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American Land Title Association

TitleNews

Hernando de Soto on "Toxic Paper" The Root of the U.S. Recession

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from the publisher's desk

On May 17, a memorial service was held to commemorate the life of my predecessor, Jim Maher (see page 32). In attendance, was a “who’s who” of the title industry – people who have shaped this industry and who continue to lead it today. They were there because Jim also helped shape the industry, and in that process earned the affection and respect of many. But their attendance -- several flew in from long distances – also revealed something about the title industry; namely, that it is filled with good people in pursuit of more than just a return on investment.

It is almost stating the obvious to observe that a business’ return on investment, its profitability, is an absolute necessity for its survival. Moreover, ROI is one of the most widely recognized indices of business success. But I ask you to ponder whether it is enough. Is profitability an end in itself or means to an end? And if profitability is only a means to an end, what is the end?

The title industry provides an essential service, the derivative effects of which are extraordinarily beneficial to society. In fact, the author of this edition’s cover story and the keynote speaker at our approaching annual convention, Hernando de Soto, has written a book called *The Mystery of Capital*, which outlines the many societal benefits of an effective land title and transfer system. But the point is this: from the benefit we provide others, we are also blessed to make a living. If we pursue the latter to the detriment of the former, we are confusing “means” and “ends.” Put another way, while profitability is necessary, profitability alone is not sufficient for our long-term survival as an industry, let alone our satisfaction. To survive and thrive we have to be about something bigger than ourselves and never lose sight of the essential service we provide. Because temptation is the way of the world, we will always be offered opportunities to compromise our service in the pursuit of the promise of a better return on investment. Wise, good people will see this as a trap.

Wise, good people also share another characteristic: they can’t help but give of themselves as they serve their larger purpose. This giving creates bonds that survive death. Thus gathered the titans of the title industry to mourn the passing of one of their own, and by their very presence proved that the title industry is more than just a place to make a living, it’s a place to live and give a life of service.



– Kurt Pfothauer



Hernando de Soto

No, not the Hernando de Soto of explorer fame, but rather the world renowned Peruvian economist who was a Finalist to receive the Nobel Prize for Finance in 2002.

The Hernando de Soto who credits America's property transfer system as the foundation of our national prosperity.

The Hernando de Soto whose advice has been sought by kings, prime ministers and presidents. The Hernando de Soto that President Bill Clinton called "The World's Greatest Living Economist."

The Hernando de Soto that will be the keynote speaker at the 2009 ALTA Annual Convention.

Let me say it again.

Hernando de Soto . . . Keynote Speaker . . . at the 2009 ALTA Convention.

Several years ago, during a routine planning meeting with other ALTA board members, a U.S. Congressman was invited to address the small gathering. I remember very little of his remarks . . . until he emphasized the value of our industry by quoting Hernando De Soto! From my briefcase, I retrieved a worn copy of *The Mystery of Capital*, written by Hernando De Soto, and placed it on the table. The congressman, pointing at the book, said "every person in your industry should read that book."

More recently, Kurt Pfothenauer and I had the opportunity to have a private dinner with that same congressman. (It turns out that he and Kurt are well acquainted.) After the initial small talk, I reminded the congressman of his remarks to our group several years earlier. Surprised, he looked at me and exclaimed, "You were the guy with Hernando's book!"

And then he said this . . .

"I have always supported the title industry because I understand the structural value you bring to our property transfer system. If every member of your industry . . . and every member of Congress . . . was exposed to Hernando De Soto's views on how wealth is created and maintained, we would never again have to explain the value of title insurance."

The rest of the delightful evening was spent discussing Hernando De Soto!

Throughout my life, I have never been captivated by an individual's celebrity status or star power, but I have ALWAYS been awed by ideas . . . and by those who can develop thoughts into meaningful operational constructs.

Hernando de Soto is such a man.

For years, the title industry has struggled to explain its value to regulators, lawmakers and consumers who seem to only be concerned with price. And the more we shout the systemic dangers of a cheaper, less thorough product, the more we are accused of just protecting our own nest.

But when Hernando De Soto, the world's greatest living economist, says our work is critical . . . the credibility of our value proposition soars!



