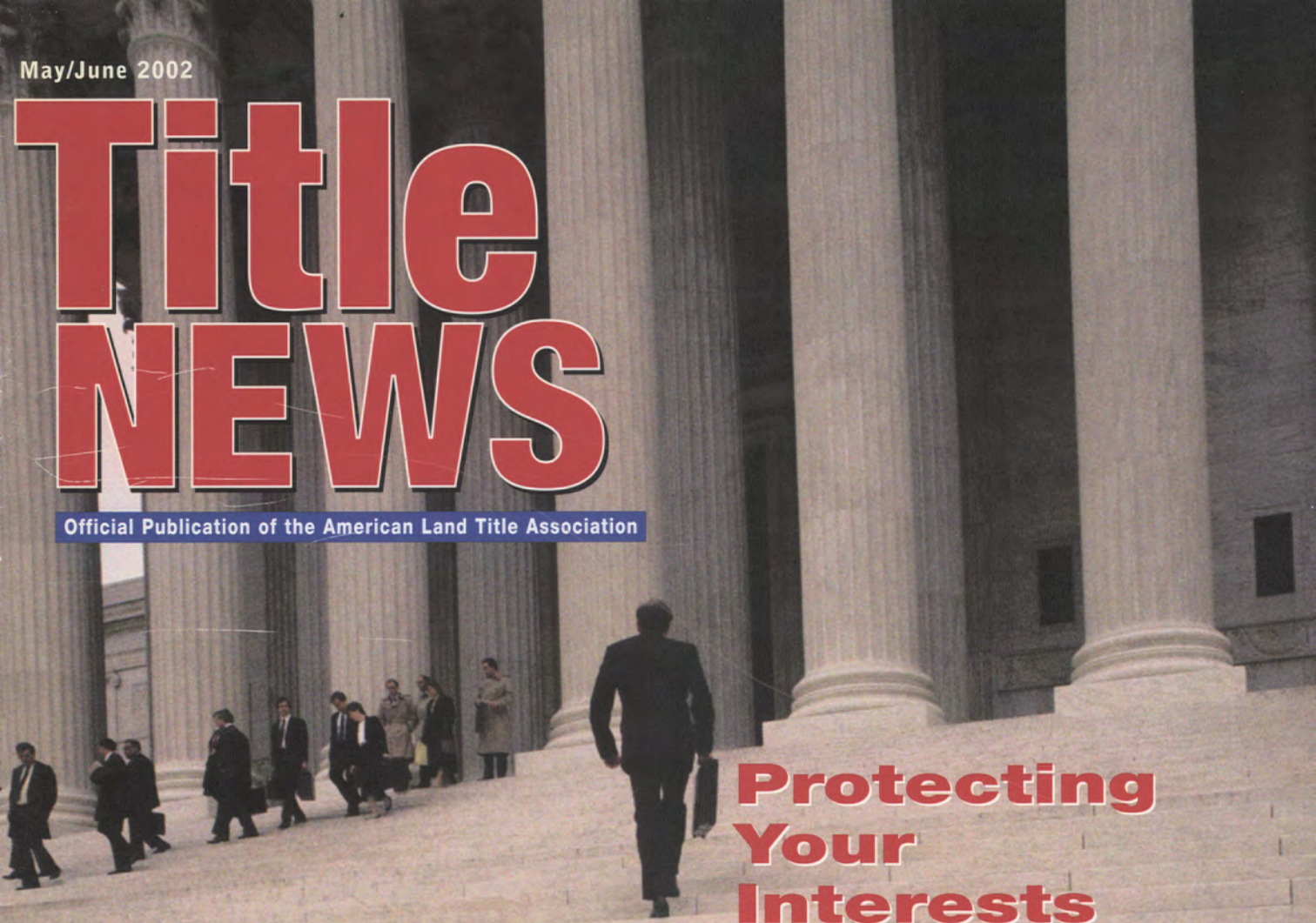
May/June 2002

Title NEWS

Official Publication of the American Land Title Association



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PLUS

- The Threat of Mortgage Impairment
- Hiring, Motivation, and Retention in the 21st Century
- Reverse 1031 Exchanges Gain Popularity
- Campaign Finance Reform & ALTA
- Highlights from ALTA's 2002 Tech Forum

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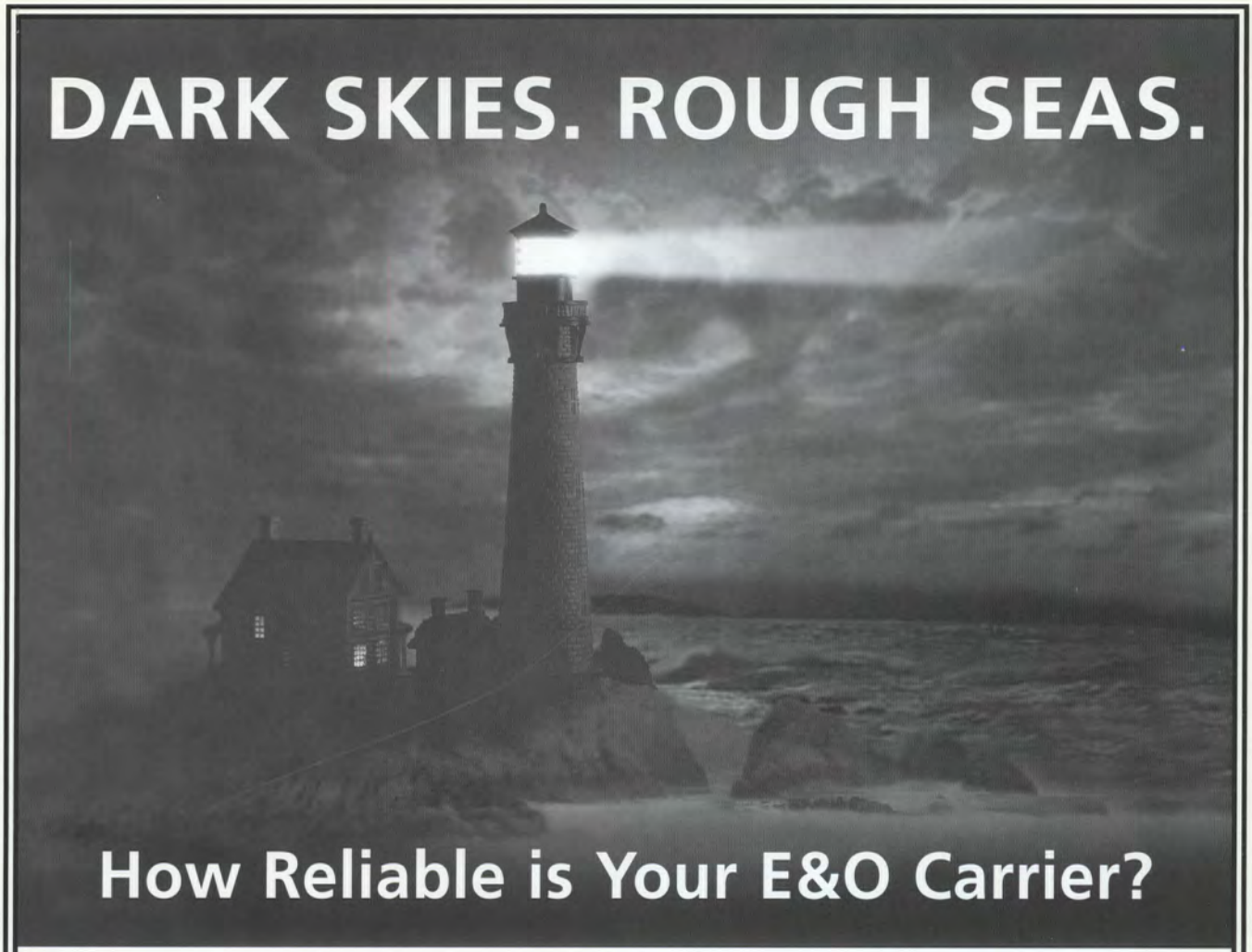

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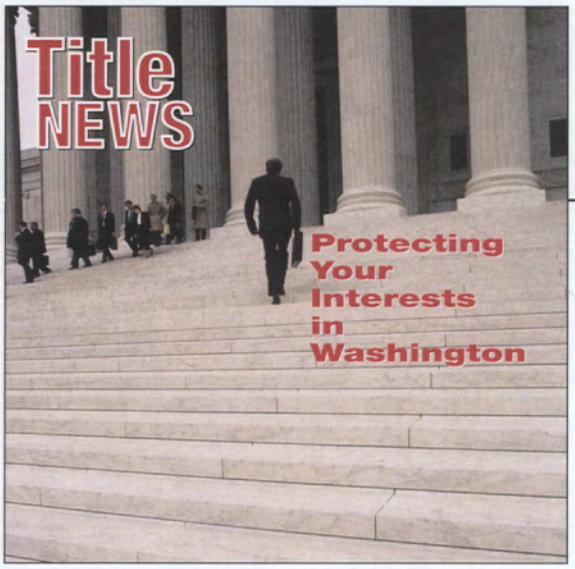

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Title NEWS

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Up (Charge) Up (Charge) and Away!!!

In October 2001, the Department of Housing and Urban Development (HUD) released its first formal position in several years on compliance with the Real Estate Settlement Procedures Act (RESPA). HUD stated RESPA provided the regulatory authority to determine whether the fees charged directly to a consumer for any type of settlement service were reasonably related to their value. Unfortunately, this policy statement is not clearly understood because the courts have consistently rejected HUD's view. Confused? You're not alone.

In response to several court decisions HUD has stated formally that mere upcharges are violations of RESPA. Notwithstanding a federal appellate court ruling that it was not a violation of RESPA for a lender to charge a fee for a third-party service in excess of the fee charged to the lender, HUD has maintained its strict position against upcharges (*Echevarria v. Chicago Title and Trust Co. 7th Circuit*). In *Echevarria* the court ruled a markup by a title company for recording fees charged to home mortgage borrowers did not violate federal law because the title company was not splitting the markup with another party.

Similarly, in the case of *Boulware v. Crossland Mortgage Corp.* a consumer filed suit after being charged $65 for a credit report allegedly costing the lender $15. A Maryland district court rejected the *Boulware* complaint based on the precedent espoused in *Echevarria*. The *Boulware* case was scheduled for hearing this past April in the 4th U.S. Circuit Court of Appeals.

Who Do We Believe?

Although the law does say "no person may receive any portion, split or percentage of any charge…other than for services actually performed," it does not say service providers may not directly engage in markups. Since the controversy has tremendous ramifications on how we do business and whom we do business with, RESPA reform is essential.

What we need are clear statements from HUD as to what is and is not legal under RESPA. HUD Secretary Mel Martinez promised "very sweeping" RESPA reform this year with a goal of providing clarity, making the mortgage process more efficient, and ensuring consumer disclosure and choice. ALTA supports settlement-services legislation that promotes consumer choice and requires meaningful disclosure. ALTA also continues to seek an exclusion for title insurance from any "package" of settlement services that is exempt from RESPA and allows consumers a choice and opportunity to shop for services and compare prices. To read more about ALTA's action on RESPA, see the cover story in this issue of *Title News*, and stay tuned for additional updates.

Frank P. Willey

E&O Insurance Offers Member Dividends

ALTA's endorsed professional liability/E&O insurance program, TIAC (Title Industry Assurance Company), is experiencing a tremendous growth in the number of ALTA members it insures. The growth is due to the hardening insurance market, insurers ceasing to write title agents and abstracters, and other markets increasing their rates dramatically. Now in its 14th year of operation, TIAC currently insures over 480 title agency and abstracting firms and operates in 42 states. TIAC will soon be available in all states except Alaska, Nevada, and West Virginia.

Unlike many of its competitors, TIAC is not increasing rates and has, in fact, paid policyholders dividends the last three years with another dividend anticipated in 2002. Governed by a Board of Directors composed of ALTA member title agents and abstracters, TIAC is the only professional liability insurer dedicated exclusively to serving the needs of ALTA member title professionals. To learn how you can participate, call TIAC at 800-628-5136, or go to ALTA's home page and click on the TIAC logo.

ATIM Elects Officers

The Association for Title Information Management (ATIM) held its 17th Annual Meeting on April 8th and 9th in San Antonio, TX. Over a hundred attended. Before the program began, new officers were elected including several ALTA members: President: **Peter J. Biglin**, SKLD Information Services, LLC, Denver, CO; 1st V.P.: **Linda Larson**, Old Republic National Title Ins., Minneapolis, MN; 2nd V.P.: **John N. Sayers**, Attorneys' Title Ins. Fund, Orlando, FL; Secretary: **James P. Sibley**, Title Data, Inc., Houston, TX; Treasurer: **Amy Sabourin**, Computerized Title Records, Santa Rosa, CA.

ATIM is a nonprofit, unincorporated organization which exists solely to sponsor an annual conference to discuss land title plants and the role they play or will play in the real estate transaction (and the title insurance industry in particular). For more information, contact Peter Biglin at 303-820-0899 or Jay Sibley at 713-880-2600 or jsibley@titledata.com

calendar

ALTA Coming Events

May
5-7
ALTA Federal Conference
Washington, D.C.

