admin. Fund Expense..... \$32,000

ALTA \$\$\$ Sources



ALTA \$\$\$ Expenditures





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Congress Changes the Landscape In Real Property Bankruptcy Law

By Jack A. Marino, Jr. and Ann vom Eigen

One of the few major bills to become law in the last session of the 103rd Congress is a measure providing a major overhaul of the bankruptcy code, the "Bankruptcy Reform Act of 1994"¹ (the Act). The comprehensive bill includes major and minor modifications to bankruptcy law, balancing interests of lenders, creditors, and even title insurers. Taken as a whole, it dramatically changes the landscape in real property bankruptcy law.

The title insurance industry is affected

The most important. . . issue affecting the real estate and title industry is the clarification of the treatment of a lease when the debtor-lessor rejects such unexpired lease. . . and the lessee elects to remain in possession of the leasehold. . .

by aspects of the legislation ranging from purely technical bankruptcy administration issues, such as post-petition property tax liens, to real estate and financing issues which will affect both the structure of the initial transaction and the possible work-out. Further, even such modifications as changes in the maximum income levels for bankruptcy eligibility will affect the vol-

ume of filers. Because the changes are so numerous, this article summarizes what the authors believe are the major relevant provisions of the law, and provides minimal descriptions of additional items.

Real Estate Provisions

Several provisions directly affect real estate. For example, the new law contains a clarification of the treatment of leases in the event of the lessor's bankruptcy. Also included are a provision conforming the treatment of residential mortgages in Chapter 11 (Reorganizations) to Chapter 13 (Adjustments of Debts of an Individual with Regular Income) and a provision allowing lenders valid security interests in postpetition rents (including those of hotel properties). The Act also adopts a new term, "single asset real estate," for commercial real properties up to \$4 million, and establishes circumstances under which creditors of a single asset real estate debtor may have the automatic stay applicable to other types of bankruptcies lifted.

Leased Real Estate

The most important legal and economic issue affecting the real estate and title industry is the clarification of the treatment of a lease when the debtor-lessor rejects such unexpired lease of real estate in bankruptcy and the lessee elects to remain in possession of the leasehold for the balance of such term including renewal periods. This legislative issue arose because several court decisions interpreted Sec. 365(h) very narrowly, raising concerns about the interpretation of the phrase, "remain in possession of the leasehold." This legal uncertainty resulted in a reluctance to provide leasehold financing, which soon disappeared as a stand-alone financing alternative.

On Capitol Hill, members of the real estate bar and the title insurance industry successfully argued that the provision finally adopted confirms the original intent of Sec. 365(h) of the Bankruptcy Code, as amended in 1984². The new language explicitly and specifically recognizes that the lessee retains all rights which are appurtenant to the leasehold estate.

Leases are commonly used in commercial real estate development nationwide, in forms varying from ground leases to tax driven sale-leaseback arrangements. The confidence in such estates must remain beyond challenge. These forms of transactions are attractive to the fee owner, who retains the residual interest in the property by providing a leasehold interest to a developer. The developer can, in turn, finance the construction of a building by a mort-



Author Marino is general director and national counsel for the Chicago Title and Trust Family of Title Insurers, with offices in New York City. During the past Congress, he filled an important ALTA leadership role for the title industry in lobbying for bankruptcy reform legislation, especially the amendments in the area of ground lease clarification. Because of his national prominence in real estate law, he was able to successfully coordinate the work of real estate and bankruptcy law experts, deal with consumer groups, and interface with technical and political elements in Washington to effectively address through legislation this serious problem facing the title industry. He is a member of the American College of Real Estate Lawyers and an adjunct associate professor of real estate for the New York University School of Continuing Education. Co-Author vom Eigen is staff legislative counsel for ALTA and was actively involved in all phases of this title industry action on Capitol Hill.



gage upon the leasehold estate and thereupon proceed to lease space to occupancy tenants.

However, a line of cases beginning with *In re Carlton Restaurant, Inc.* 151 B.R. 353 (Bankr. E.D. Pa. 1993) seriously threatened tenants' rights through narrow interpretations of the statute. These cases effectively jeopardized the ability of the market to function in the face of this uncertainty as follows: In *Carlton*, the court held that a tenant could not assign its leasehold estate where its bankrupt landlord has previously rejected the lease, because the tenant's only right is to "remain in a rented premises." By this interpretation the court thus rejected the view of the statute that a leasehold estate was a divisible interest in real property and seemed to treat the leasehold as merely a contract right. In *Home Express, Inc. v Arden and Howe Associates, Ltd.* (*In re Arden & Howe Associates, Ltd.*, 152 B.R., 971 (Bankr. E.D. Ca. 1993), the court refused to enforce restrictive covenants in the lease, stating that no lease covenants other than those specifying rent and term, survive the debtor-lessors rejection of the lease. In addition, in *Harborview Development 1986 Limited Partnership* 152 B.R. 897 (D.S.C. 1993), the court held that a tenant whose lease was rejected by its bankrupt landlord, and who had subleased his premises, could not make an election under Sec. 365(h) to "remain in possession" because the tenant was not in actual possession of the premises at the time, the implication being that the subtenants were in actual possession and not the tenant.

It is suggested that the courts sought these outcomes because the equities demanded it. For example, in *Harborview*, the bankrupt landlord and lessee/sublessor were owned by the same person. Consequently, the bankruptcy estate was losing a portion of the rentals being paid by the sublessee to the lessee/sublessor. In *Carlton Restaurant*, the proceeds of the sale of the leasehold would not have benefited the unsecured creditors of the bankrupt estate.

Although several court cases interpreting Sec. 365(h) upheld the possession of the tenancy (*Chestnut Ridge Plaza Associates, L.P. v Fox Grocery Co.* 156 B.R. 477, W.D. Pa. 1993, *In re Lee Road Partners, Ltd.* 155 B.R. 55 (Bankr. E.D. N.Y. 1993), and *In re Sok Jun Kong*), market uncertainty and the lack of appellate court decisions delayed leasehold transactions, including their financeability, which contributed to illiquidity in the marketplace. Consequently, additional protections were recently sought through such means as

personal guarantees, separate non-lease contracts, and other attempts to restructure transactions.³

We believe the title industry undoubtedly would have prevailed in any litigation by arguing that the bankruptcy action was a post policy event and that exclusion 3(d) (excluding defects, liens, encumbrances, adverse claims or other matters attaching or created subsequent to the date of policy) bars such claims⁴. Nevertheless, the industry would have expected challenges.

Through the efforts of an ad hoc group⁵ of real estate attorneys in New York and in concert with the American Land Title Association, and with the sponsorship of Senator Howell Heflin (D-AL), an amendment clarifying this interpretation and overturning *In re Carlton Restaurant, Inc.* and *Harborview Development* was included as Sec.

The Act specifies that
the right to cure extends
up to the point that
debtor's principal
residence is sold at the
foreclosure sale.

222. "Rejection of Unexpired Leases of Real Property on Timeshare Interests" of S 540, the "Bankruptcy Amendments Act of 1994," when it was under consideration by the United States Senate in April, 1994⁶.

ALTA actively assisted this effort in the House, and was successful in helping to convince Rep. Jack Brooks, chairman of the House Judiciary Committee, to add a similar provision to HR 5116, the "Bankruptcy Amendments of 1994," which was included as Sec. 205 in the version introduced in the House on September 29, 1994. The legislative effort in the House involved an endorsement of the bill by the Section of Real Property, Probate and Trust Law of the American Bar Association, and an explanation of the effect on the marketplace in Texas to Mr. Brooks. The need for the clarification in Texas was also brought to Mr. Brooks' attention by Stewart Title Guaranty Company of Houston, Texas. HR 5116 was considered by the Economic and Commercial Law Subcommittee and the full House of Representatives Committee on the Judiciary in late September. It subsequently passed the House on October 4 and the Senate in the same form on October 6⁷.