Make plans now to attend the annual convention to hear Hernando De Soto. Order a copy of his book *The Mystery of Capital*, to better understand why a functioning property transfer system is critical to any nation's prosperity. Check the ALTA web site for Hernando de Soto articles published by pre-eminent business publications like the *Wall Street Journal*.

Do not underestimate the impact of this man's message on the future of our industry. Do not miss this opportunity to learn, first hand, why nations cannot prosper without our diligent work. This experience . . . this keynote speaker . . . can give you the power to explain to your state regulators and members of Congress how the economic well-being of your state and our country depend on a properly functioning land title industry.

I cannot wait to hear . . . and you cannot afford to miss . . .
Hernando De Soto!



– Mike Pryor

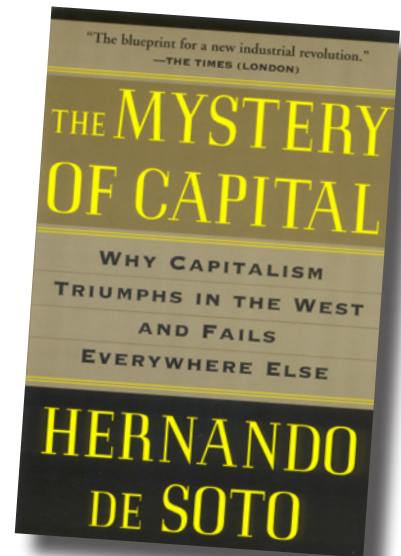


▲ Hernando de Soto speaking at the International Economic Forum 2008 in Gdynia Poland.

Special American Land Title Association Offer

Email ALTA to enter a drawing to receive one of ten signed copies of Hernando de Soto's best seller "The Mystery of Capital". This landmark book tells the story of why the U.S.'s land records system is responsible for prosperity in the Western world.

Please send an email with your name, company, address and phone number to marketing@alta.org to enter a drawing a signed copy of "The Mystery of Capital".



Larry Buster Leads the Charge Against Rate Rollbacks in California

Larry Buster, vice president of First American Title Company with responsibility for Orange and San Diego operations, took the helm as President of the California Land Title Association (CLTA) in July 2008. During his tenure, Buster led CLTA's efforts to accomplish a major revision of the statistical plan regulations and elimination of what would have been disastrous rate rollbacks by the California Department of Insurance. He also led the effort to sponsor a new law-setting zero tolerance on rebates and licensing for title marketing representatives.



On the association front, the CLTA recently completed a successful convention and has been budgeting over the past several years to weather the current economic crisis. According to CLTA executives, Buster is a consensus builder, which has proved valuable to the association during his tenure.

Buster is a 30-year veteran with First American, and holds a bachelor's degree in business administration from the University of Southern California and a juris doctor degree from Pepperdine Law School.



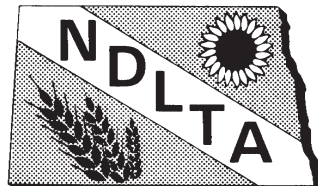
North Dakota's Karen Johner is a Community Leader

Karen Johner became president of the North Dakota Land Title Association (NDLTA) in September 2008. Joiner is president of North Dakota Guaranty and Title Company, with offices in Bismarck, Mandan, Minot and Dickinson.



Passionate about education, Johner led two very successful association conferences during her tenure—one designed for senior managers and one for beginning abstracters.

Johner also is dedicated to help make her community a better place. She serves as a board member of the Bismarck/Mandan Chamber of Commerce, co-chairs the Strategic Vision Planning Committee for the City of Mandan, and is a member of the Mandan Parking Study Committee.



Kathy Stewart Has 20-Year History with Dixie Land

Dixie Land Title Association (DLTA) President Kathy Stewart, underwriting office manager at Lawyers' Title Corporation's Atlanta office, has been involved in the association for nearly 20 years. The DLTA covers the states of Georgia, Alabama and Mississippi, and Stewart assumed the presidency in September of 2008.



In addition to chairing the Education Committee for five years, Stewart participated in a multi-year effort to restructure the DLTA by creating three separate LLCs: the Georgia Land Title Association, Alabama Land Title Association, and the Mississippi Land Title Association—all reporting to the DLTA as the parent association. The impetus was to allow representatives in each state to engage more effectively in legislative advocacy.