17-22
Annual Internal Auditors Meeting
Key West, FL

June
19-21
Systems Committee Meeting
Boston, MA

July
12-13
Education Committee Meeting
San Francisco, CA

24-25
Finance & Planning Committee
Washington, D.C.

September
22-24
Reinsurance Committee
Beaver Creek, CO

28-Oct. 1
Annual Accountants Meeting
Portland, OR

October
16-19
ALTA Annual Convention
The Breakers Hotel
Palm Beach, FL

November
4-6
Title Counsel Fall Meeting
New Orleans, LA

23-26
TRC Board Meeting
San Francisco, CA

Affiliated Association Conventions

May	
2-5	Palmetto
3-4	New Mexico
3-5	Oklahoma
5-7	Iowa
19-21	New Jersey
June	
6-8	Texas
9-11	Pennsylvania
20-22	Arkansas
20-23	Virginia
23-25	Oregon
27-30	New England
TBD	South Dakota
July	
11-14	Illinois
14-16	Michigan
18-20	Utah
August	
1-3	North Dakota
1-3	Montana
7-10	Idaho
8-10	Kansas
8-10	North Carolina
9-11	Minnesota
18-21	New York
TBD	Wyoming
September	
5-7	Missouri
5-7	Washington
12-14	Indiana
12-15	Dixie
12-15	Maryland
15-18	Ohio
18-20	Nebraska
19-22	Wisconsin
TBD	Kentucky
TBD	Colorado
TBD	Nevada
November	
6-9	Florida
TBD	Arizona
December	
5-6	Louisiana

Who You Gonna Call?

To continue the series of introducing you to a key member of the ALTA staff, in this issue we are featuring **Ann vom Eigen**, ALTA's legislative and regulatory counsel.

Ann has been with ALTA for 11 years. Currently she is responsible for lobbying ALTA's issues on the hill, with federal agencies such as the Department of Housing and Urban Development, the IRS, and with other organizations including Fannie Mae and Freddie Mac. She oversees ALTA's Political Action Committee called TIPAC, and uses monies raised to support members of Congress who support title industry positions. Ann also monitors issues in the mortgage and real estate industries that might have an impact on ALTA members. She manages the Government Relations Committee of ALTA and its Technology Task Force. And she is responsible for overseeing ALTA's grassroots activities.

Got a question about a regulation or piece of legislation affecting the title industry? Ann is your resource. She can be reached at ann_vomeigen@alta.org or 1-800-787-2582.

Next issue: Richard McCarthy, ALTA's Director of Research.

Title Industry Statistics Available Online

For the fourth year, ALTA has collaborated with A.M. Best on the report "Title Insurance and Industry Statistics" released in December 2001. The study outlines the history of title insurance, its economic growth in 2000, and examines title industry attributes, economic results and issues, regulatory environment, business risks, and unique challenges the industry faces in the rapidly changing real estate and insurance markets. This year's report is only available online. Visit http://www.alta.org/mmbrship/indrsrch/SR1101title.pdf to access the report.

Learn the Latest Technologies Right at Your Desk

It's easy. Audio tapes from the recent ALTA Tech Forum can help you learn how to improve efficiency through streamlined wor flow, manage the cultural change in a paperless office, develop internal e-mail and Internet policies, and get your marketing onto the Internet. To order, either download the order form from the ALTA Web site, or contact Sharon Johnson at sharon_johnson@alta.org.

Dave Barry Confirmed for Annual Convention

Dave Barry, a humor columnist for the Miami Herald, will be the Saturday Keynote Speaker at the ALTA Annual Convention, October 16-19 in Palm Beach, FL. Dave's column appears in more than 500 newspapers in the United States and abroad. In keeping with his nutty brand of humor, here are a few things his bio says about him. In 1988 he won the Pulitzer Prize for Commentary. Many people are still trying to figure out how this happened. Dave has also written a total of 21 books, although virtually none of them contain useful information. He has a 19- year-old son and a two-month old daughter, who have virtually identical sleeping habits. Don't miss Dave Barry as he shares his humor with ALTA members!

MISMO Announces E-Commerce Milestone

The Mortgage Industry Standards Maintenance Organization (MISMO) announced that it has reached a major milestone toward "paperless" electronic or Internet mortgage transactions with the first full release of a set of data structures that are similar in format, contain common syntax and structures that range all they way from mortgage application through to the servicing process. Fannie Mae and Freddie Mac have agreed to support the new 2.1 Logical Data Dictionary and Document Type Definitions. This acceptance will means the industry can continue to move swiftly to make the Internet a viable option for all aspects of the mortgage process.

ALTA's Kelly Romeo, CAE, director of technology, is serving her second year on the Governance Committee of MISMO.

Set Your 2003 and 2004 Calendars

Yes, it's a long way off, but we have confirmed the dates for the 2003 and 2004 ALTA Federal Conferences and want you to put them on your calendar. In 2003 the Federal Conference will be April 13-15, and in 2004, the dates will be April 19-21, both in Washington, DC. Mark your calendars in advance so that nothing interferes with your visit to Washington!

Connecticut Shows How Grassroots Is Done

On March 22 James M. Czapiga, northern CT state manager for First American Title Insurance Company and CT state trustee for TIPAC, met with Connecticut Congressman James H. Maloney, 5th District.

Mr. Czapiga and Congressman Maloney met to discuss issues facing the title insurance industry and pending legislation before Congress. As a member of the Banking and Financial Services Committee in the House of Representatives and a former real estate attorney and agent for First American Title, Congressman Maloney was very versed in the issues facing our industry including Mortgage Impairment Insurance.

Mr. Czapiga inquired about the status of RESPA/TILA reform and the reform of Regulation Q in his committee. The Congressman said it was important for the committee to look at these reforms and to address them after working on the urgent issues brought to light by the Enron collapse. Since he used to close residential loans many years ago and recently went through his own refinance, Congressman Maloney made comments about how closing files used to be "much thinner" and realizes that RESPA/TILA reform is important to the industry.

If you visit with a member of Congress or need assistance setting up a meeting, contact Robert Blumel, ALTA's grassroots manager at robert_blumel@alta.org or 1-800-787-2582.

ALTA Lobbies Amendment

On April 10, Charlie Foster, chairman of the board and CEO, and Russ Jordan, senior vice president/general counsel and secretary for LandAmerica Financial Group, Inc., Richmond, VA, accompanied Ann vom Eigen, ALTA's legislative/regulatory counsel to meetings with several Senators to discuss ALTA's amendment to the bill on Interest on Business Checking. The bill passed the house, but action is uncertain in the Senate. The group discussed oversight hearings on electronic mortgage transactions and H.R. 234, which would recognize several Indian tribes in Virginia for purposes of federal law.

ALTA Holds Congressional Briefing on Title Insurance

In mid-February, ALTA held two congressional briefings on the value of title insurance. Congressman Peter King (R-NY) (left) meets with ALTA President Frank Willey, (center) and Ann vom Eigen, ALTA's legislative and regulatory counsel, to discuss the issue. Congressman King chairs the Subcommittee on Domestic Monetary Policy, Technology, and Economic Growth of the House Financial Services Committee.

Security Options Topic of Discussion

Gregory Kosin (center), president of the Greater Illinois Title Company, Chicago, and Ann vom Eigen, ALTA's legislative/ and regulatory counsel, discuss security options post September 11 with former president Bill Clinton. The discussion took place at a reception for Rep. Jane Harman (D-CA), ranking minority member of the Terrorism and Homeland Security Subcommittee of the Intelligence Committee.

Highlights from the 2002 ALTA Tech Forum

There was so much good information during the sessions that people stayed afterward to talk to the presenters.

Sometimes the best learning comes from sharing success stories and ideas with peers.

Gary Kermott of First American Title Insurance Co. (at podium) participated on a panel of national underwriters who spoke about their efforts to keep their customers happy. Also on the panel from right to left are Stewart Morris, Jr., Stewart Title; Pat Stone, Fidelity National Financial; Rande Yeager, Old Republic National Title Insurance Co.; Janet A. Alpert, LandAmerica Financial Group; and moderator, Stanley Friedlander, Continental Title Agency Corp.

There was plenty of time for socializing and networking—the most important part of the convention!

David Barkley, Freddie Mac (l), and Carmen Bramante, Fannie Mae (r), discussed the electronic closing process and the future of the real estate and mortgage finance industries.

Frank Willey (l), ALTA president, congratulates Geri Pender, Philip R. Seaver Title Co., MI, who won a complimentary registration and hotel stay for next year's Tech Forum.

Committee meetings are not always work and no play. The Land Title Systems Committee takes a break to show their fun side as well.

LandAmerica sponsored the Internet Playground, providing attendees the opportunity to check e-mail while away from the office.

Thank You Sponsors!

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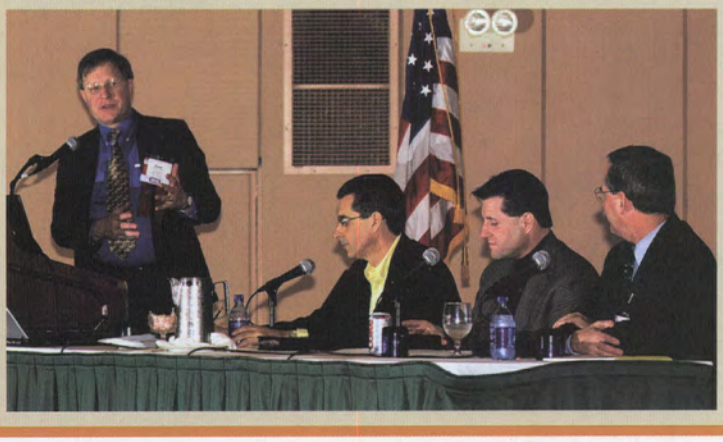
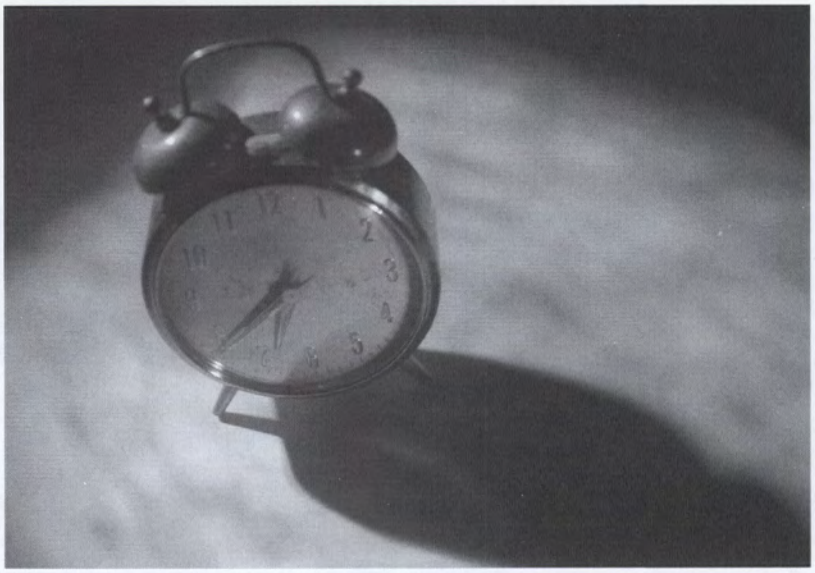
Alan Black, The Title Co., Inc. (l),and ALTA Board Member Mike Wille (r) share the handy program

In a very candid discussion, a panel of county recorders told the audience about the challenges they face trying to automate their land records and how title companies can help.



SEE YOU NEXT YEAR!

Tech Forum 2003
March 9-11, 2003
Mandalay Bay
Las Vegas, NV



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Protecting Your Interests in Washington

by Ann vom Eigen

This past year's refinancing boom has been generous to the title industry. However, even at a time when the real estate industry is growing, the political environment for the title insurance industry has begun to focus on the cost to the consumer and is surprisingly hostile at the Federal level. In this article I will provide an update on the most pressing legislative issues facing our industry: educating Capitol Hill on the value of title insurance, Government Sponsored Enterprise (GSE) reform, predatory lending and RESPA reform, and interest on business checking. ALTA has many more issues both legislative and regulatory, and members can check our Web page (www.alta.org) for action updates on these maters. However, the following issues will be the key focus of the 2002 ALTA Federal Conference.

We need to continue to educate members of Congress and their staff(s) about the value of title insurance and how these issues will affect our businesses.

Fox in the Henhouse

"I know how we can cut the cost of buying a house by between a quarter and a third for people that are buying a house. And the way to do it is to do something about title insurance…". With this lead Senator Phil Gramm (R-TX), Ranking Republican on the Senate Committee on Banking, Housing and Urban Affairs, urged the new Secretary of HUD, Mel Martinez, to undertake an evaluation of title insurance in Federal housing programs to change title insurance requirements.

What effect will Gramm's remarks have on our industry? While the title insurance industry is increasingly becoming a real estate information services industry, the most important aspect of our basic product, title insurance rates, is regulated by state insurance departments. Product-development changes in the forms and policies, which are our basic product, are also regulated by the states. Nevertheless, Gramm's statement shows that Federal legislators and regulators do play a role and affect our industry. In past years we have dealt with business-structure issues, such as bank entry into the title business, that have affected our business structure, service delivery, and our margins. Based on Senator Gramm's remarks, the Federal government and the government-sponsored enterprises (GSEs) can now begin to deal with the ultimate utility and price of our product. The Federal government can directly affect our business operations in surprising respects through (1) explicit requirements to use title insurance in Federal programs and by the GSEs, (2) interpretations of Federal statutes, such as RESPA, and (3) legislation changes and interpretations affecting our business environment, such as the Interest on Business Checking legislation, which can directly affect the treatment of our escrow accounts.