Single Asset Real Estate

A new term, "single asset real estate," was added to the code. Single asset real estate is defined as "real property constituting a single property or project (other than residential real property with fewer than four units) which generates substantially all of the debtor's gross income, and on which no substantial business is being conducted by the debtor other than the business of operating the real estate." The provision amends Sec. 362 which provides an automatic stay enjoining the commencement or continuation of a judicial, administrative, or other proceeding to recover a claim against the debtor that arose before the commencement of the case⁸. The Act generally limits the automatic stay against a creditor with a mortgage against this type of property to 90 days.

This provision was heavily lobbied by lender trade associations, who sought a means of expediting foreclosure against the segment of commercial property industry owners who were inappropriately taking advantage of bankruptcy code provisions designed to allow ongoing business entities, e.g. manufacturers, an opportunity to develop a comprehensive, viable, business plan. Those provisions provided an automatic stay to file such a plan of reorganization. Many lenders believed an effective plan of reorganization is unlikely in properties where little can be done to modify the basic costs of building operation or rental income. But, while enactment of the provision sends a message that dilatory tactics are not well regarded, the relatively low dollar value of properties covered by the definition, \$4 million, makes it inapplicable to major commercial properties.

Assignment of Rents, Treatment of Hotel Revenues

Under Sec. 552⁹ of the Bankruptcy Code, postpetition effect of security interest, lenders on real estate have a security interest in postpetition rents received in bankruptcy to the extent that the interest is perfected under applicable state law procedures. HR 5116 addressed concerns raised by lenders who had argued that they were unable to accurately anticipate bankruptcies and as a practical matter perfect a security interest under applicable state law in a number of states, such as Arizona, Washington, Pennsylvania and Minnesota. Accordingly, the Act permits a lender to have a valid security interest in postpetition rents even if it is not perfected under state law. This protection also specifically extends to hotel revenues, although the statute does give the courts broad discretion to

address the "equities of the case." It further provides several exceptions to the interest in hotel revenues, for such elements as operating expenses, and employee payroll. These exceptions are intended to allow courts to balance the protection of secured creditors against public policy concerns such as employment and preservation of businesses.

Limitations, Liability, Non-Insider Transferee, for Avoided Transfer

The Act¹⁰ provides that a trustee is precluded from recovering a transfer from a preferential transferee made (1) more than 90 days and less than one year before bankruptcy, (2) against a transferee that is not an insider.

The provision overrules *In re V.M. Deprizio Construction Co.* 874 F. 2nd 1186 (1989). In that instance, a transfer to a lender which was made within one year of the commencement of the bankruptcy case was deemed an avoidable preference under Sec. 547(d) if it was to or for the benefit of insiders of the debtor. Such insiders could include officers, directors, controlling shareholders and parent or affiliated corporations who had guaranteed the loan.

After *Deprizio*, a line of decisions permitted the recovery of preferential payments from lenders within the one-year preference period.

Now, a lender who is not an insider can take a guarantee by a principal or other insider of the debtor without the risk of being subject to the one year rather than the 90-day preference under Sec. 547.

Residential Real Estate

Cramdowns

The Supreme Court has held that claims could not be bifurcated, in both Chapters 7 (Liquidation) and 13 (*Nobleman v American Savings Bank*, 61 U.S.L.W. 451 (1993)). The Act extends the same protection afforded to secured creditors asserting claims against a Chapter 11 debtor when the property is the debtor's primary residence.

Foreclosure, Redemption Periods

The Act limits the time during which a debtor may bring a default current through use of a Chapter 13 repayment plan. While most courts have allowed debtors to cure a default up to the time of the foreclosure sale, a few have allowed debtors to propose a Chapter 13 plan after the post-sale redemption period (*In re Ivory*, 32 B.R. 788 (Bankr. D. Or. 1983)). The Act specifies that the right to cure extends up to the point that the debtor's principal residence is sold at

the foreclosure sale. However, if the state provides the debtor more extensive "cure" rights (for instance through a later redemption period), the debtor would continue to enjoy such rights in bankruptcy.

Exemptions

The Act also establishes an arithmetic test to provide certainty in determining whether a lien impairs an exemption. This test was developed in response to a number of minority cases where judgment creditors were permitted to retain liens after bankruptcy. The specified test is considerably more consumer oriented and allows debtors to avoid liens on exempt property.

Interest on Interest

The Act prevents windfalls for secured creditors as a result of the Supreme Court in *Rake v Wade*, 113 S.Ct. 2187 (1993). In that decision, the court required that interest be paid on mortgage arrearages paid by debtors curing defaults on their home mortgage. That case effectively gave secured

The Act prevents windfalls for secured creditors as a result of the Supreme Court in *Rake v Wade* . . .

creditors interest on interest payments, as well as interest on the late charges and other fees, even where prohibited by state law, to the detriment of unsecured creditors. While the Act prohibits operation of these types of contract clauses, the restriction is effective for mortgages originated after date of enactment of the law, October 22, 1994. It applies to future contracts, including refinances of existing loans. It further requires that mortgage creditors comply with such state law requirements regarding adequate disclosure and minimum notice.

Condominium, Cooperative Fees

The Act amends Sec. 523(a) of the Bankruptcy Code to except from discharge those fees that become due to condominiums, cooperatives, or similar membership associations after the filing of a petition. The exception applies to the extent that the fee is payable during the time when the debtor either lived in or received rent for the condominium or cooperative unit.

Limited Liability Partnerships

A partner of a registered limited liability partnership which is in Chapter 7 is only liable to the trustee to the extent that the partner would be personally liable for any deficiency according to the state statute under which the partnership was formed.

Tax Provisions

Several recent court cases (see e.g. *In re Paar Meadows* 880 F.2d 1540 (2d Cir. 1989) *cert denied* 110 S.Ct. 869 (1990) *Makaroff v City of Lockport* 916 F.2d 890 (3d Cir. 1990)), held that the automatic stay in bankruptcy prevented attachment of the statutory lien on the debtors property for real property taxes. The Act provides an exception for postpetition ad valorem property taxes from the standard bankruptcy stay, and overturns those decisions which seemed to create a windfall for secured lenders, since they would otherwise be subordinate to such taxes.

In addition, the Act expands the tax exception to the automatic stay¹¹ to lift the automatic stay as it applies to a tax audit, a demand for tax returns, assessment of an uncontested tax liability, or the making of certain assessments of tax and issuance of a notice and demand for payment for such assessment. However, the provision only applies to sales or transfers to the debtor, and does not apply to sales or transfers to third parties, such as in sales free and clear of tax liens under Sec. 363(f).

Outlook

A National Bankruptcy Review Commission was established in the Act to investigate issues, evaluate proposals, update and prepare a report of its findings to Congress, the Chief Justice and the President. The Commission is required to report in roughly two years. Consequently, the real estate and title insurance industry should take a close look at current bankruptcy problems and consider presenting these issues to the Commission. 📄

¹ The Bankruptcy Reform Act of 1994, P.L. 103-349. Hereafter, this article is based primarily on the analysis presented in the Section by Section Description accompanying HR 5116, the Bankruptcy Reform Act of 1994. 140 Cong. Rec. H 10764-73 (daily ed. Oct. 4, 1994) (statement of Rep. Jack Brooks)

2 11 U.S.C. A. Sec 365(h) 1993. Section 365 addresses executory contracts and unexpired leases, and Section 365(h) explicitly addresses unexpired leases of real property where the debtor is the lessor.

3 Homburger, Thomas C. Gallagher, Brian P. and Rubel, Kimberly "Uncertainty Prevails: A Discussion of Bankruptcy Code Sec. 365(h) and the Contradictory Cases interpreting that Statute," American Land Title Association Legal Education Program September 23, 1994.

4 American Land Title Association Leasehold Loan and Owner's Policies (10-17-92).

5 The group's members were Steven Alden (Debevoise & Plimpton), Laurence Cherkis (Wachtell, Lipton, Rosen & Katz), Anthony Colletta (Goldman Sachs & Co.), Jeffrey DeBoer (National Realty Committee), Joseph Forte (Thacher Proffitt & Wood), Kevin Hackett (Fried, Frank, Harris, Schriver & Jacobson), Lawrence Mittman (Battle Fowler), Jay Neveloff (Kramer, Levin, Naftalis, Nessen, Kamin & Frankel), Betty Robbins (Teachers Insurance and Annuity Association), Dean Rogeness (Massachusetts Mutual Life Insurance Co.), Edward Sack (International Council of Shopping Centers), Robert Schlein (Sullivan & Cromwell), Joseph Shenker (Sullivan & Cromwell), Ronald Wilcomes (Metropolitan Life Insurance Co.), Mitchell Williams (Thacher Proffitt & Wood), Robert Zinman (Thacher Proffitt & Wood), and the authors Jack A. Marino, Jr. (Chicago Title Insurance Company) and Ann vom Eigen (American Land Title Association).