The LLCs were filed in June 2007, but the new structure required a major revision of the association's bylaws, a painstaking process requiring consensus by the leadership and members. The new bylaws received unanimous approval under Stewart's leadership during the association's 2009 Mid-Year Meeting held in March.



Federal Regulation of Insurance Bill Introduced

While regulators still haven't decided the best way to regulate insurance companies at the federal level, a bill that would create an Office of Insurance Information within the Treasury Department was introduced on Friday, May 22, by Rep. Paul Kanjorski (D-PA). H.R. 2609, the Insurance Information Act of 2009, uses language from the Office of Insurance Information bill that Kanjorski introduced in 2008.

The earlier OII bill died on the House floor in September 2008. As proposed in H.R. 2609, the OII would collect and analyze data on insurance; advise the Treasury secretary on major domestic and international

policy issues; report to Congress every two years; establish federal policy on international insurance matters; and ensure that state insurance laws remain consistent with federal policy in coordinating international trade agreements.

This bill has been portrayed by opponents of the federal regulation of insurance as a worrisome camel's nose under the tent flap. ALTA's sense of threat level is not as high. If the bill passes, ALTA will treat the new office as one more important group to educate about the important role the title industry plays in creating efficiencies in the real estate transaction.

FHA First-time Homebuyers Can Apply \$8,000 Tax Credit

HUD Secretary Shaun Donovan announced the FHA will allow home buyers to apply the administration's new \$8,000 first-time home buyer tax credit toward purchase costs of an FHA-insured home. The American Recovery and Reinvestment Act of 2009 offers home buyers a tax credit of up to \$8,000 for purchasing their first home. Families access this credit upon filing their tax returns with the IRS. However, HUD's announcement details FHA's rules allowing state Housing Finance Agencies and certain non-profits to "monetize" up to the full amount of the tax credit (depending on the amount of the mortgage) so that borrowers can immediately apply the funds toward the purchase of their new home.

The "Legacy Loans Program" is a part of the Administration's \$1 trillion Public Private Investment Program (PPIP), and was designed to help banks unload bad loans (now known as "legacy loans"). However, the program, which is being created by the FDIC, is currently on hold due to reluctance expressed by prospective buyers. Investors' main concern is that Washington will change the rules going forward.

Also, as banks have begun to regain a sense of stability, they have become less eager to participate in the program. The Administration is now saying that the program might be less integral to economic recovery than was once thought.

NAR Reports Rise in Home Sales

Existing home sales rose 2.9% in April 2009 compared to March, as distressed properties and low prices helped bolster the market, according to

the National Association of Realtors. Higher rates and increasing inventory will likely put more downward pressure on home prices and sales.



ALTA Board Member Testifies at Pennsylvania Hearing

Board Member Anne Anastasi testified on May 28 before the Pennsylvania Insurance Department to correct State Attorney General Corbett’s misunderstanding of the land transfer process and the land title industry.

Anastasi told the Commission that, “our services are risk elimination and prevention – vastly different than the service you buy with other insurance products. One way to compare title insurance to other lines of insurance is to imagine if your homeowners’ insurance agent came into your home and inspected all of the wiring at no cost to you. The agent then repaired any and all faulty or frayed wiring at no cost to you and guaranteed that none of the wiring that was repaired, or any wiring that the agent could not see, would cause a fire. Finally, the agent charged a one-time fee for the inspection, repairs and guarantee that would be in effect as long as you or your heirs owned the property. The title industry finds the faulty wiring, fixes the faulty wiring and charges a one-time premium to guarantee its work.”

She went on to explain, “Without the services provided by title insurers, the cost of closing a home loan would increase substantially and the exhaustive search of the public record that title insurers perform makes the sale of property go through quickly while legally protecting lenders and consumers. Because of the title insurance industry, Americans close their loans faster than any other country, 30 days on average, and the speed of these transactions saves consumers tens of billions of dollars annually in additional interest costs.”

Anastasi also corrected the misconception that commissions paid to title agents are not related to a competitive market. She explained that agents are compensated for the work they do. It is really a subcontracting fee that compensates the title insurance agent for having taken on the responsibility for the bulk of all the activities necessary to prepare land for transfer including searching public records, examining the title documents, correcting any encumbrances, and preparing all of the documents for closing.