Educating the Hill

This increases the need for active involvement by the industry in ALTA efforts to educate the members of Congress and their staff who act on key issues in the area. Although this is a continuing process, ALTA has made extra efforts this year, given Senator Gramm's perspective. We have stepped up our education programs

on Capitol Hill. Rep. Marge Roukema (R-NJ) and Rep. Mark Green (R-WI), respectively chair and vice chair of the House Financial Services Committee, graciously helped ALTA to arrange briefings of members and staff of the House Financial Services Committee in February. Bert Rush, senior vice president of First American Title Insurance Company of Santa Ana, CA, and Elizabeth Zajic, vice president, and district manager, senior counsel for First American Title Insurance Company, Washington, D.C., accompanied me in briefing the House staff on title insurance practices, with an emphasis on claims and regional differences. With the assistance of Senator Paul Sarbanes (D-MD), chair of the Senate Banking Committee, the group also briefed the staff on the Senate Banking Committee side as well.

Senator Gramm's remarks could still lead to an increased focus on title insurance requirements in Federal programs at HUD, the Veterans Administration, Fannie Mae, and Freddie Mac. Currently program requirements at these agencies vary. There is no Federal statute that requires any of these entities to require title insurance on properties purchased or insured. In general, Fannie Mae, Freddie Mac, the Federal Housing Administration, and the Veterans Administration do not require title insurance. Rather, they require title "evidence," which can include title insurance but also includes title evidence such as attorney opinions. Freddie Mac requires title insurance for ARMs and for foreclosures. Consequently, actual Federal requirements to buy title insurance are very limited. However, even those requirements can be altered and modified, and products like mortgage impairment can be used. Currently pending legislation to restrict the activities of the GSEs could arguably limit that alternative.

The political environment for the title insurance industry is surprisingly hostile at the federal level.

Would GSE Reform Help?

Last year and again in April this year, Rep. Richard Baker (R-LA), who now chairs the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises of the House Financial Services Committee, introduced legislation to limit the activities of Fannie Mae and Freddie Mac. The legislation would create an independent Board, the Housing Finance Oversight Board (the Board), to be housed in the Executive Branch. The Board would replace the Office of Federal Housing Enterprise Oversight (OFHEO), HUD, and any other Federal agency exercising regulatory authority over Fannie Mae or Freddie Mac.

From ALTA's standpoint the key provision in the bill is Section 110 of the current version. It provides that the Board will have authority to approve all "new activities" and to review all ongoing activities of the GSEs. The bill provides that the GSEs may not commence a new activity without Board approval. The Board may approve GSE involvement in a new activity after giving interested parties an opportunity to comment on the proposed activity. The Board would look at several factors. It would review (1) whether the new activity is authorized under the relevant charter act or other Federal law (2) whether the GSE can conduct the new activity in a safe and sound manner and (3) whether the new activity is in the public interest.

A new activity is defined as "any program, activity, or business process providing financing or other services related to the origination of conventional mortgages (including purchasing, servicing, selling, and lending on the security of such mortgages)" that (1) is 'significantly different' from programs, activities, or business processes that have been approved under this Act or that were approved or engaged in before the date of enactment of the 1992 Act, or (2) represents an expansion, in terms of dollar volume or number of mortgages involved, above limits expressly contained in any prior approval. The good news to the title industry is that the phrases "program," "activity," "business process," and "significantly different" are not defined. This language might prevent the GSEs from engaging directly in title insurance.

The language could also arguably affect the major marketplace issue currently facing the industry—mortgage impairment. As we assess the effects of developing mortgage impairment products in the marketplace, we also need to question whether the GSEs can omit title insurance or an attorney's opinions on loans they purchase or hold. A willingness to accept some lesser form of title assurance for the promise of the seller-servicer to

repurchase the loan in the event of any title problems could arguably be deemed "significantly different" from current activities.

In any case, Congress is not likely to pass this legislation in the coming year. As *Title News* goes to press, the House and Senate Financial Services Committees, which have jurisdiction over most of the statutes regulating the title insurance and settlement industry, are focused on Enron reforms. Accountability to stockholders and workers' retirement savings are pressing and important public policy questions. The House Financial Services Committee is working on legislation to deal with these issues. Solutions will gain political mileage for politicians, so the environment will affect the timing of issues affecting the title insurance industry. Such issues will dominate the debate of the House and Senate Committees. A spokesman for Rep. Richard Baker indicates that the congressman will "turn his attention back to GSE reform after the Enron debate is completed."

Even if Congress develops a legislative solution for Enron, the shift in congressional focus to corporate accountability and disclosure will still shape the GSE debate. On April 8, 2002, Armando Falcon, director of the Office of Federal Housing Enterprise Oversight Board, said that OFHEO would conduct a comprehensive review of the GSEs financial disclosures. Rep. Baker's attention will also turn to those issues in the House of Representatives. While Senator Chuck Hagel (R-NE), a member of the Senate Banking Committee, which has jurisdiction over the issue, has asked key leaders in the Senate to review this issue, they have declined to involve the Senate in the matter this year.

Much of the focus on the GSEs will be at the regulatory level. ALTA Federal Conference attendees will hear Jimmie Barton, deputy director of the Office of Federal Housing Enterprise Oversight Board, describe current regulatory controls over the GSEs. Participants will also have an opportunity to hear Jamie Gorelick, vice chair of Fannie Mae, discuss the outlook for Fannie Mae.

Could Congress Eliminate Title Insurance?

Fannie Mae, Freddie Mac, and HUD have very detailed requirements for title evidence in their respective seller/servicer guidelines or regulations. However, these detailed regulatory requirements are unlikely to be dealt with in legislation. Consequently, attendees at the ALTA Federal Conference will ask their members of Congress to co-sign letters to HUD, asking for congressional review before changes are made to the regulatory requirements.

Fannie Mae and Freddie Mac charters, which provide the Federal authority establishing these entities, do not address title insurance. There is no statutory requirement to purchase title insurance. Consequently, there is nothing to eliminate. However, as a business decision, Fannie Mae and Freddie Mac are generally encouraged to limit their risk. They do so by requiring lenders doing business with them to comply with requirements of sellers/servicers' guidelines established by the entities and applicable law. Lenders warrant that they are complying with Federal and state law and specific provisions of the entities selling and servicing contracts. Essentially, lenders make three warranties: the validity of the mortgage, priority of the lien, and enforceability of the mortgage. Specifically, a seller of loans warrants that the mortgage conforms to all GSE requirements, is a valid lien on the underlying property, and is enforceable. If the mortgage is a first lien, the seller warrants that the property is free and clear of all encumbrances and liens that would have priority over the mortgage lien (except for real estate taxes and special assessments that are not yet due and payable); and that the property is free and clear of all mechanic's and materialmen's liens, and there are no outstanding rights that could result in any such liens being imposed on the property.

If any of these title-related warranties is untrue, the secondary market agencies may require the seller to repurchase the mortgage, whether or not the lender had actual knowledge of any problems. In addition, the secondary market entities may require the lender to

Fannie Mae, Freddie Mac, and HUD have very detailed requirements for title evidence in their respective seller/servicer guidelines.

indemnify and hold Fannie Mae harmless against all losses, damages, and legal fees resulting from a breach of warranty.

Federal agencies such as FHA and VA also require some type of title "evidence." There is no explicit requirement for a title insurance policy for FHA loans. HUD/FHA regulations require "satisfactory title evidence" for mortgage liens and deeds in lieu of foreclosure, which may be in the form of a title insurance policy. Such satisfactory title evidence may include any one of several different alternatives such as a fee or owner's policy of title insurance a mortgagee's policy of title insurance supplemented by an abstract and an attorney's certificate of title an abstract of title prepared by an abstract company or individual engaged in the business of preparing abstracts of title and accompanied by the legal opinion as to the quality of such title signed by an attorney experienced in examination of titles a Torrens or similar title certificate or evidence of title conforming to the standards of a supervising branch of the Federal government or a state government. Instead of instituting foreclosure actions, the lender may acquire property from a mortgagor owning a single property, and it transfers a good marketable title accompanied by satisfactory title evidence to the FHA Commissioner. On the HUD/VA Addendum to the Uniform Residential Loan Application, the lender must also certify that the security instrument has been recorded and is a good and valid first lien on the property described.

The VA does not require a lender making a VA loan or a veteran-borrower to obtain title insurance. In fact the VA has a "local custom and practice" standard that allows title to the estate to be that which is acceptable to informed buyers, title companies, and attorneys in the community where the property is located.

What can be done? ALTA members attending the Federal Conference will ask their representative to send a letter to Federal agencies to notify their member of Congress if the agency changes the requirements for title evidence. An increased level of congressional "interest" could serve to make these Federal agencies think twice before they change their requirements.

Interest on Business Checking

Legislation to allow banks to offer interest to businesses holding checking accounts is proceeding through Congress. The most recent version, a bill passed by the House on April 9, provides that effective two years from the date of enactment, banks will be allowed to pay interest on business checking accounts. Under 1930s laws, banks cannot pay interest on business checking accounts. Large banks have been able to give their commercial clients interest by conducting "sweeps" of money from the noninterest-bearing accounts into interest-bearing vehicles, six times a month. Supporters have said that smaller institutions often are prevented from conducting such sweeps because of legal barriers and a lack of technology.

How will this affect our business? The bill may affect bank and title agency escrow relationships, since it would lift the current "Regulation Q" prohibition against banks paying interest on escrow funds. The bill would effectively eliminate certain well-established financial benefits and checking services that large depositors now receive from banks in lieu of interest. These services are provided in accordance with current guidance under Regulation Q. For example, Regulation Q provides that offering the following services without charge is not the payment of interest:

1. Armored car services; short-term overdraft privileges; full endorsement stamps; printed checks; safe-deposit boxes and night-depository facilities; preparation of reports required of a bank by a municipality; loans at preferential interest rates; and maintenance of a permanent record of all checks and deposits.

To assure that the current provision of services by banks in accordance with Regulation Q and identical legal treatment would be continued even if the legislation passes, ALTA has sought a series of amendments to clarify that current law will continue. ALTA was successful in assuring that the Federal Reserve has indicated "they don't have a dog in this fight."

Rep. Judy Biggert (R-IL) offered an amendment in the Financial Institutions Subcommittee consideration of the Interest on Business Checking legislation to address this issue. A version of this amendment was adopted in the full Financial Services Committee consideration of H.R. 974, Interest on Business Checking in March 2001. During the fall, with the support of Greg Kosin, chair of the ALTA Government Affairs Committee, we received the support of two congressmen, Ken

Bentsen (D-TX) and Don Manzullo (R-IL), on the House Financial Services Committee. Indeed, both legislators signed letters to Chairman Mike Oxley of the Financial Services Committee urging him to support modifications to the bill. Additionally, Congressman Jim Maloney (D-CT) sent the very same letter to Chairman Chris Dodd of the Senate Banking, Housing and Urban Affairs Subcommittee on Securities and Investment.

In House action on April 9, 2002, with the help again of Rep. Biggert, ALTA was successful in achieving adoption of several modifications to the amendment in H.R. 1009, the Business Checking Freedom Act. ALTA member lobbying is essential to hold this amendment in the full U.S. Senate. Again, Senator Gramm is influencing the debate. The amendments may be dropped because of opposition by Senator Gramm's financial services staff to the House-passed amendments.

Consequently, ALTA members will carry a draft letter to Senators Gramm and Sarbanes to Capitol Hill asking that Section 7 of HR 1009 be retained in any future Senate action.

Predatory Lending and RESPA

State and Federal legislators and regulators have undertaken a variety of efforts to address abusive lending practices that have led low-income borrowers into unsuitable loans. Because the default and foreclosure rates of predatory loans are very high, politicians have attempted to develop a variety of solutions to address these issues.

Surprisingly, from the ALTA perspective, a possible solution to the problem of predatory lending that has been mentioned at the Federal level is new exemption from RESPA Section 8 for creditors who provide a package of settlement services at a guaranteed price. This new exemption would allow lenders to ask settlement service providers such as title insurance companies and agencies to pay referral fees to get into the package or to reduce the price of their services to get into the guaranteed price package. Either approach is likely to reduce title industry margins as we face our customer demands. This solution is also being promoted by interest groups, such as the Mortgage Bankers Association of America and the Consumer Mortgage Coalition, and included among recommendations in a "HUD-Treasury Report on Predatory Lending."

Why is this a popular solution? HUD Secretary Mel Martinez said of his recent closing materials, "If I'm a lawyer and the secretary of HUD and I'm not reading this junk, you know there's work to be done fixing the system." That is why he intends to address the problem of consumer confusion at settlement by RESPA reform.

"We're going to do something," Martinez said. "The problem has been an unwillingness by prior administrations to make the tough choices—to crack down on kickbacks and to make the disclosure system simpler and understandable for home buyers."