6 140 Cong. Rec. No. 45 S. 4606, 4673. (daily ed. April 21, 1994) (statement of Sen. Howell Heflin)

7 140 Cong. Rec. No. 142, Part II, H 10752-10753 (daily ed. Oct. 4, 1994) (statement of Rep. Jack Brooks) 140 Cong. Rec. No. 144 S 14461-14465 (daily ed. Oct. 6, 1994) (statement of Sen. Charles Grassley)

8 11 U.S.C. 362

9 11 U.S.C. 552

10 11 U.S.C. 550

11 U.S.C. Sec. 362(b)(9)

Senator Domenici, Top Budget Expert, Will Address ALTA Federal Conference



Senator Domenici

Senator Pete V. Domenici (R-NM), a senior member of the Senate Banking Committee who at this writing is expected to become Senate Budget Committee chair in the next session of Congress, has accepted an invitation to address the 1995 ALTA Federal Conference, which will be held at the Willard Hotel in Washington, DC, March 6-7.

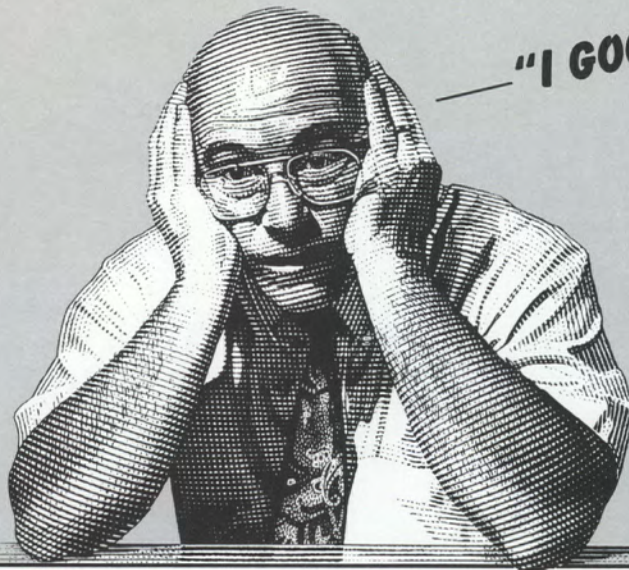
A foremost expert on the federal budget and its relationship to the national economy, Senator Domenici will speak on Tuesday morning, March 7. He is a veteran of the Budget Committee, previously having served six years as its chairman. Most recently, he served as co-chair of a 60-member commission, under the auspices of the Center for Strategic and International Studies, that advocated a 10-year plan to eliminate the federal budget deficit while promoting sustained economic growth.

Senator Domenici was elected to his fourth Senate term in 1990, receiving 73 percent of the popular vote, the greatest statewide victory margin for any candidate in New Mexico history.

The Conference will open with a legislative/regulatory briefing on Monday afternoon, which will precede a reception that evening at the historic Woodrow Wilson House. Also on Tuesday morning, commentaries on current issues of interest to the title industry will precede lunch at the Capitol Hill Club. Tuesday afternoon will be open for meetings of title professionals with Senators and Representatives. Dinner Tuesday evening will feature entertainment by the Capitol Steps, who will present song and dance satire reflecting the political atmosphere surrounding the President and the new Congress.

Further details and registration information are scheduled to reach ALTA members early in 1995. Inquiries may be directed to Ann vom Eigen or Sherri-Lynn Kirby of ALTA staff at 800-787-ALTA, Extensions 214 and 213, respectively.

Tuesday afternoon will be open for meetings of title professionals with Senators and Representatives



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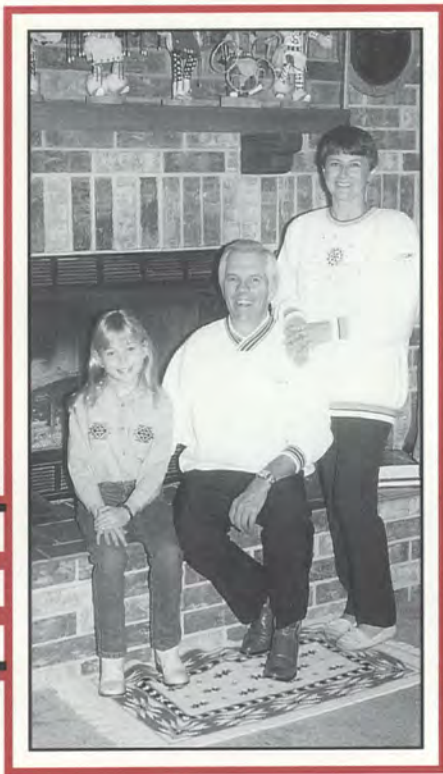


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Mike Currier: Flexibility First

When Mike Currier arrived at New Mexico Military Institute as a college freshman years ago, his aspirations included making the football team at his regular position of quarterback. That was before he noticed a certain other freshman quarterback candidate. The other player's name was Roger Staubach, who already was beginning to show the ability that later made him a Heisman Trophy winner, a superstar with the Dallas Cowboys, and a member of the National Football League Hall of Fame.

Scratch one youthful athletic dream. But not altogether. Instead of retreating to Cancun for some soul searching, Mike opted for a meeting with the football coach—where he talked himself into a job as team statistician. Benefiting from his new responsibilities, the future ALTA president received, in his words, "everything the team members did except being knocked down."

Looking back on that football experience, ALTA's eighty-ninth president is convinced the same kind of flexibility and insight which served him well years ago will be of fundamental importance once again as he addresses the myriad of issues and problems on the agenda of the Association. As he became president in September, Mike re-emphasized his firm belief that being able to recognize important developments and adjust to them are the key to success and even survival in the turbulent title business of the nineties.

"We all know the only one who likes change is a wet baby," he said. "But title people who are unable to change with the times may find those times passing them by."

Although the demand for leadership in an era of dramatic change may seem daunting, Mike feels there is an abundance of talent in the industry across the nation that will prove more than equal to the task.

He has met many emerging industry leaders through ALTA activities including his travels as an officer of the Association. You can take it from Mike Currier. These title people will deliver what is needed—and more—when their time for action arrives.

"Our industry is not the one of old, where no one knew or cared about us," he said. "Title people no longer are on the back rows, playing on the second team. We are up front with the rest of the real estate professionals—*where we belong!*"

Remaining out front as an industry will demand the best from Mike and his resourceful industry colleagues. Being proactive must continue to replace being reactive. And the priority list begins with educating everyone—from legislators to regulators to consumers—about title insurance.

"We must be prepared for those who want to be in the title business, but only on their terms—not what is called for by local

rules and practices," he added.

Mike strongly believes there is a definite need for more extensive participation in the political process. The ALTA president knows political involvement is critical, and that it works. Recalling a first hand experience in his home state of New Mexico some years back, he was part of an interaction between title people and state legislators that greatly helped achieve a mutually acceptable regulatory structure. This NMLTA initiative followed an investigation of the title industry launched by the state attorney general—as it turned out, during the same year Mike was serving as president of the state association. The inquiry, by the way, produced headlines but no negative consequences for NMLTA.

As a longtime advocate of political action for business, Mike admits to a certain feeling of perplexity at election time. The recent November elections rekindled his

...Mike re-emphasized his firm belief that being able to recognize important developments and adjust to them are the key to success and even survival in the turbulent title business of the nineties.

old questions about the wisdom of Americans in bashing lawmakers after they are voted into office.