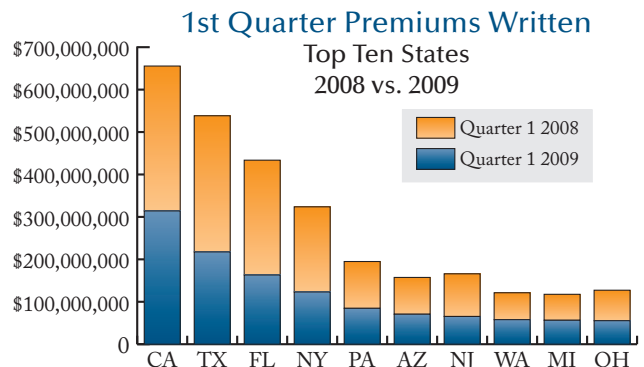
ALTA Releases 1st Quarter Title Industry Financial Results


The title industry reported total revenues for the 1st Quarter 2009 of \$2.2 billion, compared to \$3 billion in the 1st Quarter of 2008. Written premiums were \$2 billion in the 1st Quarter 2009 compared to \$2.6 billion in the 1st Quarter of 2008. This marks the 12th consecutive quarter in which total revenues and title premiums written declined from the prior year’s equivalent quarter.

At the state level, only two states showed an increase in title premiums written, with Alaska posting the highest gain of 12%, from \$8.2 million in the 1st Quarter of 2008 to \$9.2 million in the 1st Quarter of 2009. South Dakota increased 3.6%, from \$3.5 million in ’08 to \$3.6 million in ’09.

The highest decrease occurred in Delaware, with premiums of \$6.3 million in 2009 vs. \$11.5 million in 2008, representing a 45% decrease. Florida was second, with a loss of 40%, from \$270.6 million in 2008 to \$163.2 million in 2009. New York premiums dropped 38.6%, from 200.7 million in 2008 to \$123.1 million in 2009.

Maine, Connecticut, New Jersey, Rhode Island and Colorado were next, decreasing 36.1%, 35.6%, 34.9%, 34.2% and 34% respectively. Maine premiums were \$7.4 million in ’08 vs. \$4.7 million in ’09; Connecticut was \$29.5 million in ’08 vs. \$19 in ’09; New Jersey was \$100.5 million in ’08 vs. \$65.4 million in ’09; Rhode Island \$7.4 million vs. \$4.9 million; and Colorado \$60.2 million vs. \$39.7 million.





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Hernando de Soto on “Toxic Paper” The Root of the U.S. Recession

Hernando de Soto describes the underlying cause of the economic crisis: trillions of dollars of financial instruments derived from bad mortgages that were sliced, diced and repackaged into huge clumps of financial products that have contaminated the market.

by Hernando de Soto



NYSE

9:26:35

INTERNATIONAL CURRENCIES	
LONDON	6:50AM
ZURICH	6:50AM
MEXICO CTY	6:50AM
HONG KONG	10:28AM
TOKYO	11:28AM
SYDNEY	12:28AM
JAN.23	

POW-MIA
FOR THE MISSING
AND DECEASED

NYSE

In the midst of the market's disappointment over the Obama Administration's rescue plan for the economy, few seemed to have noticed the significant breakthrough in U.S. Treasury Secretary Timothy Geithner's proposal on February 10th – namely, that they have finally got their focus right: The primary cause of the current recession – a massive credit contraction – is the trillions of dollars of “toxic paper” clogging the balance sheets of financial institutions, scaring off potential creditors and investors who lack the legal devices required to understand what this paper means, how much there is, who has it and who might be a bad risk.

Right now, it doesn't really matter that there is a lack of detail on exactly how this toxic paper will be sequestered from the market, how it will be priced, or who will foot the bill – the

Let me explain why this is so. Look around: everything of economic value that you own – the title to your house and car, your mortgage, checking account, stocks, contracts, patents, other people's debts, including derivatives – is documented on property paper. You are able to hold, transfer, assess and certify the value of such assets only through documents that have been legally authenticated by a global system of rules, procedures and standards which ensure that the relationship between those documents and each of the independent assets they represent is never debased.

This formidable system of property rights, which has evolved steadily since the industrial revolution, provides all the rules and recording mechanisms to securely fix on paper the knowledge required to legitimately hold, transfer and transform the

and business opportunities is factual. It is through paper that we interconnect and know the global economy. We have forgotten that trust in business does not develop without the law. It is impossible to do business on a national level – never mind in a globalized marketplace – without reliable legal documentation.