Given the resources of a Federal agency, Martinez established an internal HUD Task Force to review this issue. Many HUD staff are predisposed to approve packaging because they hear the message from the lender community, and they believe that packaging will force down consumer prices. However, they are currently evaluating whether HUD has authority to actually provide a new exemption to Section 8.

Rep. Mike Oxley (R-OH), chair of the House Financial Services Committee, which has jurisdiction over RESPA reform, recently stated that the committee would focus on reform when its work on deposit insurance and Enron-related legislation was completed.

"One of the goals of our committee, before I die, am term limited, or am run out of office, is to reform RESPA," Oxley indicated.

In addition, Rep. John LaFalce (D-NY), ranking member of the House Financial Services Committee, wrote to HUD on March 26, 2002. In that letter, ranking member LaFalce raised the concern that HUD would be exceeding its statutory authority if it proposed a broad exemption to Section 8 in the form of a proposed rule.

ALTA is supporting Congressional review of this issue, writing to both HUD and Rep. LaFalce to indicate that HUD does not have statutory authority to provide a new exception to Section 8. By exercising its authority in this area, Congress has provided ALTA

Critical Issues

These are the issues we are currently working on:

- Educating Capitol Hill
- GSE Reform
- Predatory Lending/RESPA
- Interest on Business Checking

members with an opportunity to convince their member of Congress that Section 8 reform may well affect their business margins.

Could Reform Affect Title Fees?

Another solution to predatory lending suggested, by some interest groups and recommended by HUD and the Treasury Department, is to include currently excluded points and fees, such as title insurance, in the "trigger" calculation for determining whether or not a loan becomes a high-cost loan. Under HOEPA (Home Owners Equity Protection Act), lenders are required to provide additional disclosures to consumers who obtain these high-cost loans.

Currently HOEPA defines a high-cost loan as a loan where the total points and fees payable by the consumer at or before closing will exceed the greater of (1) eight percent of the total loan amount, or (2) $400 (indexed for inflation). Also under current law, "fees or premiums for title examination, title insurance, or similar purposes" are included within the definition of "points and fees," and then excluded if the charge is reasonable, the creditor receives no direct or indirect compensation, and the charge is paid to a third-party unaffiliated with the creditor.

Congress and the Federal regulators have formally asked for guidance on these issues, and ALTA has alerted them to industry concerns on technical issues that have arisen with respect to predatory lending issues. Our emphasis has been on maintenance of the current exclusion under HOEPA for "residential mortgage transactions; maintenance of the current title-charge exclusion from the calculation of points and fees that can lead to categorization as a high-cost loan; preventing potential liability on closers who "allow" the collection of unnecessary credit insurance premiums; and narrowing the circumstances under which home mortgage documents may be invalid to allow room for correction of scriveners' errors and recording information.

ALTA submitted statements with the House and Senate Banking Committees, the Office of Thrift Supervision, and the Federal Reserve Board when they considered these issues. As a result, in December of last year, the Federal Reserve Board issued amendments to Regulation Z implementing HOEPA that maintained the current treatment of points and fees for title and closing services. This was a major victory for ALTA, given the pressure by the consumer groups and other trade associations, including RESPRO, to include points and fees in the HOEPA test.

In addition, Senator Paul Sarbanes (D-MD), chair of the Senate Banking Committee, held hearings during January 2002 on predatory lending. Title insurance was not mentioned during the Senate hearings, although the Mortgage Bankers Association of America did use the opportunity to discuss packaging as a solution to predatory lending. Further, we expect that Sarbanes's legislative solution will affect our points and fees. There has been a movement toward swift passage of predatory lending legislation at the state level. Several states have, in recent months, written, introduced, and passed stiffer regulation of the sub-prime market. However, the American Association of Retired Persons has floated a Model State Statue called the Home Loan Protection Act for the benefit of those states without concrete language. Through ALTA's hard work, this sample language, following the lead of HOEPA, excludes title insurance fees from the high-cost-loan test, provided those fees are "reasonable and paid to an unaffiliated third-party."

As you can see, each of theses issues could have an impact on the title industry. Each is extremely complicated and requires constant monitoring by staff and ALTA members. We need to continue to educate members of Congress and their staff about the value of title insurance and how these issues will affect our businesses. If you know any of the members of Congress mentioned in this article or are willing to help in this legislative arena, I look forward to working with you.

The Interest on Business checking bill may affect bank and title agency escrow relationships.

Ann vom Eigen is ALTA's legislative/regulatory counsel. She can be reached at 1-800-787-2582 or ann_vomeigen@alta.org. ALTA would like to acknowledge the work of ALTA counselors, Sheldon Hochberg, Steptoe and Johnson, and Phil Schulman, Kirkpatrick & Lockhart, on the information in this article pertaining to GSE reform and the Federal agencies.

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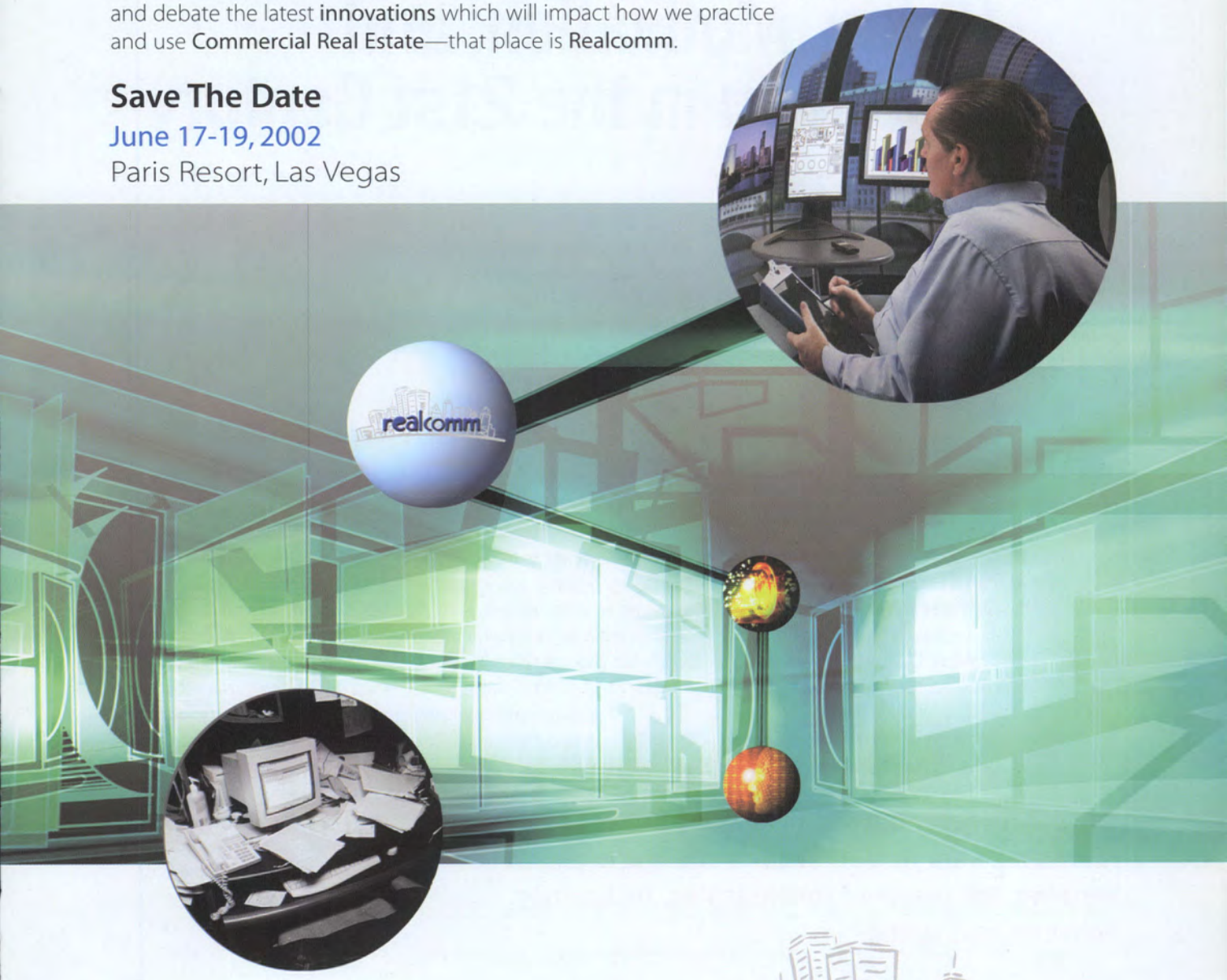

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Hiring, Motivation, and Retention in the 21st Century

by Hunter Lott

It used to be so much easier. Easier to manage people. Easier to run a business. Back in the 20th century we just carried around a big bat. The bat was fear of firing or cutting pay. And the bat used to work! We'd say, "You'd better get to work or I'll just fire you." Now employees respond with, "No big deal, I was going to quit anyway" or "I was unemployed when I got this job" or "I'm going to sue."

The 21st-Century Hurricane Work Model

The old work model was a pyramid. There were lots of employees at the bottom. They worked hard, climbed the corporate ladder until they became the Big Boss. Or, employees could stop along the way, find a job they really liked and were competent at, do that job for 33 years, retire, and the company would take care of them for the rest of their lives. This old employment contract is now broken. It's really been broken for quite a while, but the recent events surrounding Enron have brought the issues of blind loyalty to a boss or a company to the forefront again. For the most part, the old employee/employer relationship is gone. This isn't bad; it's just different. The new work model is a hurricane. The work atmosphere is constantly moving, constantly changing. The customer drives it. The old model rewarded obedience and loyalty. The hurricane work model rewards change, constant learning, the power of relationships, technology, behavior, and speed. As managers we must not only get better at managing results through people but also must do it in record time. SPEED, SPEED and SPEED! This is what differentiates the last century from this one. The speed demands we have as consumers have a direct effect upon the corporate climate that exists.

The old model rewarded obedience and loyalty. The hurricane work model rewards change, constant learning, the power of relationships, technology, behavior, and speed.

Two recent personal experiences illustrate the speed issue.

I decided to buy a new Palm Pilot because I was tired of the hassle and weight of my laptop when traveling. I went online at Palm late at night to order. The Web store would not let me order the special package that was advertised. Palm's site said to call the 24/7-customer service hotline with any problems. I called Tuesday night, and by 10 a.m. Thursday I had my order. When you stop and think about that, it is amazing. Yet these encounters between business and customer happen thousands of times each day at an even faster pace.

Here's a different example. I called a local sub shop with an order for 15 sandwiches for a luncheon meeting, and they told me they would be ready in an hour. I arrived on time; they took my money and told me my order would be right out. Forty minutes later, I again asked about my order, and the employee indicated it was my problem, not his. "We had four big orders all come in at the same time. I can't tell you when it will be done." I was not happy. A woman who had been waiting longer than I had said, "Don't feel bad, I called in my order yesterday!" When I finally

arrived at the meeting, I told everyone about the lousy service and the rude behavior.

When it goes wrong, we have little patience and usually have many other choices and the power to spend our time and money elsewhere. Ask Montgomery Ward, Xerox, Polaroid, United Airlines, Amazon, Southwest Airlines, Lands' End and Nordstrom about the importance of behavior and speed.

Hiring for Behavior

Whether or not you agree with the current assessments of our economic future, good employees have been, and will continue to be, hard to find. In the new economy, interviewing and hiring the right people will be critical. But most of us consider interviewing an interruption of our day. We often resort to just hiring a warm body and hoping for the best. Some of us got married this way. The reality is, you're not going to fix the person or change them later. The standard "Tell me about yourself…" type questions no longer serve us well. They don't get at the behavior issues and leave us legally vulnerable. Plan on hiring for behavior and training for performance. It is much easier to manage/fix a performance problem than it is to manage/fix a behavior problem.

Hire for behavior. Evaluate for behavior. Fire for behavior. Remember "attitude" is not measurable. If you can't measure it, you can't manage it. Put behavior in your job descriptions and in your evaluations and hold employees accountable for their own behavior. As managers/owners we need to communicate behavior standards to our employees. The following definition works for managers, being vague enough to allow for company/supervisor differences and strong enough to say the company will not tolerate whining, moaning, or bad-mouthing at work:

Maintain a positive work atmosphere by behaving and communicating in a manner so that you get along with customers, clients, co-workers and management.

To be successful in the hiring process, first you have to know what you want. Think of the person who, currently or in the past, was best matched for the position you are now trying to fill. List the behavior characteristics that made them so good. Now develop questions that go after those proven behavior traits. The most beneficial but underused is the situational question. Develop questions that start with, "Describe a time when…Give me an example of…What would you do if…?" You don't spend more time interviewing —you just make sure the time you spend is quality time, finding the best matched person for the job.

Hiring/Motivation Rules

1. Hire for behavoir, train for performance. It's much easier to manage/fix a performance problem than to manage/fix a behavior problem.

2. Maintain a positive work atmosphere. Require employees to get along with customers, clients, co-workers and management.

3. To motivate employees: Ask "What is being rewarded?" "What is their motivation for change?" If the only time you talk to an employee is when something goes wrong, what message have you sent?

4. Expectations. Make sure the employee can answer this question, "Do I know what's expected of me at work?"

Curiously enough, with the other dramatic changes around us, the basic motivators stay the same. What attracts and keeps good people in the 21st century are the same issues that have been preached about for the last 40 years.