"When you think about it, our day-to-day activities are governed by what politicians do *after* we elect them," he said. "With that equation, it would seem natural that anyone concerned about his or her life style and position in the workplace should be involved in the political process. One thing is certain—we are going to have to become more politically active nationally and in our own states if we are going to secure the respect we want and deserve!"

An integral part of building political strength is continuing emphasis on ALTA membership recruiting, he added, which means following through on the program emphasized by ALTA Past Presidents Park Kennedy and Dick Oliver during their respective terms in office.

Since New Mexico has had total regulation of title insurance rates, rules and forms

since 1986, Mike does not expect the proposed National Association of Insurance Commissioners Title Insurance Agents Model Act to greatly impact his state. While not having seen the final text for the Agents Model Act, Mike expects the existing New Mexico regulations to prove more stringent. Although he feels implementation of the Model Act may prove difficult in some states because of local differences, Mike also thinks it would definitely help the regulatory climate in certain locales.

"It is easy for regulators to draft regulations, and for those about to be regulated to talk about the lack of understanding among these officials," he said. "But the real goal is for *both* sides to work out a solution where the consumer is the big winner."

Through government relations and

many other activities, Mike finds the relationship between ALTA and regional/state title associations to be a growing strength for the industry. Binding all this together is better communication through ALTA publications including *Title News* magazine and the *Capital Comment* government relations newsletter. He also has praise for the ALTA "all member fax" service, which allows the Washington staff of the Association to keep the nationwide membership alerted to matters needing immediate attention. And, he speaks highly of the work of the staff.

Mike finds that he cannot overemphasize the importance of ALTA's educational arm, the Land Title Institute. Focused through the ALTA Education Committee, LTI's correspondence study offered in



Mike with his father, Chili Currier, whom he regards as "the best title person I know," near a portrait of his late grandfather, George Currier, founder of the family business.



Above, the ALTA president is shown with Association President-Elect Herb Wender. At right, he explains title plant workings to New Mexico State Legislator Bob Light.



In the top photograph, Mike talks with two good friends--ALTA Past Governor and Iowa Land Title Association President-Elect Chuck Juhl, left, and ALTA Past President Charlie Hon. Immediately below, he is shown with two of the Association's committee chairmen--Joe Bonita (Title Insurance Forms), left, and John Bell (Public Relations). A familiar sight at ALTA golf events is Mike matched with Association Past President Bill Thurman, shown at right in the second photograph from the bottom. Back at Guaranty Title, Mike reminds of his nationwide emphasis on members taking pride in ALTA by pointing to the Association membership decal displayed on the front door of his office.



Courses 1 and 2, educational videotapes, and regional seminars are a major asset, he said.

A Proud Title Heritage

Mike's 1981-82 NMLTA presidency was preceded by terms in that office served by his grandfather, the late George Currier, in 1944-45, and by his father, Chili Currier, in 1954-55. His is the only family in the state holding that distinction.

Minutes of NMLTA proceedings show that, in 1944, the year George was president, there were 12 present at the annual convention, followed by an attendance of five at the event the following year. Remembering his grandfather, Mike is certain one of the main topics at those meetings was how to increase attendance.

During George's tenure, land titles were evidenced by abstracts and attorney opinions. Ten years later, Mike's father, Chili, worked as state president to bring title insurance into New Mexico.

Chili has related to Mike that a title agent could not write a title commitment or policy in New Mexico without an attorney's opinion, until errors and omissions insurance became available in the state. He said the plant of Currier Abstract Company, the family business started by George in 1940, was assigned as collateral to its first underwriter until the company obtained an E&O policy. He said that Currier Abstract was either the first or the second agent signed by a title underwriter in the state.

The ALTA president remembers his youthful introduction to the title business as somewhat inauspicious. Before graduation from high school, he was assigned the tedious job of making copies for abstracts with a "shaker box" in the darkroom. Later on, as title plant technology advanced, Mike found little relief from the tedium when he was asked to spend hours at a time stuffing microfilm into jackets. By the time he was ready for college, Mike was feeling the youthful urge to escape from a small town. At the time, he had no thoughts of title work as a career.

Mike was enjoying a full range of campus activities by the time he reached his senior year at the University of New Mexico, which included serving as president of his fraternity, Sigma Chi. But he had no particular ideas on what he wanted to do in life. Then Billy Vaughn, a family acquaintance, offered Mike a job with the title underwriter by whom Billy was employed in Dallas. Mike accepted and spent the next eight years working with Billy and with E. Gordon Smith, two prominent title executives who served as ALTA governors along

the way. In Mike's view, this part of his working life and later years with the Currier title organization have given him an excellent perspective on how the business works from both sides of the desk.

Family Business Founded in Artesia

The Currier family first reached New Mexico when Mike's grandfather, George, moved to Albuquerque with his wife because of her health. With the Great Depression winding down, George landed a job with the Federal Resettlement Administration. In an earlier program, the government had offered 160 acres of federal land to those interested in trying to make a living from it. After many persons who received the land patents failed financially in those hard times, it was George's job to check the titles as the government took the land back.

Although the demand for leadership in an era of dramatic change may seem daunting, Mike feels there is an abundance of talent in the industry across the nation that will prove more than equal to the task.

One of the properties on which George was working titles was outside Artesia, where he reportedly encountered a problem securing needed information from the local title company. When his federal job was over, George returned to Artesia for the founding of Currier Abstract.

Some six years after the Artesia venture began, George became ill. It was suggested that Mike's father come to Artesia in order to help with the business until George recovered. His mother and father loaded their young son into the car and moved to Artesia for a six-month stay. They remain there half a century later.

When George began to recover from the illness that brought Chili and family to Currier Abstract, the founder decided it was time to take a vacation. As the story goes, he walked in one day, laid a stack of abstracts and a Sears and Roebuck catalogue side by side on Chili's desk, and said: "I am going to be gone for a while. When I get back, I want you to know the difference between these two."

Linnie Currier: Thoughts on Battling Cancer

Linnie Currier, wife of ALTA President Mike Currier, recently won deep respect and admiration from everyone acquainted with her as she successfully battled breast cancer. Her victory in the medical arena was cited, along with her accomplishments as business woman, mother, wife, and daughter, in her recent selection as Woman of the Year by The Business and Professional Women of Carlsbad.

Besides her family responsibilities, Linnie works with a staff of three in operating her State Farm insurance agency business, which is located in a building she has owned since 1985. Her memberships include the Altrusa Club, Assistance League, Rotary Club, Quarter Horse Club, Horseman's Association, and Cavern City Pet Partners.

In her nomination for the honor, it was noted that Linnie "has met all of her challenges with a smile on her face."

Recalling an early visit with his wife to the oncologist as the fight against cancer began, Mike remarked: "I will never forget her looking the doctor in the eye and saying, 'I consider this an absolute nuisance! I have a family to raise, a life to live, a business to run, and I am ready to attack this thing.'"

"The doctor looked at her and said, 'Well, we can't start yesterday.'"

"And Linnie answered, 'Well, we can start today!'"

"And they did!"

Comments from Linnie Currier

Linnie provided the following com-

mentary on her experience with cancer for the consideration of those who may be facing the disease—directly or through loved ones and friends.

"I have always been an active person, enjoying horseback riding, swimming, water skiing, golf, teaching dog obedience, having my own business—all with a streak of independence. When I was diagnosed on August 18, 1993, I was coming out from under the anesthesia and heard the surgeon say I had breast cancer.

"In the same breath, he said he had already made an appointment for me to see the oncologist. That moment was the starting point for a tremendous support system to swing into action—which remained with me through chemotherapy, surgery, and radiation. This system included my husband, our daughter, my parents, my in-laws, friends, doctors, nurses, technologists, cancer survivors, and prayer.

"Besides the value of this support system, education is just as important. When I was diagnosed, I had read enough to know that cancer can be defeated. And I knew I was going to be a survivor. At that point, I continued to read everything I could get my hands on, and I asked a lot of questions. This helped me understand what the doctors were telling me, and helped me make informed choices.

"Breast cancer is occurring in epidemic proportions. The more visible it is, the more research money will become available to help stop this scourge."