Now this worldwide web of trust is crashing down. In recent years, governments have debased paper by carelessly allowing into the market a biblical flood of financial instruments derived from bad mortgages (and thus the name “derivatives”), nominally valued at some \$600 trillion or more – worth twice as much as all the rest of the world's legal paper, whether it represents cash, traditional financial assets or property, tangible or intangible, combined.

This astonishing amount of paper has been so poorly recorded, so tangled up, and so disrespectful of the longstanding consensus that tethers the economic value of each asset to paper, that authorities are struggling to single out the increasingly worthless and poorly performing paper from the good stuff, unable to determine how much there is, what it's worth or who holds it. That is why it has been dubbed “toxic paper” – the very prospect that potential borrowers may own large quantities and thus may not be able to repay their loans is what is paralyzing credit and starving the production and commerce that relies on it.

The manufacturers of derivatives have sliced and diced references to the underlying assets they represent and then repackaged these into such huge clumps of financial products that one default of a poorly performing asset can infect its neighbors.

... the real enemy of an expanding capitalist economy is the debasement of the legal financial documentation that represents value, transfers it, and signals risk.

taxpayers, the banks, or *vulture* capitalists. What is crucial right now, in my opinion, is that the Obama Administration is on the verge of fully understanding that the real enemy of an expanding capitalist economy is the debasement of the legal financial documentation that represents value, transfers it, and signals risk.

things we own. It produces the trust that allows credit and capital to flow and markets to work.

During the last half-century, the world economy has grown more than in the previous 2000 years. People have been able to rely on each other, divide labor, specialize profitably and get financing because they believe that the paper documenting valuables



Given that the volume of these derivatives dwarfs all other paper, the impact of their contagion is destroying one of the greatest achievements of property law and hence Western capitalism – the power to identify and isolate with precision every asset and every particular interest on that asset. And thus a meager 7% default on sub-prime mortgages that were funded or insured by derivatives – maybe only a few hundred billion dollars worth of toxic paper – is debasing the rest of economic paper and thus contaminating the entire economy. In short, a few bad apples can scare buyers away from the whole basket.

This is what really terrifies me because all credit and capital become tangible and can be deployed only when fixed on paper. There is no other vehicle available. By debasing paper, you demolish trust, because paper is the very thing that represents and ensures value, creating the information and confidence that holds the global economy together. Since this toxic paper refers to credit and capital, it affects all economic activity; the loss of trust spares no one, spreading out in all directions and beyond local bubbles, whether sub-prime housing or dot.com. And then staring you in the face may be the worst recession in modern history.

The solution could not be clearer, as the Obama rescue plan has recognized: we must restore trust in paper. To do so requires finding this toxic waste and purging it. When this paper is brought “into the sunshine,” as former U.S. Securities and Exchange Commission Chairman Chris Cox said at the beginning of the crisis, “money and credit will begin to flow again.”

So why are authorities still flummoxed about the next steps required to identify and weed out the toxic paper? From my own research, interviews and experience, I have identified at least five obstacles that authorities must overcome to come up with a complete and convincing rescue plan and move on it without hesitation.

Obstacle #1

Governments know more about controlling the money they issue and preventing it from being debased than they do about protecting credit. Though money can become credit, the overwhelming amount of available credit is made up of proprietary paper, such as fungible property, mortgages, bonds and derivatives, all of which can have some of the financial attributes of money but are not money.

In fact, when economists at the turn of the century discussed the availability of credit, some argued that it was important to determine not only how much money there was to loan, but also how much of the paper in the market had the quality of “moneyness.”

Today, this distinction is crucial. To prevent the reckless expansion or contraction of credit, governments must learn to control not only money but also paper with moneyness – now the prime vehicle of recessionary credit. The tools for controlling paper, however, are different: While the stability, acceptability and credibility of money can be assured by quantity limits, interest rates and amortization periods, these constraints are not enough to control paper and prevent its debasement. For that, governments must turn to the well-tested rules ensuring the credibility of all other legally authorized paper, particularly that related to property.