Speed Kills

Recent Supreme Court decisions have been a mixed bag for employers. The court has handed down pro-employer rulings on the Americans With Disabilities Act definitions and Family Medical Leave Act notification. They ruled against employers in weakening the benefits of binding arbitration. The EEOC (www.eeoc.gov) reported $300 million in litigation/settlements last year. But courts and government agencies don't get companies in trouble. Bad management gets companies in trouble. Yes, sometimes companies find themselves in a situation that is not fair, and it is frustrating to realize it may be more fiscally responsible just to settle. But when we read the headlines and then the details of most of these cases, we can only come away with the

question, "What was management thinking?" The answer is, they weren't thinking—only reacting to the demand of speed. Thinking does take time. Many upper level decision-makers are quick to write off employment practice issues as not having a direct effect on the bottom line. You had better believe the $47 million judgment at Rent-A-Center for sex discrimination hurts. As it should. Pain is a great motivator. But it's after the fact. Management's defense of itself at Enron with the line "They just didn't get it" is destined to be a future bit for *Saturday Night Live*. Don't be in such a hurry to get things done that you don't take the time to consider all decisions from a HR point of view.

Retention

If the numbers from the Census Bureau and other groups are correct, the phenomenal growth rate of the 55 to 64-year-old age group over the next ten years will have a dramatic effect on all of us. Retention of employees becomes critical. If starting in 2011, someone retires every few seconds, we may run out of employees. At the very least we may be looking at a talent shortage to meet the behavior and speed demands of the next 20 years and beyond. How much of your operation's procedures are written down? If a few key people were to quit or retire on the same day, what effect would that have on your operation? Do one or more employees currently "hold you hostage"? OK…so what do employees want?

Plan on hiring for behavior and training for performance. It is much easier to manage/fix a performance problem than it is to manage/fix a behavior problem.

Motivation in the 21st Century

Curiously enough, with the other dramatic changes around us, the basic motivators stay the same. What attracts and keeps good people in the 21st century are the same issues that have been preached about for the last 40 years. Want to understand the motivation of any employee? Ask and answer these two questions: "What is being rewarded?" " What is their motivation for change?" If the only time you talk with an employee is when something goes wrong, what message is being sent? If you suspend an employee without pay for an absenteeism violation, what message is being sent?

Yes, we have a few new twists. With speed becoming so predominate an issue at work, time can be more important than money to many employees. Ten years ago I started talking about no-fault absenteeism systems (where employees get a block of time/money to manage on their own and management gets out of the babysitting business), and managers thought I was crazy. Use time to attract and keep employees. Add a vacation day for a job especially well-done. Start out with more vacation in the first place. Even time off without pay can be a reward in some work environments.

Don't make the issue of motivation complicated. It's not. It is hard work, however, and you've got to pay attention. The book *First, Break All the Rules* by authors Buckingham and Coffman should be mandatory reading for any and all managers. In analyzing a Gallup study of over 80,000 employees in over 400 companies, the authors are left with 12 critical questions that separate great companies from the not so great Great is defined by bottom-line financial and HR results. And—surprise, surprise—it's the people or the soft skills of the frontline supervisor that are the telling factor. I'm not going to give out all 12 because it's important that every manager read this book, but I will tell you the first question is, "Do I know what is expected of me at work?"

Bottom Line

The work atmosphere in the 21st century is dramatically different with an emphasis on behavior and speed. The employees demand a workplace that surrounds them with good people in a learning environment, clearly communicates expectations, and holds everyone from the top on down accountable. Is your company ready for the productivity and harmony challenges of the future?

Hunter Lott is a partner in HCAP, a business development consulting firm based in Kansas City. He is also the owner of HRonCall and specializes in employment-practice/training for small, growing businesses. He can be reached at hire2fire@aol.com.

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Threat of Mortage Impairment

by James R. Maher

Mortgage impairment represents one of the most serious threats facing the title industry today. Over the last five years nearly a dozen insurance companies and others have been attempting to offer products to lenders that purport to be a cheaper substitute for title insurance. Most have been limited to second mortgages and home equity loans. All have certain characteristics in common: They (1) indemnify lenders against loss due to "undisclosed liens"; (2) involve limited or no search of the public records; (3) are offered by non-title insurers; (4) require a borrower affidavit or a certain FICO credit score for eligibility; and (5) provide only lender protection—no owner's coverage. ALTA has contacted both state departments of insurance and our affiliated state land title associations and encouraged action against these providers. We've acted as a clearinghouse for information about their existence, policies, marketing materials, and other practices. We've had some limited success in convincing regulators to take action. And we are seeking disgorgement of their profits for the benefit of Radian's customers who purchased the product and, damages on behalf of title insurance licensees in California.

The GSEs have thus far taken a hands-off policy regarding the mortgage impairment issue.

But the threat posed by mortgage impairment generally has escalated with the introduction of a new product called Radian Lien Protection offered by Radian Guaranty, Inc., and its subsidiary, RadianExpress (formerly ExpressClose.com). While it contains all the elements of any other mortgage impairment product, it has two unique characteristics: It's provided by a mortgage guaranty company with extensive direct ties to many of our existing national lender customers, and its coverage has been expanded to include refinance transactions as well as seconds and home equities.

These variations, in addition to Radian's strong marketing efforts, required a more proactive role by ALTA than that taken with previous mortgage impairment products. Consequently, ALTA and its member title insurers and affiliated state land title associations have taken a number of actions, including litigation, to be discussed in this article. In addition, it's important to understand Radian's product and our challenges in combating that product, including the contentions that Radian is making, both in litigation and in other forums.

The Radian Product

First, let's examine our adversary's product. And that's a bit of a challenge -- because there is no product on paper called Radian Lien Protection! The coverage Radian trumpets in its press releases, annual reports, and investor advisements does not exist as a freestanding policy form. Rather it's subsumed in a product called a Mortgage Pool Guaranty Policy. The reason is fairly obvious: This placement gives Radian its best chance to avoid regulatory scrutiny.

The mechanics of the coverage are interesting however, once you get down to the actual Lien Protection language. First, it's a true "pool" policy—no individual, transactional policies are issued. The policy insures a lender on a portfolio basis, although individual loans must be registered or identified—and appropriate premiums paid.

Second, and of particular interest, is the policy amount: It provides 50 basis points–½ of one percent–of the value of the mortgages in the pool. Since title insurance provides coverage equal to 100% of that value, it's obviously very limited protection. In fact, by our calculations, the cost per thousand for Radian's product can be 100 -to - 200 times that of refinance rates for loan title insurance in many states. Even the product's publicized transactional cost–suggested to be around $275 for refinances–represents no great bargain for consumers in most

refinance transactions.

And you won't find a number of other features in the Radian product that we–and lenders–have come to expect from title protection: There's no insurance for title vesting. There's no insurance for the priority or enforceability of the underlying mortgage. And there's no insurance for the cost of a defense against a challenge to title or the mortgage. Finally, in order to file a claim, the borrower must be in default—something we'll discuss further.

The Challenges

While all these policy differences are great countermarketing advantages, there remain challenges on a number of fronts. From the marketing perspective, all these mortgage impairment products continue to be perceived by lender customers as "better, faster, cheaper." While clearly the product isn't "better," and, in many transactions, questions can be raised about its being cheaper (although on both counts perceptions still need to be countered), the speed of delivery remains a matter of concern. While title orders in most urban and suburban markets can now be acted upon in the 24 - to - 48 hour time frame, the supposed "instant" insurance characteristic of these products continues to have an appeal. Our challenge, in addition to improving delivery times, is to convince our lender customers that placing title orders early enough in the transaction can permit parallel processing, resulting in no delays, even in no-cash-out refinance transactions.

Our challenges, however, aren't limited to the perceptions of our lender customers. We are also challenged in our dealings with our regulators. Most of these mortgage impairment providers (unlike Norwest and its TOP program of a few years ago) are licensed insurance companies in all states. Consequently they are authorized to issue insurance policies, albeit limited to the lines of insurance for which they are licensed. The challenge, therefore, has been convincing legislators that the peril against which these insurers, including Radian, are insuring (namely undisclosed liens) is title insurance. In 32 states with monoline restrictions (title insurers are licensed to issue title insurance, cannot issue other forms of insurance, and no other insurance licensee can issue title insurance) that could be the end of the debate.

But while it may be apparent to those of us in the title industry that insuring against loss due to undisclosed liens is title insurance (and would appear to be so under the statutory definition of title insurance in most states), not every regulator has seen it that way. As we in the title industry know, most insurance departments aren't as well versed in title insurance as they are in other lines of insurance with which they deal more often. And our various mortgage impairment providers have been quite adept at obscuring their true undertaking. Some have couched it in the form of lender's "errors & omissions" insurance. Others have attempted to write it in general property & casualty insurance terms. Some have even removed from their policy-insuring provisions almost all discussion of what risk they're insuring against in an attempt to pull the wool over the regulator's eyes! And if one strategy fails, they're back with a "new and improved" version. The very volume of providers and products has contributed to the difficulty for both the title industry and the regulators in dealing with this problem.

Mortgage impairment represents one of the most serious threats facing the title industry today.

Radian's Approach

And now we have Radian's Lien Protection product: mortgage impairment\title insurance masquerading as mortgage guaranty. Here are a few of Radian's standard arguments: "It's just mortgage insurance!" In making this claim, Radian touts the fact that mortgage insurance provides indemnity in the event of the borrower's default, regardless of the underlying reason for such a default. They then point to their Lien Protection product and suggest that its requirement for a borrower default demonstrates that it's "just mortgage insurance." Of course what they fail to identify is that the real peril being insured is that of undisclosed liens. They obscure that real insured peril by insisting that the triggering event for a claim (borrower default) is the insured peril.

They also say, "Title insurers are in the mortgage guaranty business." The best defense is a good offense! Radian makes this preposterous contention because of the definition of loss in a Loan Policy. Since the lender must have suffered "actual monetary loss" before it can make a

claim under its Loan Policy, Radian contends that that's equivalent to requiring a borrower to default before a loss can be suffered. Obviously a lender with a performing loan would generally not have suffered a loss. But, again, the problem is not focusing on what is the underlying insured peril: Regardless of when a claim can be filed, an undisclosed lien having priority over the lender's insured first lien would be a covered matter under either a Loan Policy or Radian's Lien Protection product—albeit on decidedly different terms and payout procedures.

Another contention: "This product's been approved for years!" Yes, the Mortgage Pool Guaranty Policy has been around for years, and every mortgage guaranty company has one. But there's never been a Mortgage Pool Guaranty Policy like this one. In addition to the obvious addition of the Lien Protection feature, it's interesting to note that Radian's version also retains at least the barest nub of what would be considered traditional mortgage insurance: It provides for ONE basis point (that's right, 1/100th of one percent!) of the mortgage pool value in the event of a borrower default not involving undisclosed liens. This appears to be an attempt to legitimize their contention that this is a mortgage insurance policy. We're advised that all other mortgage guaranty companies using such a form typically provide for 200 times this amount of coverage–and certainly don't provide anything like undisclosed lien protection. In fact, all other companies would demand clear title as part of any lender's claim involving the conveyance of title in return for insurance benefits.

What have ALTA and our member companies and affiliates been doing to combat Radian's incursion into title insurance? The answer is a great number of things. They involve public relations, regulatory challenges, grassroots and educational activities, lobbying efforts, and, of course, our litigation in California. Let's address a few of these areas.

Regulatory Action to Date

ALTA has organized and conducted meetings with departments of insurance (DOIs) in California, Illinois, Florida, Texas, New York, and Arizona. Additional meetings have been held with DOIs in Pennsylvania, North Carolina, New Mexico, Utah, Georgia, and in several other states. Each meeting has had representatives from the state land title association, all or most of the five national title insurers, and, usually, an ALTA representation. The presentations made to each DOI were tailored to provide state-specific statutory and regulatory references and included a standard presentation in order to assure a consistent message being presented. The meetings generally have resulted in favorable reaction and considerable sympathy with our position. However, most DOIs have deferred any action until they can evaluate the Radian product and their own laws and regulations. And almost all have strongly requested information on whether Radian is actually doing business in their state—something that continues to be another challenge for us since these products aren't sold with the kind of local connections we in the title industry are used to. Radian's pool policy is sold without use of local agents, and their subsidiary, RadianExpress, offers signing services for closings so that most of their activities take place outside of the normal title insurance loop.

We've already had some successes and one disappointment. Texas, Florida, and Connecticut have rejected in writing Radian's filing of their mortgage pool guaranty policy because of the Lien Protection component. Radian then withdrew the filing, making public statements suggesting that the product had already been approved and the withdrawn filing was not necessary to their continued marketing efforts. This is an indication of a further strategy by Radian: They contend their policy really isn't issued in the state where the property or borrower is located; it's issued where the lender is domiciled. We think the better position is that the proper regulator

is the one in the state where the property and the borrower paying for the insurance is located.

In Illinois, however, we've not been as successful to date. Title insurance is regulated by the Department of Financial Institutions (DFI) and mortgage insurance by the DOI. Unfortunately the DFI in Illinois has stated that it would not assert jurisdiction if Radian observes some relatively nominal restrictions. While we were disappointed in the initial results there, we will continue to work to convince the Illinois state regulators of our position.