Golf And A Quick Wit

Mike is known throughout ALTA for his love of golf that accompanies a quick wit and friendly manner. The Association president credits his father and his mother, Frances, for the sense of humor. He still appreciates their fun-loving nature, noting it would be difficult not to develop a sense of humor growing up in their home.

Among the closest title industry friends Mike and his wife, Linnie, have met through ALTA are Bill and Ann Thurman of Austin, TX. Bill, who served as ALTA president in 1990-91, and Mike have become legends of a sort through their golf games at

conventions of the Association and elsewhere.

Mike recalls the time he was invited to join Bill as a partner in a tournament at one of the nation's finest courses, the Colonial Country Club in Fort Worth. Playing in the tournament was exciting enough, Mike recalls, but not quite as stimulating as their stay in the dilapidated motel that Bill had selected. It seems the motel had been extremely popular in previous years, but had fallen on hard times since Bill had last seen it. Mike still enjoys bringing that memory to Bill's attention.

"I would describe the walls of that motel

as paper thin," Mike said. "But they really weren't that thick."

Asked how he and Bill fared in the Fort Worth tournament, the ALTA president replied, "Dead solid last!"

A lifelong sports enthusiast, Mike remains a Dallas Cowboy fan but lists his favorite football team as the University of Texas Longhorns. This preference is shared by Bill, who is an alumnus of UT.

"My other two favorites are whoever Texas A&M and Oklahoma are playing," Mike added.

Sports has moved to a secondary place in Mike's life since his marriage to Linnie, who is a State Farm agent in Carlsbad. Before they were well acquainted, Linnie might have become part of the Currier title operation. Mike arranged for her to come in for a job interview, but her State Farm appointment came through before this could be accomplished. Mike feels she would have been a superb title woman but is much happier to have her in her present position—as his wife.

The joys of family life increased even more following their marriage with the arrival of daughter Missi, now eight years old.

Linnie was an accomplished horsewoman in junior and senior high school, winning an impressive number of competitive awards, and Missi has shown a budding interest in this activity. She now rides Tasha, her Arabian, in local horse shows.

Linnie and Missi accompany Mike on ALTA travel whenever possible. Mom and dad enjoy playing golf together. Mike reports that Missi's interest presently centers more on driving the golf cart.

Not long ago, Linnie won the admiration of all who know her with the poise and courage shown as she fought—and defeated—cancer. Her comments on the experience accompany this article.

Leaders Will Meet Challenges

Looking to the future, Mike has great confidence in the title people he has met from coast to coast. He fully expects them to excel as they are called upon to lead their industry at both the national and state levels. He likes to cite as an example Chuck Juhl, an ALTA past governor who has served with him on the Association Board. Chuck currently is president-elect of the Iowa Land Title Association. As Mike puts

it, there are many Chuck Juhls out there, ready to answer the call.

All this leadership talent may well be needed as opposing efforts continue toward moving the title business toward casualty-type coverage and away from what Mike strongly believes it should continue to be—an exact enterprise where abstracts and title policies are based on a thorough examination of all public records, with the major objective being loss prevention for the customers.

As long as the industry has leaders of the Mike Currier calibre in the vanguard, preserving the business as it should be never will become an idle objective.

Asked what his plans are following completion of his term as president, Mike replied: "I would like to continue to spend lots of time with Linnie and Missi, continue working with our successful businesses, continue to see the magnificent United States, continue to be active in the title associations, continue to be active in the community—and continue to beat (ALTA Past President) Charlie Hon on the golf course!" 🐾

Committee Profile

Excellence Behind Unassuming Nature

Working inside a trade association is an occasional committee whose unassuming performance makes a consistently solid contribution to the overall excellence of the parent organization. In association terms, members serving on a committee of this nature truly are unsung heroes.

Within ALTA, a first rate example of those deserving such wider recognition and appreciation are the members of the Directory Rules Committee.

In recent years, this committee has been instrumental in transforming the much used ALTA *Directory* from a line item expense to a significant revenue source for the Association. Major format changes that have upgraded the familiar publication are a colorful cover promoting the upcoming ALTA conventions; a cost-saving glue backing that replaces the former plastic coil binding; going from three column to four column pages; and in-house desktop composition.

Another committee initiative has led to increased *Directory* revenue through

the introduction of affordable member advertising at the end of each state listing. The committee also has recommended listing a membership identification number with each ALTA member's name in order to improve efficiency in communication between member and Association, which will be done effective with the next edition to be published in mid-1995.

Listing cards for the 1995 *Directory* are to be mailed at the beginning of the year, with a deadline of April 3 for member completion and return to the ALTA office.

Phil Bronson, Bronson Abstract Company, Fayetteville, AR, was appointed new chairman of the committee effective with the 1994 ALTA Annual Convention in September. During the committee meeting at that convention, the retiring chairman, Robert J. Wilson, First American Title Insurance Company of the Midwest, Troy, MI, was honored for his outstanding leadership during the recent successful years of committee activity.

Eureka Purchased By First American

The First American Financial Corporation has announced that its primary subsidiary, First American Title Insurance Company, has purchased Eureka Title Company, Humboldt County, CA, from the family of its late founder, E. G. Wilkenloh.

Besides the main office in Eureka, the acquired exclusive agency has branches in McKinleyville and Fortuna. Vice President and General Manager Metta McClelland will continue to manage the operation for First American.

Oregon Acquisition For Lawyers Title

Lawyers Title Corporation, holding company for Lawyers Title Insurance Corporation, has announced the signing of an agreement to acquire the outstanding shares of Oregon Title Insurance Company, Portland.

Oregon Title is a full service title insurance company with 14 offices, and now operates as a wholly owned subsidiary of Lawyers Title. Henry P. Ritz continues as president of Oregon Title.

NAMES IN THE NEWS



Brown



Partin



Dimon



Zissimos



Simon



McDermitt



Monaco



Chlebowska

David A. Brown has been promoted to vice president and San Francisco County manager, Commonwealth Land Title Insurance Company and **James D. Partin**, vice president, has been promoted to senior claims counsel, southeast/southwest regions, for that concern and Transamerica Title Insurance Company. **Robbie J. Dimon** has moved up to vice president and southeast regional claims counsel for the companies, Atlanta, and **Maria M. Zissimos**, assistant counsel, Philadelphia, has been named vice president.

Also, **Robert Simon** has been promoted to Commonwealth/Transamerica Title assistant vice president-planning

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Grant



Bardwell



Owens



Shafer



Figgins



Donner



Caspersen



Ferrin



Pettus



Palmer



Theiss

and analysis, Philadelphia. **John J. McDermitt, Jr.**, has joined Commonwealth as assistant vice president and branch manager, Parsippany, NJ, and **James E. Neighbors** has been promoted to Detroit manager for Transamerica Title. **Nicholas J. Monaco** is Commonwealth's new branch manager, Sarasota, FL; **Kristi**

Chlebowski has joined Commonwealth as manager of the new branch at Madison, WI, and **Andrea B. Connors** has joined the company as office manager/closing officer, Media, PA.

Lizbeth Grant, vice president, Chicago Technology Services Corporation, has been elected a vice president of Chi-

cago Title and Trust Company, parent of the formerly mentioned organization.

Marjorie Ramseyer Bardwell, vice president and senior underwriting counsel, Ticor Title Insurance Company, Chicago, has been named to those positions for Chicago Title Insurance Company.

Also in Chicago, **Yvonne R. Owens**, resident vice president, Chicago Title Insurance, and vice president, Ticor Title, has moved up to vice president, Chicago Title Insurance. **John B. Shafer**, North Florida state manager, has been promoted to vice president, Chicago Title Insurance.

C. Vincent Figgins, Las Vegas, will retire at the end of this year as regional vice president, Nevada, for First American Title Insurance Company. He is a 32-year veteran with the company. **Lynn A. Donner** has been named a vice president of the company and has been promoted to Clark County manager for its subsidiary, First American Title Company of Nevada.

Michael J. Forkin has been promoted to San Francisco County manager for First American; he is replaced as regional counsel by **Jamin Hawks**. **Curt A. Caspersen** moves from San Francisco County manager to the position of national marketing director for the company; he will continue to be based in San Francisco. **Michael K. Ferrin** has been named First American's Idaho/Montana regional counsel with offices in Boise, ID.