Those Rules Are

All documents and the assets and transactions they represent, or are derived from, must be recorded in publicly accessible registries. It is only by recording, arranging and formatting such factual knowledge – and updating it constantly – that we can detect overly creative financial and contractual instruments whose growth could lead to recession. We humans have the ability to use our minds to innovate and create all sorts of productive combinations while being able to deceive one another, be mistaken and swept away by our ambitions. Like Janus, these two opposing aspects of the mind are conjoined – we can separate them only by getting all the facts

organized in a written format that allows us to distinguish between credit to finance genuinely productive operations and that manufactured to satisfy the ambitions and fantasies of gamblers.

The law has to take into account the “externalities” or side-effects of all financial transactions – according to the age-old legal principle of erga omnes (“towards everyone”), historically developed under property law to protect third parties from the negative consequences of secret deals carried

and understandable benchmarks for detecting quickly whether a financial transaction has been created to help production or to build a casino for making bets on the performance of distant “underlying assets.”

Government should never forget that production always takes priority over finance. The role of finance is to keep the exchange economy going by passing money from those who save it to those who invent and produce things. Finance supports wealth creation but in and of itself

society must be compensated for the costs incurred in protecting those rights, the principal justification for bestowing the legal privilege to manufacture a new financial instrument should be to create additional real wealth and not just another opportunity for gambling.

Government can no longer tolerate the use of opaque and confusing language in drafting financial instruments; clarity and precision are indispensable for the creation of credit and capital through paper. Both credit and capital come into existence as a result of being embodied on legally authenticated and standardized paper that clearly describes in writing the most economically useful qualities of the wealth they represent. In contrast, much derivative paper lacks transparency and is not standardized, but scattered helter-skelter all over the market in thousands of idiosyncratic types of documents so complex and unreadable that even to put a value on them or gauge their risk is a stretch. In fact, some derivative paper is so sloppily structured that even banks have been unable to figure out the contents of their own portfolios, and U.S. courts continue to reject many foreclosures backed up by this kind of paper. After default, it may be close to impossible to find out who is accountable for repaying the debt for a derivative that has been sold innumerable times. A satisfactory estimate of the value of derivatives will be difficult until authorities categorize them and clear up the existing confusion.

■ Some derivative paper is so sloppily structured that even banks have been unable to figure out the contents of their own portfolios.

out by aristocracies unaccountable to no one but themselves. Applying this rule to financial paper would help ensure that derivatives always move in step with the general interest and allow government to protect those not directly involved in the deal but who suffer from its effects.

Every financial deal must be firmly tethered to the real performance of the asset from which it originated. This ensures that the amount of debt secured or created on the basis of assets does not become dangerously “out of scale” with those assets that underlie or guarantee the debt – a discrepancy that is the most prominent cause of a recession, according to economist John Kenneth Galbraith. By aligning debts to assets, we can create simple

creates no value (as both Adam Smith and Karl Marx stated). It should be treated as a kind of infrastructure like roads and bridges. We should not support solutions to the crisis that sacrifice the property and the wealth of producers to subsidize the mess created by unruly financing – unless it benefits the commonwealth.

Government can encourage assets to be leveraged, transformed, combined, recombined, sliced and diced, and repackaged into any number of tranches – provided the process intends to improve the value of the original asset. Improvements to assets, such as houses and land, are a time-honored condition for justifying granting the rights or benefits that can be derived from using assets. Since

Obstacle #2

American and European authorities find it difficult to believe that the fundamental cause of a recession

ARE YOU READY?

RESPA
ready.com
A Community Forum Created by RamQuest



While everyone in the title industry knows about the new RESPA regulation, few understand the full impact and far reaching potential of this change. If the RESPA changes have left you with more questions than answers and more confusion than clarity, you are not alone.

To help, RamQuest has created a community forum where those impacted by the RESPA regulation can come together, ask questions and develop strategies critical to complying with the RESPA guidelines. We invite you to logon to RESPAready.com and experience this RESPA Community for yourself.

RamQuest is also offering FREE RESPA Education Webinars and has published a **FREE White Paper**, *A Proactive Approach to RESPA*, to introduce and explore the components of the regulation. For registration and download information, visit RamQuest's Free Resources section at ramquest.com.

With RamQuest as your RESPA partner, you will be positioned to maximize every opportunity that this change presents. For more information on how RamQuest can help, contact us at ramquest.com or call us at 800.542.5503.