National Association of Insurance Commissioners

We've also been active with the NAIC. Their Title Insurance Working Group has agreed to include mortgage impairment generally in their charge. One of our California litigation counsel made a formal presentation to the group on mortgage impairment generally and Radian specifically with a counterpresentation made by Radian at the same time. Our understanding is that the presentation by the title insurance industry was well received. However, the time allotted was considered insufficient for a full discussion of the issues, and another hearing, this time for a full day, has been scheduled for the end of April at the NAIC's headquarters offices in Kansas City. Other mortgage impairment providers will also be invited to that session for a defense of their practices as well. It is hoped that given the sometimes disjointed nature of the state-by-state regulation of insurance, this collective approach involving numerous insurance departments will enable both sides to make a cohesive presentation on this difficult subject.

ALTA's Lawsuit

Of course what has received the greatest notice has been our lawsuit against Radian. ALTA filed suit in California last November. California was chosen because it provided a strong statutory cause of action for a competitor—or a competitor's representative—to bring an action against a party who had allegedly engaged in an illegal act that harmed the competitor plaintiff. We also wanted the ability to obtain both injunctive relief and damages. California's §17200 provides such a cause of action. It's sort of an Unfair and Deceptive Trade Practices Act for businesses. We allege that Radian's offering of this product in California without being licensed to do so is the necessary illegal act. And we are seeking disgorgement of their profits for the benefit of title insurance licensees in California.

We initially filed the action in California state court, but Radian removed the action to U.S. District Court in Los Angeles. ALTA filed a motion to remand the case back to state court. After discovery and a hearing, the federal court ruled in our favor and, as of this writing, the matter appears headed back to California state court for trial. Given the status of court dockets, it is most likely that any actual hearing on the merits wouldn't occur until late in the year or early next.

What Do Fannie and Freddie Say About This?

We're often asked about Fannie's and Freddie's position in all this. The GSEs have thus far taken a hands-off policy regarding the mortgage impairment issue. Their respective Sellers' Guides have not been amended with respect to title insurance. They both, in effect, indicate a strong preference–if not an out-right requirement–for title insurance over other assurance products. But with respect to pass-through MBS transactions, the GSEs will rely on the reps and warranties of their sellers with respect to title matters. So on individual master agreements for purchasing pools of mortgages, both Fannie and Freddie may well be accepting Radian's product. Their advice to us: either (1) beat the mortgage impairment providers in court or with the regulators; (2) convince the primary market that title insurance is better, not that expensive, and quick enough; (3) offer a competing product; or (4) get out of the refi arena. Not a whole lot of sympathy, or likely assistance. It's up to us.

What Can You Do to Help?

Find out if mortgage impairment products are being offered in your market. See what's happening with the public record, and bring this to the attention of your state DOI. ALTA has created a Mortgage Impairment Resource Center that's available on our Web site. On that page we've put up policy forms and marketing materials from a number of MI providers, as well as the basic grassroots package for presentation to your state DOI if it hasn't already been made. Copies of the Radian policy and marketing

materials, together with the Texas, Florida, and Connecticut action letters on the product, are downloadable from the site.

With one notable exception the trade press has been very even-handed in their coverage regarding the dispute between ALTA and Radian. Our argument that all we want is a level playing field has been well received, and so has our contention that our product is superior in coverage and value for the price paid. And we're making inroads concerning the speed of delivery issue. These are the issues that you need to get across to your local elected officials and real estate press.

I mentioned earlier a public awareness campaign about the value of title insurance. ALTA is working with a public relations firm to place press releases and ads in industry-related papers and magazines. We will also have a grassroots kit available later this year with sample press releases, speeches, and ads to use at the local level. Educating mortgage lenders, Realtors®, and consumers about the value of title insurance is another way to eliminate the market for mortgage impairment products. You can contact ALTA headquarters to be put on a list to get a copy of the kit when it's ready.

So, What's Next?

It's a long fight. If we're successful against Radian, we'll have to go back and fight the same fight against all the other providers. Each has its own policy, marketing materials, market segment, and strategy. Unlike the TOP program that we battled several years ago, mortgage impairment is a constantly shifting threat. New products will pop up, and just as we're about to be successful in mounting a regulatory challenge, we'll have to address a look-alike product all over again. But it's important to remain active and vigilant, and with your help we intend to do just that.

Jim Maher is executive vice president of ALTA. He can be reached at jim_maher@alta.org or 1-800-787-2582.

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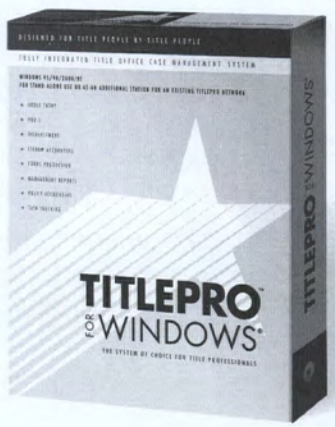

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inside the industry

Reverse 1031 Exchanges Gain Popularity

by Javier G. Vande Steeg

You probably know about the immensely popular Internal Revenue Code Section 1031 and the many benefits it provides. But chances are you've recently seen a variation of the 1031 exchange, called a reverse exchange, being used with unprecedented vigor. This article will explore why, and more importantly how, these transactions are performed. But first it is important to set the stage.

Let's begin by laying out some common 1031 exchange terminology.

- The taxpayer or party performing the exchange is the **exchanger**.
- The property that the exchanger sells is the **relinquished property**.
- The property the taxpayer acquires is the **replacement property**.

What exactly is a reverse 1031 exchange? The exchanger acquires the replacement prior to closing the sale of the relinquished property.

- The 45 days after the close of the relinquished property is the **identification period**.
- The 180 days after the close of the relinquished property is the **exchange period**.
- The intermediary's titleholder in a reverse exchange is called an exchange accommodation titleholder, or **EAT**.
- The term used to describe the holding of title by the EAT is called a **parking arrangement**.
- The agreement between the EAT and the exchanger governing the parking transaction is called a qualified exchange accommodation agreement, or **QEAA**.
- The type of parking arrangement utilized when improvements are to be made to the parked property is called an **improvement exchange**.

What Exactly Is a Reverse 1031 Exchange?

The most basic answer is that the exchanger performs the exchange in reverse order. That is to say that the exchanger acquires the replacement prior to closing the sale of the relinquished property. (See Chart 1.) Therein lies the problem. Court case precedence makes it very clear that the exchanger could not own both the relinquished property and the replacement property at the same time. How then could an exchanger accomplish his/her goals? The answer is that the exchanger would typically have had a qualified

intermediary acquire the replacement property and park title until the relinquished property could be sold and closed. Subsequent to that closing, the replacement property would be deeded to the exchanger to complete the exchange. (See Chart 2.) However, lacking formal authority to structure such a transaction, practitioners debated and went to great lengths to overcome what was perceived to be a transaction killer—the qualified intermediary. Under audit the qualified intermediary would be deemed to be an agent of the exchanger and would only hold mere legal title. In other words, the qualified intermediary may not pass the "burdens and benefits" of ownership test, and the exchange would collapse. Due to this pitfall, exchangers and their intermediary would often structure the transaction so that the intermediary would actually attempt to possess the burdens and benefits of real property ownership. This was a difficult task, and no one really

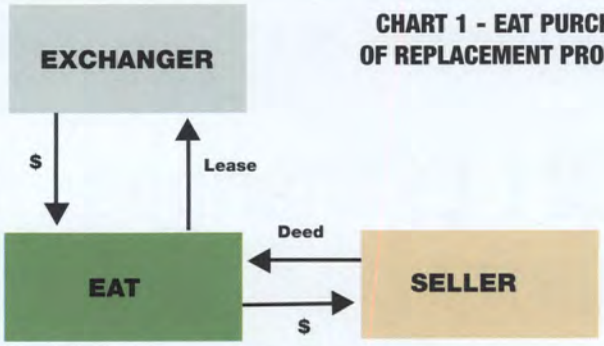


CHART 1 - EAT PURCHASE OF REPLACEMENT PROPERTY

A. Exchanger advances/loans funds to the EAT.
B. The EAT purchases the replacement property.
C. Seller deeds the replacement property to the EAT.
D. The EAT leases the replacement property to the Exchanger.

knew whether or not they would pass the burdens and benefits test.

Therefore, reverse exchanges were performed only by aggressive exchangers willing to take a risk. The risk comes from the fact that the reverse-exchange variation had no formal IRS guidance on how it should be done. Therefore, anyone who performed a reverse 1031 did so in light of the fact that their transaction might be scrutinized and possibly defeated.

Things Have Changed for the Better

In September of 2000, the IRS finally issued long-awaited guidelines on how these transactions are to be handled. The guidance came in the form of Revenue Procedure 2000-37, which is best defined as a "safe harbor" for reverse exchanges. In other words, if you stay within the confines of the Revenue Procedure, your transaction will not be scrutinized.

Revenue Procedure 2000-37 was basically written and proposed by the American Bar Association and 1031 exchange industry experts. The items on the wish list in their proposed guidelines were almost all attained, with the exception of the allowable parking period of the property by the EAT. The proposal was to allow a property to be parked for up to two years. The IRS final version of the Revenue Procedure allowed only a 180-day parking period. This hurts the large commercial improvement exchanges because construction often does not progress much in 180 days.

Nevertheless, the Revenue Procedure cut a clear path for exchangers to take advantage of parking title with the EAT while not having to pass a benefits and burdens test. In fact, many of the permissible agreements and structure points contained in the Revenue Procedure clearly do not have burdens and benefits in mind, a definite sigh of relief for all involved.

The title insurance industry as a whole will benefit from the increased usage of parking arrangements.

Why Use an EAT?

Let's explore why these transactions are so valuable to the investor. There are two primary motivating factors or situations that call for the acquisition of a property by an EAT for the benefit of the exchanger.

The first is the reverse exchange. Again, the reverse exchange utilizes the parking arrangement by the EAT for the taxpayer because the replacement property must be closed prior to the close of the relinquished property. This occurs for the following reasons:

- It is a sellers' market, which demands "close it or lose it" action.
- Conservative exchangers want to eliminate the risk of not being able to identify and close on a suitable replacement property, thereby risking their entire capital gain if they performed their exchange in the normal order of selling first and buying second (typical delayed exchange).
- The exchanger is selling multiple properties and cannot get all the relinquished properties closed before the replacement property must close.

The second situation is the improvement exchange. For example, let's say the relinquished property was an apartment building that sold for one million dollars, had debt of $400,000 and equity of $600,000 (closing costs not taken into consideration for purposes of the example). The exchanger wants to build rather than buy a commercial building. The exchanger has located the land and enters into a purchase agreement with the seller that is assignable by the exchanger. The purchase price of the land is $300,000. Since there is a big difference between the value of the relinquished property and the new land, under 1031 rules

the transaction would equate to taxable "boot." The parking arrangement will solve this problem. The EAT will park title to the land, and the exchanger will build the building. This is why the current 180-day parking period, as opposed to the desired two-year period, can hurt some improvement exchanges. In this example, however, if the exchanger has as many of the pieces together as possible before closing the relinquished property and parks title to the land with the EAT, it would be quite possible to put $600,000 of improvements into the property. If they were able to improve the land by completing $600,000 worth of capital improvements within the 180-day period, which began at the close of the relinquished property, the EAT would deliver title to the property to the exchanger in a 100% tax-deferred exchange! Note: The building need not be complete. For 1031 purposes you need to be concerned with getting enough capital improvements into the property to satisfy the relinquished property figures.

Of course there are many rules to follow, requirements to meet, and potential complications that you may encounter. But these are the two variations of the 1031exchange that require the parking arrangement strategy. It should also be evident why they are so popular now that the Revenue Procedure provides a safe harbor to accomplish parking arrangements while enabling exchangers to take advantage of the benefits of parking title for the above reasons.

How They Work

Steps involved in the reverse exchange: (See Charts 1 & 2)

1. Exchanger assigns purchase agreement to EAT to acquire the replacement property
2. Exchanger loans required funds to EAT to close
3. 180-day parking period begins
4. EAT leases (triple net) property to exchanger
5. Exchanger finds a buyer for the relinquished property and closes in normal 1031exchange fashion using a qualified intermediary
6. The EAT transfers the replacement property to the exchanger in order to complete the exchanger's 1031 exchange

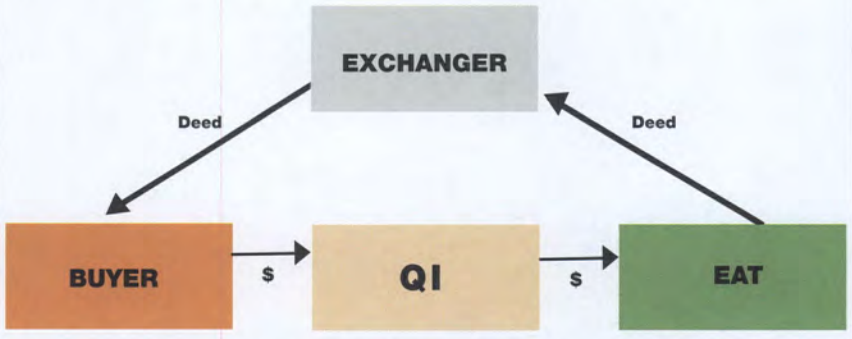
The same basic steps are taken in the improvement exchange, except that the EAT will remain on title typically throughout the parking period while the exchanger improves the property. In addition, a construction management agreement may be utilized depending on the complexity of the project.