Nancy M. Pettus, First American Title's vice president-personnel counsel, has been appointed programs vice chair of the Labor & Employment Law Committee, General Practice Session, American Bar Association.

Robert J. Palmer has been promoted to senior vice president and chief informa-

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tion officer, Lawyers Title Insurance Corporation.

Karen M. Theiss has been named escrow officer for Rattikin Title Company, Fort Worth, TX.

Christopher P. Alexander and **Michelle Smekens** have joined First Land Title Company, Fort Wayne, IN, as marketing specialists.

Patricia B. Wolak, vice president of underwriting operations, has been elected to the board of directors, Investors Title Insurance Company, Chapel Hill, NC.

Janet Vanderbilt has been named vice president of closing services and **Lisa Brecount** vice president of operations, First Security Title, Edina, MN.

Albert C. LaRue has been promoted to senior vice president and **Ken Kirkner** to assistant vice president and administrative officer, T. A. Title Insurance Company, Media, PA. **Richard L. Flegal** has joined the company as agency manager.

Shirley Horton has been appointed business development officer, Fort Dearborn Land Title Company, Wilmette, IL.

Strategic Mortgage Services (SMS) has announced the following promotions:

James L. Dammerich, Appraisal Division central regional vice president, Overland Park, KS, and **Debbie Weatherwax**, Settlement Services Division vice president and product manager, Costa Mesa, CA. **James E. Maynard, Jr.**, has been named eastern regional vice president, First Mortgage Sales Group, Charlotte, NC; **James R. Scott** has been appointed regional vice president of sales, Home Equity Services Group, Costa Mesa, and **Paul B. Chiavini** and **Todd I. Crowe** have joined the company as sales executives, Walnut Creek, CA, and Phoenix, respectively.

Rattikin Title Family Reaches 50th Year

In its fiftieth anniversary year, Rattikin Title Company, Fort Worth, TX, has been named Texas Family Business of the Year in the medium size business category by Baylor University's Institute for Family Business.

Each year, the institute recognizes family-owned firms headquartered in Texas that demonstrate strong business and family values. To be nominated, a firm must employ at least two generations in an operating capacity.

More than 40 family businesses were nominated in the category won by Rattikin Title, according to the institute.

Rattikin Title has 10 offices in Fort Worth's Tarrant County, as well as operating in other Texas counties. Owners are Company President Jack Rattikin, Jr., an ALTA past president; all 10 family members are involved in day-to-day operations.

Rattikin's father, the late Jack Rattikin, was a title insurance pioneer in Texas and served as ALTA president in 1939-40; he and his wife, the late Annie Lea Rattikin, established Rattikin Title in 1944. Prior to that, they operated as Home Guaranty Abstract Company. Both Rattikin and his late father also are past presidents of the Texas Land Title Association, and were honored by that organization as TLTA Title Person of the Year.

Rattikin's son, Jack Rattikin III, is a senior vice president of the company and presently is serving as ALTA Education Committee chairman.

Branch Opened By Investors Title

Investors Title Insurance Company has opened a new branch office in Rocky Mount, NC.

Staffing the branch operation are Bonnie Windom, area marketing manager, and Danneetrea Hyde, underwriter.

Credit Operation Acquired by SMS

Strategic Mortgage Services, Inc. (SMS) has announced the acquisition of Credit Bureau Services, a Southern California based mortgage credit company.

The newly acquired concern is being merged with the SMS Credit Information Division.

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Land Title Institute Posts Record Year In Enrollment; Videotape Demand Strong

ALTA's Land Title Institute is completing a record enrollment year.

As 1994 draws to a close, enrollment for LTI's Course 1—the basic course for title professionals—is near 1,900, exceeding the previous annual high of 1,648 posted in 1992.

Enrollment for LTI Course 2, the organization's advanced correspondence course introduced this year, was approaching 850. Combined enrollment for the two courses was well above 2,700—far exceeding participation in LTI correspondence study during any previous year.

Course 1 is designed for new or less experienced title employees, offering a fundamental understanding of the title

industry and its unique terminology. Its 18 chapters range from a discussion of the need for title assurance to searching, land descriptions, title insurance, and closing/escrow.

Course 2 is designed for Course 1 graduates, experienced title personnel desiring further education, and recent law school graduates. Its 15 chapters range from abstracting/examination to title underwriting, title commitments and policies, endorsements, and claims.

In LTI correspondence study, a student receives a three-ring binder, along with text material, text questions and answer sheets for each chapter. Students work at their

own pace. Test questions are open book style, and the student submits completed answer sheets to LTI for grading. The student receives by return mail a letter reporting the test score, missed test questions, and where in the text the correct answer can be found.

Since the introduction of LTI educational videotapes in 1989, nearly 5,900 of the videos have been sold. As might be expected, the "oldest" videos—those produced in 1989—have the highest individual sales totals. "Principles of Title Searching" leads with 1,014, followed by "The Need for Land Title Services" with 912. "A Policy Overview," produced in 1990, is next with 802 tapes sold, followed by "Claims Awareness" (also 1990) with 753. A third 1990 offering, "Completing A Title Insurance Commitment Form," has sold 711 units.

Additional information on LTI offerings may be obtained by contacting the organization at Suite 705, 1828 L Street, N. W., Washington, DC 20036 (telephone 202-331-7431).

Title Plant Group To Meet May 16-18

The Title Plant Users Group (TUG) will hold its 1995 national conference May 16-18 at the St. Anthony Hotel, San Antonio. Managers from over 70 computerized title plant sites, consultants, underwriter MIS staff members, representatives from information service companies, and application software developers are expected to attend.

Workshop and round table discussion topics will include document imaging, electronic data interchange, hardware trends, networks, public records access issues, sale of real estate information, linkage of ad valorem tax data/systems to title plants, data ergonomics, productivity, quality assurance and others relating to maintenance of computerized title evidence databases.

September 1, 1994

All the common stock of

ATTORNEYS TITLE CORPORATION
Washington, DC

has been acquired by

FIRST AMERICAN TITLE INSURANCE COMPANY
Santa Ana, CA

The undersigned acted as advisor to Attorneys Title Corporation

CORPORATE DEVELOPMENT SERVICES, INC.
Wayne, Pennsylvania

Celebrities Visit ALTA Annual Convention in Florida



At left, Park Kennedy, left, 1993-94 ALTA president, greets Jack Kemp, former HUD Secretary and former Congressman, and, in the other photograph, a youngster receives an autograph from another celebrity during the Association's recent Annual Convention in Lake Buena Vista, FL. More pictorial coverage of the event is ahead in the January-February *Title News*.

Additional information is available from TUG Secretary/Treasurer Glen Finley, Land Records Corp., 609 Gold Avenue, S. W., Albuquerque, NM 87102-3119 (telephone 505-243-0608).

Browne to MERS Legal Issues Chair

ALTA General Counsel Ed Browne has been appointed chairman of the Mortgage Bankers Association of America Mortgage Electronic Registration System (MERS) legal issues committee. MERS is a task effort focused on development of an electronic registry for real estate lenders that is to incorporate new technologies in creating a streamlined and more efficient mortgage process.

Among the initial activities of the legal issues committee is working with title companies in gathering information on key legal developments in specific states.

MBA has retained a consultant to prepare findings and recommendations on possible directions to take in formulating MERS.

September 1, 1994

All the operating assets of

ALBANY COUNTY TITLE COMPANY
Laramie, WY

have been acquired by

FIRST AMERICAN TITLE INSURANCE COMPANY
Santa Ana, CA

The undersigned acted as advisor to Albany County Title Company

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Wayne, Pennsylvania

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Subcommittee Moves Forward with EDI

Members of the ALTA Land Title Systems Committee Electronic Data Interchange (EDI) Subcommittee report progress in their latest undertaking--proposed transaction sets that will allow EDI communication for title evidence (Format 197) and settlement information (Format 199).