[ramquest.com/free resources](http://ramquest.com/free-resources) - 800.542.5503

Keynote Speaker Hernando de Soto

De Soto has published two books about economic and political development: *The Other Path: The Economic Answer to Terrorism*, and *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. Both books have been international bestsellers and translated into more than 30 languages.

Hernando de Soto is the keynote speaker at ALTA's 2009 Annual Convention, October 21-24, at The Breakers in Palm Beach, FL.

De Soto's pioneering work on formal property rights and capital creation for the poor in developing nations has led to global acclaim. Named one of the leading innovators in the world by *Time* and *Forbes* magazines, he has worked on the design and implementation of capital formation programs in Africa, Asia, Latin America, the Middle East, and former Soviet Nations. His work was called "the most promising anti-poverty initiative in the world" by former President Bill Clinton and "a great contribution to ending economic stagnation" by former President George Bush.



▲ Hernando de Soto with the President of Peru, Alan García Pérez



▲ Hernando de Soto meets with the Prime Minister of Albania, Dr. Sali Ramë Berisha, and Turkish Economist, Kemal Dervis.



▲ Hernando de Soto with the President of Indonesia, Susilo Bambang Yudhoyono and Cabinet.

could be a poorly paperized legal system. In emerging markets, where I come from, the importance of paper is pretty obvious: in the prosperous sectors of our countries, all the assets are documented, registered and standardized, sending out clear signals regarding who is who, who owns what, what is where and who's accountable.

However, most of our people are poor and live in the anarchy of the shadow economy, with their assets and contracts covered by paper that is endemically toxic: not recorded, not standardized, difficult to identify, hard to locate, their real value so opaque that ordinary people cannot build trust in each other or be trusted in global markets. In the shadow economies of the non-western world, credit paralysis is a chronic condition.

So when I look at the recession

all that is required is recapitalizing banks, stricter oversight, and injecting money into the economy. Well, that won't be enough.

Modern legal markets only work if paper is reliable and people have some access to credit and explicit information, which is not the case today. "Let the market do its work" now means, in effect, "let the shadow economy do its work," and that is a very different proposition.

In a shadow economy, the only people skilled at operating in the darkness are the vulture capitalists and the loan sharks who will devour producers with good credit scores but no credit, along with the recently unemployed, at bargain basement prices. And they will continue to do so until the savings and assets of those who produce real wealth have paid off the debt generated by the current crisis.

■ That is the process of capitalism: continuous detoxification.

that has started in the U.S. and Europe – triggered by toxic paper – I see a shadow economy and feel right at home. American and European politicians must not forget what their own greatest thinkers have been saying for the last three centuries, from Kant to Charles Sanders Pierce and Wittgenstein – namely, that all our obligations and commitments are derived from words recorded on paper with great precision.

Obstacle #3

Deep in their hearts, some authorities still cling to the hope that the existing market will eventually sort things out;

Obstacle #4

Many of those involved in resolving the crisis claim that it is virtually impossible to identify and value toxic paper. This is just not true. Most of us make a living finding things and untangling them without asking for a medal – from doctors locating the source of an infection to paleontologists who recreate a dinosaur that lived millions of years ago from a fossil revealed by a rock fall.

Americans and Europeans, in fact, used to be brilliant at finding and establishing the criteria to value toxic paper: lawyers and bureaucrats



did exactly that to sort out conflicting claims after the California Gold Rush, to tame the Wild West, to pick up the pieces of Europe's crumbling feudal order, to re-assemble Japan after World War II, and to reunify Germany after the fall of the Berlin Wall. That is the process of capitalism: continuous detoxification.

Today, in developing and former Soviet Union countries, we are constantly searching for toxic paper in our shadow economies – informal titles, licenses, contracts, laundered money and identity documents – in an effort to clarify the value of various assets and bring the people who own them into the mainstream.

Obstacle #5

Governments can no longer delegate the solution exclusively to financial specialists who operate within the narrow context of the derivatives market. This severely limits the options available for solving the crisis.

On one hand, the law that governs derivatives does not have the regulating standards required to keep paper tethered to reality, the indicators to



size up the damage, the information-sensitive agents to detect toxic paper quickly, the categories to classify the obstacles to reform, or the tools to sort out the growing conflict of interest between the holders of derivative paper and the rest of society.