To Park or Not to Park?

What are the issues to consider when contemplating a parking arrangement?

- Expense. Parking transactions are very expensive in comparison to 1031 exchanges. You must consider the EAT formation expenses, additional transfer tax upon transfer of the property from the EAT to the exchanger, title insurance premiums, and additional escrow/closing costs.
- Security of your parked asset. 1031-qualified intermediaries who perform parking arrangements (many do not) can structure their EAT in many different ways. Some structures provide a great deal more security for the exchanger, which could mean that their parked asset will not be subject to undue risk. Single-asset entities formed specifically for a particular parking arrangement (and dissolved after the transaction is completed) should provide the best security for the exchanger.
- Complexity. In comparison to the standard 1031 delayed exchange, parking arrangements are far more complicated.

CHART 2 - SALE OF RELINQUISHED PROPERTY AND EXCHANGE OF THE REPLACEMENT PROPERTY TO THE EXCHANGER



A. Relinquished property is deeded to the Buyer in exchange for the replacement property to the Exchanger.
B. Payoff of the original advance/loan from the Exchanger from sale proceeds.

Lender issues, contractual issues, and transaction structuring can all require more attention and time.

Escrow/Closing Agent Issues

There has been a surge in parking arrangement activity since the Revenue Procedure was enacted, and it will undoubtedly continue. It is imperative that escrow/closing agents involved in these transactions understand a basic fundamental point. Simply put, the EAT becomes your buyer in every way. Even though the EAT is buying for the exchanger, you must replace them with the EAT. The qualified intermediary performing the EAT function should provide you with detailed instructions and conditions to meet prior to closing. These may include title insurance requirements, proof of insurance requirements, settlement statement instructions, and debt/security instrument instructions.

The title insurance industry as a whole will benefit from the increased usage of parking arrangements. It is not uncommon to issue additional policies and binders and to collect escrow/closing fees that are sometimes double that of a standard closing. This is due to the fact that there will be an additional closing at a later date, and the closing agent who handled the acquisition normally also handles the transfer from the EAT to the exchanger.

Javier G. Vande Steeg, is president/CEO of Asset Preservation, Inc., Granite Bay, CA, a national qualified intermediary and a subsidiary of Stewart Title Company. Javier is a nationally recognized expert on IRS section 1031 exchanges. This article is an excerpt from his presentation at ALTA's Tech Forum 2002. He can be reached at 800-282-1031 or Javier@apiexchange.com.

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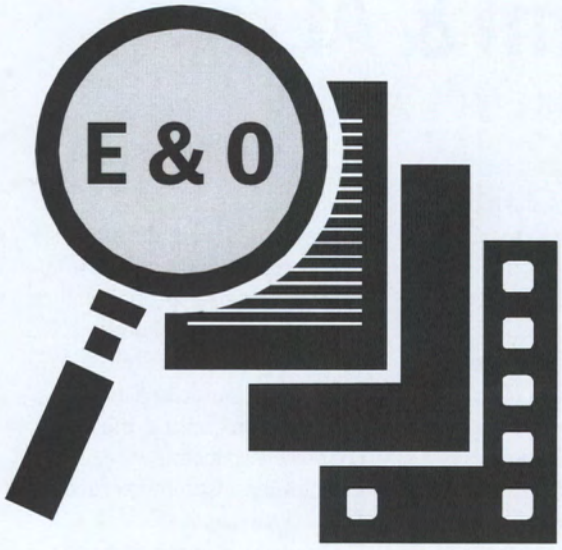

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TPA


Nancy Walker

Campaign Finance Reform & ALTA

by Francie Burkhart

You may have heard about the campaign finance reform bill that was signed into law by the President on March 27, 2002. While supporters claim a victory, opponents question the constitutionality of some parts of the bill. Just how will campaign finance reform affect ALTA's political fundraising efforts?

ALTA collects two different types of money for political activism:

Hard dollars are personal donations that are made by personal checks from members of ALTA payable to ALTA's PAC—the Title Industry Political Action Committee—or TIPAC. These contributions are used to support the congressional campaigns of candidates for the United States Senate and U.S. House of Representatives.

Soft dollars are corporate donations, drawn on company checks, paid to ALTA. These contributions from ALTA members are used for TIPAC's operational and administrative expenses and other political expenditures as allowed by law , but not campaign contributions to candidates.

The changes made in the campaign finance reform bill mainly affect soft dollars, it does not change the regulations of PAC fundraising and disbursement of hard dollars.

For the most part, the campaign finance reform bill eliminates soft dollar donations to political parties. 'Soft dollars' is the political terminology that describes contributions made to national political parties, such as the NRCC (National Republican Congressional Committee) and the DNC (Democratic National Committee) from corporations, labor unions and individuals who have already given the maximum contribution to political party federal accounts. Essentially, these national parties use soft dollar donations to fund "party building" activities, including voter registration drives and get-out-the-vote campaigns. Funds have also been used to fund television commercials on specific issues. There is nothing in the legislation that prohibits organizations other than political parties from collecting soft dollars.

Although TIPAC has raised corporate contributions from its members for a number of years, the majority of this money is used for administrative expenses incurred in running the PAC, including mailings, supplies, marketing materials, and the software accounting program used for compliance with the Federal Election Commission (FEC). Last year ALTA collected a record high of $67,550 in member contributions to ALTA, and $101,609.50 in donations to TIPAC. The TIPAC funds were donated directly to individual candidates who often sit on influential committees and who show an interest in learning about and protecting title industry interests in Congress.

In fact, only a very small amount of soft dollars raised are given to national parties. With such a small industry, the TIPAC Board generally believes that making soft dollar donations will not have a noticeable effect for the title industry. Title industry corporate soft dollar contributions to national parties are few and far between, usually only made for occasions such as attending special events. The TIPAC Board believes that ALTA's PAC soft dollars are best used to support efforts to raise TIPAC funds that can be contributed to members of Congress.

Ann vom Eigen, ALTA's legislative/regulatory counsel notes that, "The law will become effective in November of 2002, which means that this year's TIPAC efforts will remain unaffected. In addition, although there will be challenges to the constitutionality of the new law, a "severability "provision included in

the law provides that provisions not challenged will remain in effect. Consequently, we will see an increase in importance of hard dollars now that soft dollar expenditures are limited. In essence our hard dollars will be even more valuable to candidates "

To offset the banned soft dollar contributions to national parties, the law doubles the amount that individuals can contribute to each federal candidate from $1,000 per year in hard money to $2,000. Furthermore, this amount will subsequently be adjusted for inflation for future campaign cycles. In addition, the law increases the limits to state political parties by increasing individual contributions to a state committee of a political party from $5,000 to $10,000 per year.

The contribution limits for PACs remain the same: individuals still can contribute up to $5,000 per PAC each year and PACs are able to give up to $5,000 per candidate per election. This means $5,000 to a primary election and $5,000 to a general election, for a total of $10,000 per Federal Congressional or Senate candidate who has both a primary and a general election. What has changed is the net amount that individuals can contribute to federal campaigns, which includes individual candidates, PACs and national parties. Previously, an individual could contribute a total of $25,000 per year to political parties, PACs and federal candidates (with limits of $5,000 per year to a PAC and $20,000 per year to a political party committee). Now, individuals can contribute a total of $95,000 over a two-year election cycle to federal PACs, candidates and national parties, with the following sub-limits: $37,500 to all federal candidates, $57,500 to all PACs and parties, with no more than $37,500 of that amount to state and local parties and PACs. Individual contribution limits to federal candidates have doubled, while contribution limits to and from federal PACs remain the same. However, with the elimination of soft dollars, we expect to see an increased importance in PAC dollars in campaign fundraising. "This is great news for TIPAC," Ann vom Eigen commented. "Our TIPAC dollars will be in even greater demand than they are at present. Now that this "reform" has occurred, people may be more positive about their own ability to have an effect. We hope this will make our members more motivated to participate in TIPAC.

There are several parts of the legislation that have been challenged in federal court. For example, the prohibitions on issue advertising by citizen's organizations as well as the increase in the contribution limits for Senate candidates whose opponent is self-financed are under review. However, even if these clauses are deemed unconstitutional other provisions may remain, depending on the outcome of the litigation, will ultimately be decided by the United States Supreme Court.

TIPAC For more information on TIPAC please contact Ann vom Eigen or Francie Burkhart, ALTA's PAC Administrator, at 202-296-3671.

Did You Know?

On March 2, MERS streamlined the retrieval and download process for obtaining daily online reports. You have the option of requesting one compressed file for each report format type. This enhancement allows you to generate one Combined Report/Data File for all TXT formatted reports. You can also generate a Combined Report/Data File for both PDF and TXT formats.

The Combined Report/Data File contains the selected reports defined on the Optional and Mandatory Reports page under Member Information.

To create a Combined Report/Data File, select this option and the desired format on the Optional Reports page under Member Information. The Combined Report/Data File is generated and displayed as the first report within the List of Available Reports (code 50).

MERS® OnLine Users now have the ability to download the Combined Report/Data File from the browser: right click on the appropriate icon; select Save Target As; Save As window will display; indicate the Save File location; and click Save.

Viewpoint

by R.K. Arnold

As you may know, we had to sue a county recorder in New York for refusing to record MERS documents.

Over the years we've worked hard to build a solid relationship with county recorders. We're proud of that, and we've got many friends and colleagues among their ranks to show for it. The vast majority are supportive because they know MERS is good for the mortgage industry and good for them. Most importantly, they see that MERS is good for consumers because we lower the cost of homeownership.

They recognize that lowering the cost of homeownership means more people can own their own homes, particularly lower-income folks, and they know the linkages between homeownership and well-being are profound and undisputed. The biggest potential impact is among minority communities, which have been underserved for years and represent one of the fastest growing sectors of the population.

If the vast majority of county recorders support lowering the cost of homeownership, then why would a tiny handful oppose it? For that matter, why would any citizen not be in favor of lower housing costs?

MERS doesn't do what county recorders do, and MERS couldn't exist without county recorders. We need them to do what they do so we can do what we do—which is track servicing rights in the secondary market. We're doing something county recorders have never done, and it's making homeownership more affordable.

We have the utmost respect for what they do and the role they play. Their role is defined by statute, and they've taken an oath to follow the law. We'll continue to explore ways to work together with county recorders as we have in the past. We'll also enforce our legal rights when necessary.

Changing from Daily to Monthly Transaction Pricing

In response to member requests to simplify the MERS billing reconciliation process, we are changing from daily transaction pricing to pricing on the last business day of the month, effective with the May 2002 invoice. Therefore, beginning May 1, 2002, we will no longer generate the Daily Billing Report (we will continue to generate the Daily Registration Verification Report (RF)).

The Daily Billing Report will be renamed the Monthly Billing Report but will retain the two-digit report mnemonic (LD). The Monthly Billing Report will contain MIN level details for all billable transactions processed for the entire month. It will continue to be part of the consolidated data file, with the MIN level detail only available in the month-end, consolidated data file.

If your organization utilizes an automated process to retrieve reports, you will not need to make any changes to take advantage of this new report, but the report will only run on the last business day of the month.

If your organization does not wish to receive this report, on or after May 20, 2002, you may deselect the Monthly Billing Report on the Optional Reports list under the Report Menu option of Member Information.

To obtain detailed information regarding changes to these reports, please go to the MERS website (www.mersinc.org/manuals.htm), and download the Release 5.0 External System Impact Analysis Document.

MERS Launches Phase II of MERS® 1-2-3

In April 2002, we launched the second phase of an innovative process that will reduce 90% of the data entry required for registering a loan on the MERS® System. The process is called MERS® 1-2-3, and we developed it to help members more rapidly convert their correspondents and brokers into MERS® Ready trading partners. GreenPoint Mortgage Funding, Resource Bancshares Mortgage Group (RBMG), and Principal Residential Mortgage provided the initial funding for the new online system and cooperated with MERS in product design and testing.

Phase I of MERS® 1-2-3 enables MERS members and nonmembers to 1) generate a valid assignment to MERS through participating document providers, and 2) generate and affix a valid Mortgage Identification Number (MIN) to the assignment. The MIN is reserved on the MERS® System for future registration. As a MERS® 1-2-3 User, you must deliver the loan to your intended purchaser (the Investor to whom you are selling the loan) within 10 business days of recording the assignment to MERS.

In addition to creating valid assignments to MERS for non-MOM loans, Phase II allows MERS members and nonmembers to generate a complete closing package. A browser-based MIN generation facility provides the MIN to ensure that the MIN is accurately presented on the MOM security instrument.

For more information, please contact the MERS Help Desk at 1-888-680-6377.

Straight Talk

by Bill Hultman

Warehouse Lenders

Will my warehouse lender continue to fund loans with MOM security instruments?

Yes, if your warehouse lender is not familiar with MERS, the easiest way to satisfy them is to continue to deliver an assignment in recordable form for each MOM loan pledged to them. The only difference in the MERS process is that the assignment will be signed in the name of Mortgage Electronic Registration Systems, Inc. by one of your employees using the certifying officer authority granted under the membership agreement.