Format 197 is being designed to allow electronic transfer of data in title reports, title commitments, ALTA title insurance forms, and other title insurance forms such as those used individually in certain states. The title evidence EDI project is being conducted in cooperation with ALTA Title Insurance Forms Committee Chairman Joe Bonita, Chicago Title Insurance Company, and other members of that committee. With Format 197, title information is to be provided to requesting customers electronically, easing the burden of paperwork.

Common segments, data elements and codes from ALTA Format 265 (title services

ordering) are being used in the preparation of Format 197, according to Mike Franks, Genesis Data Systems, subcommittee work group leader for the 197 project. Format 265 also was developed by the Subcommittee and received approval from the American National Standards Institute early in 1994 as the first national title industry EDI standard.

Pete Nichols, Chicago Title and Trust Company, subcommittee work group leader for the 199 project, reports that gains in accuracy, timeliness and productivity are projected for the settlement information EDI entry--as a result of fewer telephone calls, quick transfer of information, and data being entered only once. Any information on the HUD1 form can be sent by EDI with Format 199; HUD1 is the primary element in the initial design of 199. Escrow instructions have been accommodated, although in free form.

Fred Hemphill, Commonwealth Land Title Insurance Company, is chairman of the subcommittee and Steve Evans, Evans Title Companies, is chair for the parent Systems Committee.

OneStop Innovation For Commonwealth

Commonwealth Land Title Insurance Company has announced the introduction of Commonwealth OneStop, a facility enabling lenders to process loans faster through access to a nationwide network of multifaceted services through a single point of contact.

Services now offered by OneStop include title insurance, appraisal management, appraisal information systems, credit reporting, flood certification, mortgage document preparation, employee relocation, and real estate owned (REO) property disposition. Additional services are to be added to the network in the near future.

Orders for OneStop services can be placed by telephone or fax, or through electronic data interchange (EDI). According to Commonwealth, orders for services are routed to OneStop providers where they are processed electronically, eliminating much of the time and paperwork involved in a traditional real estate closing.



We're putting in some new additions

Sulcus's new Series V software now offers you the widest range of real estate closing programs under one roof.

When you're building your business, it's important to know that your automation can grow with you. When you choose Sulcus, that's not simply a possibility; it's a certainty!

Every software package that comes from Sulcus is a product of researching industry trends, anticipating tomorrow's needs, and rigorously constructing a solution that fits.

Our original products are still around (although much improved) after 15 years! Today, we still develop our products with that same care and attention to detail.

So, if you want automation that you can feel at home with now and build on as your needs grow, look to Sulcus.

Call 1-800-245-7900 now to learn more about how Sulcus can help you build your business.



Gracy Title—Looking Great at 120



Enduring memories of Gracy Title Company's 120-year milestone as the first title company in Austin, TX, are captured in these photographs of company officers at a celebration last year in which employees dressed in 1800s attire. From left are President Bill Thurman, an ALTA past president, and Executive Vice President Larry Molinare.

Airborne Offers Additional Savings

Airborne Express has announced a variety of savings packages representing an additional saving above the 40 percent price reduction ALTA members already enjoy through collective buying power.

Effective November 1, Association members pay only \$8.75 for a standard, 8-ounce Overnight Letter Express when they send a minimum of 10 shipments monthly. Those who do not meet this volume level will continue to qualify for Airborne's exclusive discount program, paying \$9.25 for standard Air Express Letter delivery. This includes free pickup and packaging, 24-hour access to Airborne's customer service center, and reduced international and second day delivery rates.

Members who deposit their shipments in an Airborne drop box save even more, paying \$7.50 at most for an eight ounce Overnight Letter Express package.

Last year, ALTA members collectively saved \$56,863 on shipping costs through the Airborne program.

Members can call 1-800-443-5228 for more information on the new ALTA rate structure. To qualify, callers must mention they are ALTA members.

Software Combines Title Data and Maps

Landata, Inc. of San Antonio and Informed Management Environment, Inc., have announced the joint development of software that will enable CD-ROM based maps to be combined with property title data for major metropolitan areas.

This PC desktop application allows selection and viewing of title data overlaid on high quality, parcel level map graphics. According to the announcement, San Antonio and Houston are the first cities targeted for the software.

California Firms Finish Transaction

Regulatory approval has been received for a transaction in which First American Title Insurance Company has acquired a 17 percent interest in combined North American Asset Development Corporation subsidiaries in exchange for its 50 percent interest in another North American Asset Development subsidiary, North American Title Insurance Company.

North American Asset Development owns the other 50 percent interest in North American Title Insurance.

The primary subsidiary of North Ameri-

can Title Insurance is North American Title Company, Walnut Creek, CA, which the announcement of the approved transaction describes as the largest independent title insurance agency in the country, with title premium revenues of \$79,629,476 for the year ended December 31, 1993.

North American Asset Development also is holding company for title insurance agencies including First Service Title Agency, Inc., Phoenix, and North American Title Company of Colorado.

1995 AFFILIATED ASSOCIATION CONVENTIONS

February

16-17 **Alaska**, Regal Alaskan Hotel, Anchorage, AK

April

19-22 **Tennessee**, Martiott Hotel, Chattanooga, TN

20-22 **Oklahoma**, Double Tree Warren Place, Tulsa, OK

30-May 2 **Iowa**, Gateway Convention Center, Ames, IA

May

4-7 **New Mexico**, The Inn at Loretto, Santa Fe, NM

9-12 **California**, LaCosta Resort, LaCosta, CA

19-20 **Palmetto**, Hilton Head Island Resort, Hilton Head Island, SC

June

1-2 **South Dakota**, Ramkota Inn, Sioux Falls, SD

1-4 **Texas**, Intercontinental Hotel, New Orleans, LA

2-4 **Virginia**, Lansdowne Convention & Conference Center, Leesburg, VA

3-6 **New Jersey**, Kiawah Island Resort, Kiawah Island, SC

9-10 **Arkansas**, Holiday Inn, Fayetteville, AR

11-13 **Pennsylvania**, Toftrees Resort & Conference Center, State College, PA

22-25 **Colorado**, Sheraton Steamboat Resort, Steamboat Springs, CO

22-25 **New England**, Wequassett Inn, Chatham-Cape Cod, MA

25-27 **Oregon**, Salishan Lodge, Glen Eden Beach, OR

July

13-15 **Illinois**, The Grand Geneva Resort, Lake Geneva, WI

13-15 **Utah**, Sun Valley Lodge, Sun Valley, ID

23-25 **Michigan**, Boyne Highlands, Harbor Springs, MI

August

Dates to be announced **Idaho**, Sun Valley Lodge, Sun Valley, ID

10-11 **Indiana**, Omni-Severin Hotel, Indianapolis, IN

10-12 **Montana**, Heritage Inn, Great Falls, MT

10-12 **North Carolina**, Omni Hotel, Charleston, SC

17-19 **Minnesota**, Canterbury Inn, Shakopee, MN

18-19 **Kansas**, Marriott Hotel, Overland Park, KS

20-23 **New York**, The Sagamore, Lake George, NY

24-26 **Wyoming**, Holiday Inn, Gillette, WY

September

6-8 **Nebraska**, Ramada Inn, Kearney, NE

7-9 **Missouri**, Holiday Inn Executive Center, Columbia, MO

7-10 **Nevada**, Hilton, Reno, NV

8-10 **DC-MD-VA**, Hilton, Williamsburg, VA

14-15 **Wisconsin**, Lake Lawn Lodge, Delavan, WI

14-16 **Dixie**, Eola Hotel, Natchez, MS

14-16 **North Dakota**, Site to be announced, Watford City, ND

17-19 **Ohio**, Marriott Society Center, Cleveland, OH

21-24 **Washington**, Chateau Whistler Resort, Whistler, British Columbia, Canada

October

20-Nov. 1 **Florida**, PGA National Resort, West Palm Beach, FL



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is stronger and we’re better equipped to weather the ups and downs of our industry.

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THURSDAY, September 22, 1994

__ 1 TOP Program • Panel

FRIDAY, September 23, 1994

- __ 3 "Political Outlook" • Howard Fineman
- __ 4 The Wonderful World of Commercial Leasing • Part 1
- __ 5 The Wonderful World of Commercial Leasing • Part 2
- __ 6A EDI: Magic at Your Fingertips
- __ 6B EDI: Magic at Your Fingertips ... Demonstration
- __ 7 Managing Your Most Valuable Asset -- Employee Performance Evaluations
- __ 8 Flirting with Disaster -- Can Your Business Survive the Seven Plagues?
- __ 9 Claims Awareness

SATURDAY, September 24, 1994

- __ 10 "Catch Me If You Can" • Frank Abagnale (Disney will be making a movie of him ... don't miss this series!)
- __ 11 "Seminar on Fraud" • Frank Abagnale • Part 1
- __ 12 "Seminar on Fraud" • Frank Abagnale • Part 2
- __ 13 Parent Companies and the Importance of Title Insurance Subsidies

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Regional Seminars Scheduled by ALTA

Three ALTA regional seminars are being scheduled for 1995, according to the Association Education Committee. All are co-sponsored by state title associations.

The events are set for March 3 in Atlanta (Swissotel, co-sponsored by Dixie Land Title Association), May 18-19 in Billings, MT (Sheraton Hotel, co-sponsored by Montana Land Title Association), and September 26 in Kansas City, MO (co-sponsored by Missouri Land Title Association).

Futher details will be provided by ALTA's Land Title Institute as the individual meeting dates draw nearer.

Milton Schnebelen Dies in Missouri

Services and burial were at Farmington, MO, for Missouri Land Title Association Past President Milton J. Schnebelen, 76, who died at his home there following an extended illness.

He was chairman of the board of the St. Francois County Abstract Company, Farmington, and a member of the Missouri Bar Association. A veteran of World War II and the Korean War, he held the rank of lieutenant commander in the Navy Reserve.

Survivors include his wife, Phyllis R. Powell Schnebelen, two daughters, a son, two brothers, seven grandchildren and three great-grandchildren.

His daughters include Cara L. Detring, president of St. Francois County Abstract, a member of the ALTA Board of Governors and a member of the Association Education Committee.

Credit Refinancing By First American

The First American Financial Corporation has announced refinancing of its \$65 million credit facility to provide for an additional \$20 million of variable rate indebtedness to pay down existing higher rate trust deed indebtedness as well as provide for additional liquidity in the form of a \$30 million revolving credit facility.

According to the announcement, a syndicate of banks led by the Chase Manhattan Bank, N. A., also has agreed to provide a reduced variable interest rate and has eliminated or relaxed several restrictive covenants.



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But perhaps the most amazing thing about ProForm is its \$995 price tag for one license. Plus, all SoftPro software comes with a 30-day money back guarantee. To receive more information and a free demo disk, call SoftPro today at 1-800-848-0143.

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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 ABTRACTER 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.

19 **Group Insurance Trust Meeting**, Eagle Ridge Inn, Galena, IL

September

26 **ALTA Regional Seminar** (co-sponsored by Missouri Land Title Assn.), Kansas City, MO

October

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

Lawyers Title Adds Division in Florida

An agreement to acquire the assets of GulfAtlantic Title Agency of Orlando, Inc., Winter Park, FL, has been announced by Lawyers Title Corporation, parent of Lawyers Title Insurance Corporation.

GulfAtlantic now operates as a division of Lawyers Title under its previous name. Daniel A. Wallace, GulfAtlantic president, continues in that position as head of the new division.

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1995 CALENDAR OF MEETINGS

January

(All of the January meetings listed below are at Tucson National Golf and Conference Center)

19 **Abstracters/Agent Research Committee**

20 **Membership and Organization Committee**

20 **Title Industry Assurance Company Board**

20-21 **Education Committee**

20-21 **Public Relations Committee**

23 **ALTA Board of Governors**

23 **Title Industry Political Action Committee Board of Trustees**

23-24 **Title Insurance Forms Committee**

23-24 **Land Title Systems Committee**

March

3 **ALTA Regional Seminar** (co-sponsored by Dixie Land Title Assn.), Swisotel, Atlanta, GA

6-7 **ALTA Federal Conference**, Willard Hotel, Washington, DC

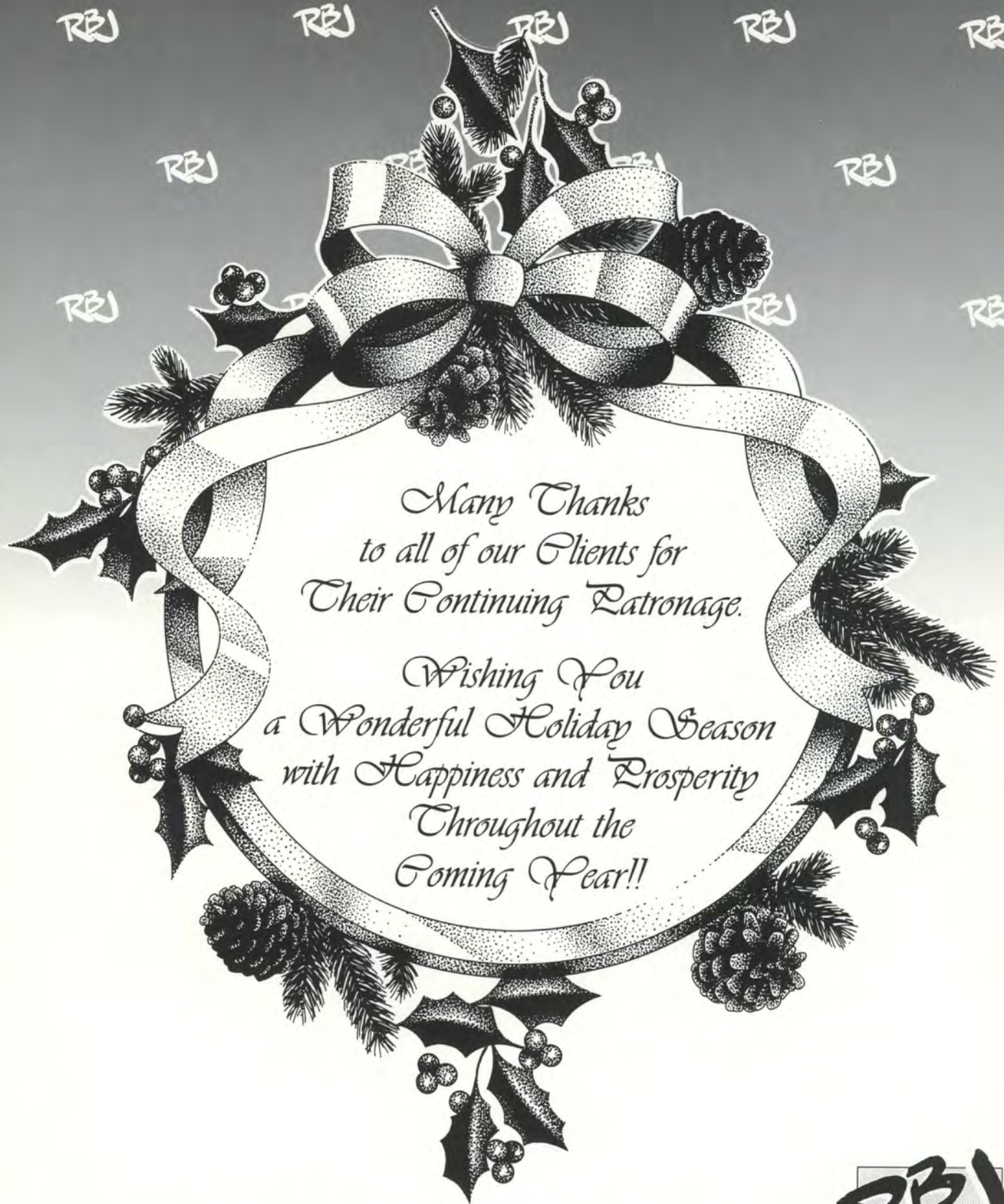
April

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

May

7-9 **Title Counsel Meeting**, The Reach Resort, Key West, FL

18-19 **ALTA Regional Seminar** (co-sponsored by Montana Land Title Assn.), Sheraton Hotel, Billings, MT



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