Many warehouse lenders are willing to waive the requirement that you deliver an assignment in recordable form for each MOM loan. To get this waiver, the lender requires that you sign an Electronic Tracking Agreement (ETA). In the ETA you are consenting that MERS can treat the warehouse lender (or its designee) as the investor and servicer on the MERS® System for those MOM loans pledged as collateral under your credit facility if we receive a notice of default from your warehouse lender. Your primary obligation under the ETA is to provide a list of MINs for the MOM loans registered on the MERS® System to your warehouse lender.

The standard form of ETA has the warehouse lender's interest shown on the MERS® System only in the unlikely event of default under your credit facility. Some warehouse lenders will require that their security interest be represented on the MERS® System, although not required by MERS. That would require you to complete an additional data field on the MERS® System with your warehouse lender's Org. ID for each pledged MOM loan: either the Interim Funder or Associated Member field. The MERS Business Integration team can advise how your warehouse lender has elected to do MERS.

MERS®
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Suite 310
Vienna, VA 22182
(800) 646-MERS (6377)
Communications Manager
Kathleen McNeilly,
kathleenm@mersinc.org.

member news

Movers & Shakers

California

Paul McDonald has been appointed vice president of First American Title Insurance Co., Santa Ana. Previously McDonald served a national bank as vice president of its private banking group.

Rosa Esqueda has been promoted to vice president and manager for LandAmerica Exchange Company, for both the Pleasanton and Pasadena offices. Most recently Esqueda served as vice president and manager for the Pasadena office.

District of Columbia

Jeanne A. LaBelle has been named vice president and closing counsel at Commercial Settlements Inc., LandAmerica's commercial operations company. Most recently LaBelle served as vice president and regional counsel for another major underwriter.

Illinois

Robert Fine has been appointed commercial underwriting counsel for LandAmerica Financial Group, Inc., Chicago. Previously he was lead attorney for the due diligence team at American Tower Co., and staff attorney and manager for American Title Co.

Maryland

Harry J. Shutinya has been named state manager for First American Title Co.'s Maryland operations. Most recently he was state sales manager for Washington, DC, and MD.

New Jersey

Roger Blauvelt has been promoted to eastern regional counsel for LandAmerica Financial Group, Inc., Parsippany. Most recently he served as senior vice president, affiliated business for the northeast region.

Ohio

Mark Polansky has joined the Cleveland office of LandAmerica Financial Group as commercial sales and marketing representative. Most recently he was assistant vice president in the Capital Markets Group at Natcity Investments, Inc.

Tennessee

Bart Riley has been named state manager for First American Title Co.'s Tennessee operations. Riley joined First American in 1986. Most recently he has served as manager of the company's operations in Gainesville, FL.

Texas

Chuck Barnett has been named president of Landata Technologies, Inc., Houston. He joined Landata in 2001 as chief information offices. Prior to joining Landata, Barnett managed the information technology services for a large regional title insurance underwriter.

new ALTA members

Active Members

Alaska

Terry Bryan
First American Title of Alaska
Anchorage

Alabama

Karon Higgins
Southern Title & Escrow Company
Athens

Lynda Robinson
The Closing Agency, LLC
Alexander City

Arkansas

Theresa Hendricks
Hendricks Title Company
Little Rock

Connecticut

Gail Frey
Advanced Title & Closing Services
Wallingford

Amanda Blair
Sole Proprietor
Old Lyme

Florida

Diane Price
Atlantic Title of St. Augustine
Saint Augustine

Lori Grimes
Geodata Research Systems, Inc.
Fort Myers Beach

Michael Anthony
South Bay Title Insurance Agency, Inc.
Ruskin

Tracy Zarro
Sweetwater Title Co Inc
Homosassa

Kudos

ALTA Members Make Forbes Platinum 400 List

Fidelity National Financial, Santa Barbara CA; First American Santa Ana, CA; Old Republic International, Chicago, IL; and Stewart Information Services Corp., Houston, TX, have been added to the annual Forbes "Platinum 400 of America's Best Big Companies." The Platinum 400 list spotlights large American companies with outstanding profitability and growth. Details: Fidelity, Carole Tacher, 805-696-7187; First American, Jo Etta Bandy, 714-800-3207; Old Republic Int'l., Chuck Gregory, 612-371-1111; and Stewart, Ted Jones, 713-625-8014.

ALTA Members Make Fortune 500/1000 List

For the first time, this year two title insurance underwriters have made the prestigious Fortune 500 list. And three others have been listed in the broader-based Fortune 1000.

Fidelity National Financial, Inc. ranked as the 426th largest company in the country based on 2001 total revenues of $3.87 million, and First American Corp. ranked 437 with revenues of $3.75 million. Old Republic Int'l. came in at 612 with revenues of $2.37 million. LandAmerica Financial came in at 654 with revenues of $2.17 million, and Stewart Information Services at 941 with $1.27 million in revenues.

In addition, Fidelity National Financial, Inc., and First American Financial have been added to Fortune's 2002 Most Admired Companies list recognizing the top 10 companies in 58 industries that consistently deliver to shareholders, customers, and employees. For details on all of these lists: Fidelity, Carole Tacher, 805-696-7187; First American, Jo Etta Bandy, 714-800-3207; LandAmerica, Randy Farmer, 804-267-8120; Old Republic Int'l., Chuck Gregory, 612-371-1111; and Stewart, Ted Jones, 713-625-8014.

Mergers & Acquisitions

The newly named Rio Grande Title Company of Sante Fe is the result of the purchase of American Surety Title Company of Sante Fe by shareholders of Albuquerque-based Rio Grande Title Company, Inc.

new ALTA members

Georgia

Richard Setser
Calibre Title Research, Inc.
Decatur

Tracy Collins
Collins Title, Inc.
Suwanee

Timothy Nesbitt
Crosstown Title, LLC
Alpharetta

Virginia Garmon
Georgia Reliable Title, Inc.
Gillsville

Melisa Davis
Melisa Davis, Attorney at Law, LLC.
Chatsworth

Carl Sheffield
Sheffield Land Title
Atlanta

Illinois

Jack Burgeson
Acquest Title Services, LLC
Barrington Hills

Juliette Davis
Neighborhood Title Services, LLC
Chicago

Maryland

Larry Holland
Bankers Title & Settlements, Inc.
Greenbelt

Maryland, cont.

Lynn Boynton
Signature Settlement Services
Gaithersburg

Shelley List
Sole Proprietor
Baltimore

Minnesota

David Crotty
American Abstract and Title Inc.,
Duluth

Julie Pfeilsticker
Lake Pepin Abstract Co.
Lake City

Gary Wasson
McDonald County Title
& Escrow, Inc.
Jane

Montana

Allan Williams
Rocky Mountain Land Title
Company
Bozeman

Nebraska

Nyla Stueckrath
Big Red Title
Norfolk

John Fahey
Missouri River Title Company, Inc.
Omaha

Virginia Walrath
Walrath Abstract & Title
Loup City

New Jersey

Joseph Dicniara
Express Title Agency
Green Brook

New York

George Torrella
Torrella- NY Closing Services
Valley Stream

new ALTA members

North Carolina
Stephen Smith
SBC Title Company
Eden

Ohio
Raymond Bullock
Bullock Titles
Dayton

Charles Daley
First Lima Title Agency, Inc.
Lima

James Gibson
J.M.G. Abstract
West Manchester

Terry Thomas
T.L.T. Title
Carlisle

Pennsylvania
David Harris
Harris Land Abstract
Clarks Summit

Rhode Island
George Manley
Greenwich Bay Title & Abstract Co.
East Greenwich

Utah
Ken Martindale
Liberty Title Insurance Agency
Salt Lake City

West Virginia
Richard Pill
Pill & Pill
Martinsburg

Wisconsin
John Stellmacher
Landmark Title of Walworth County, Inc.
Elkhorn
Underwriter

Nevada
Cathy Jones
Westcor Land Title Insurance Co.
Las Vegas

Associate Members
Arizona
William Moore
ProNet Solutions, Inc.
Phoenix

Louisiana
E.Howell Crosby
New Orleans

Maryland
Deborah Curran
Curran & O'Sullivan, P.C.
Laurel

Virginia
J. Drewry Hill
Heathsville

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Consultant Wanted

New Jersey Land Title Association seeks to retain consultant to assist in advocating the modernization of land records and implementation of electronic filing and recording of land title documents in the State of New Jersey.
Consultant must possess the following:
Good communication skills; Ability to serve as an advocate for the land title industry;Working knowledge of real estate transactions and land title document recording practices (New Jersey experience preferred); Experience in and knowledge of electronic information systems; Ability to dedicate significant attention to NJLTA projects as needed; Willingness to travel.

Please mail or fax resume with cover letter to:
New Jersey Land Title Association, 100 Willowbrook Road, Bldg. 1
Freehold, NJ 07728, fax (732) 462-3340. No Phone Calls Please.

Marketplace

Situation Wanted or Help Wanted ads are $80 for the first 50 words, $1 for each additional word, 130 words maximum. Insertion rate drops to $70 for first 50 words for three or more consecutive placements. For Sale or Wanted to Buy ads are $250 for 50 words, $1 for each additional word, 130 words maximum. Insertion rate drops to $225 for 50 words for three or more consecutive placements. Placing a box around an ad costs an extra $20 for Help Wanted or Situations Wanted, $50 For Sale or wanted to buy. Blind box service available upon request.
To place a classified ad in Marketplace, send ad copy and check made payable to American Land Title Association to *Title News* Marketplace, ALTA, 1828 L Street, N.W., Suite 705, Washington, DC 20036.

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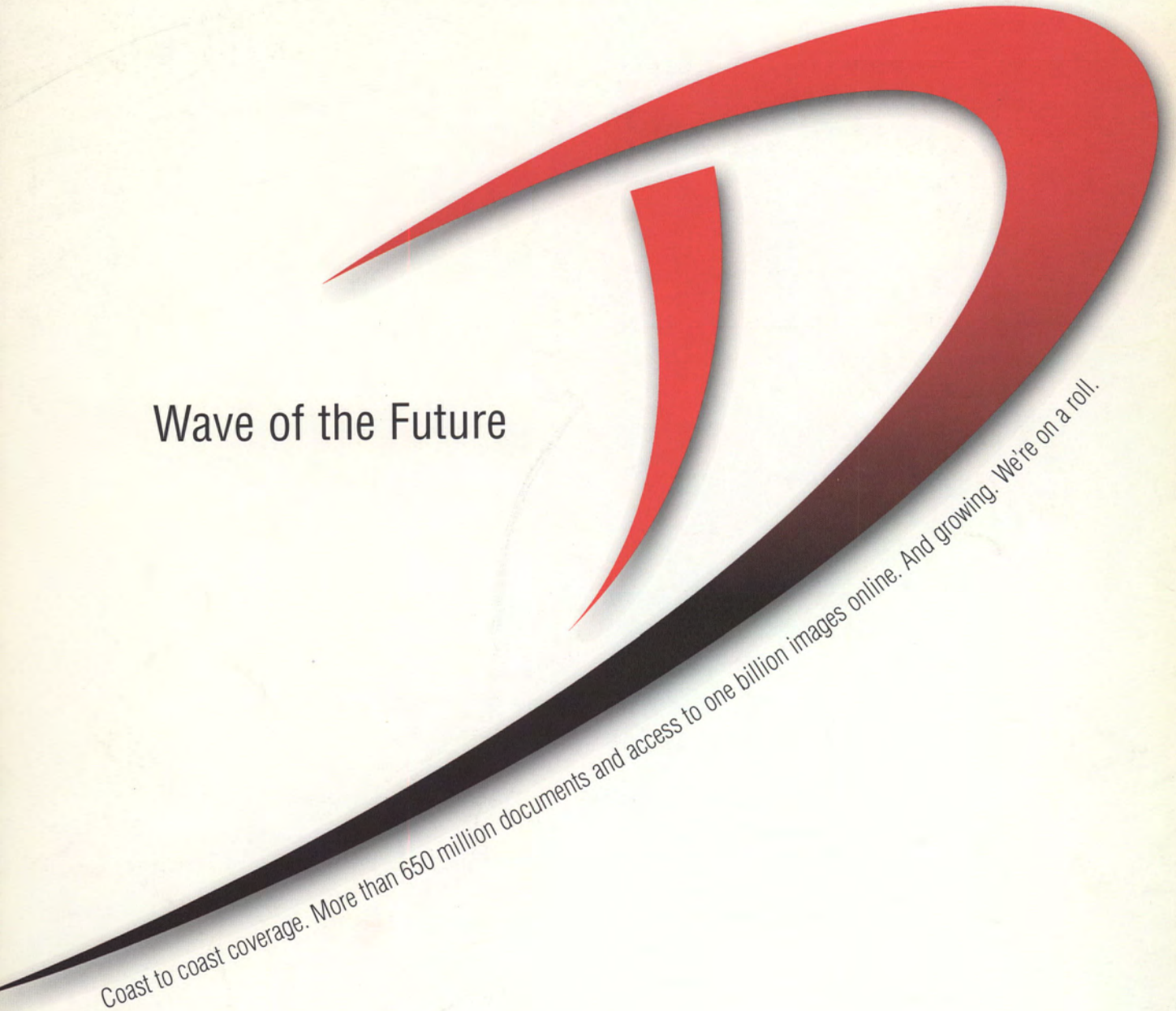

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