On the other hand, the financial community doesn't have the inclination, the incentives or the economic interest to carry out the nitty-gritty, down and dirty job that is routinely done by skilled, tough and independent reformers.

The Real Economy Is the Law

Ever since we humans found it profitable to cooperate with people and to use assets outside of the family, the tribe or the fiefdom, we have depended on legally authenticated written statements to get the facts about things of value. There is no way to cooperate on a global scale unless we have a reliable, legal documentation system to keep track of entitlements and commitments, keep precise score of credit and capital, and reduce the ambiguity and opacity that make it disappear. That is why this recession is about legal property paper.

There is a myth that "the real economy" is about natural resources,

production and hard work. Coming from Latin America, a developing region, I can tell you that we have plenty of that. We export gold, copper, soybeans, airplanes, cars, natural gas and oil. In fact, according to the International Labor Organization, we Peruvians are the world's hardest working people. But a real economy where everyone can get connected to the rest of the world is a goal that we are still striving for.

What has bestowed prosperity to the West is the ability to trust and cooperate on an expanded scale, form credit and capital, and combine ingredients from a variety of sources into products of increasing complexity. All of that requires legal property paper, and therein lies the real economy.

Escaping this recession requires restoring order, precision and trust to financial paper. And that daunting task is a legal and political challenge. Legal, because it is the result of American and European governments having allowed the paper that represents their assets cross the line from the rule of law into the incomplete legal space of derivatives, where arbitrary interests preside and paper swirls mindlessly out of control.

It's a political challenge, because only fixing the law can eventually stop the recession, and those responsible for making laws are politicians. There will be hard decisions on how to locate the toxic paper, properly value it, isolate it, write it down and decide who foots the bill. But these decisions will be easier to make the sooner politicians realize that the alternative could be the collapse of the very system that has generated the most prosperity in history – and all hell breaking loose.

It is now time for politicians to muster the courage to rise above the narrow focus of day-to-day financial considerations, heed their instincts, and take their position on the commanding heights, where they can view every aspect of a failing order and use all the levers of the law to address them.

Markets were never intended to be anarchic: it has always been government's role to establish standards, set and enforce weights and measures, keep records, and bring every shadow economy under the rule of law.

Once it is clear that the current crisis is not about bubbles but about legal paper, governments can then step in to restore trust –in the name of capital and credit for all – without being accused of pandering to state socialism.

Hernando de Soto
2009 Annual Convention
Keynote Speaker



Hernando de Soto
President
Institute for Liberty and
Democracy
Lima, Peru.

perseverance has its rewards



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**Celebrating 20 Years
of Great Service**

ALTA's 2009 Annual Convention

This year's Annual Convention in Palm Beach Florida is packed with the educational opportunities and business strategies you need to take full advantage of the changing economy.

ALTA has secured internationally acclaimed economist Hernando de Soto, the author of this issue's cover story, as the Keynote Speaker for our 2009 Annual Convention. De Soto effectively captures the immense value of the work we do and will show you why guaranteed property rights are a necessary condition for our continued economic and civil prosperity. Former President Bill Clinton calls de Soto "the world's greatest living economist." This is a once in a lifetime opportunity to learn firsthand from "one of 15 innovators or will reinvent your future." The clarity and passion in his message will leave you glowing with pride. Join us as De Soto explains how our industry strengthens our financial markets and protects our homeland by making the American Dream of homeownership possible.

The recession-hit economy has triggered numerous failures in American housing markets. To help provide information and build con-

fidence amongst members, ALTA will gather top executives from our nation's major underwriters to discuss the future of the title industry. This is a great opportunity to interact with the most influential decision makers in our profession and hear how and when these experts predict our industry will recover. You will learn from your colleagues' experience and walk away understanding how top industry professionals are managing the current market. You will have the opportunity to ask important questions about how your business will be affected and how you can get involved. You won't have another chance to prepare for one of the most extensive economic recovery efforts in American history.

Educational Opportunities

In addition to our General Sessions, our professional development program explores the strategies that will allow you to adapt to current market conditions and plan for the future. We've noticed considerable trends in

the way businesses are operating and these sessions are an excellent place to discover innovative yet inexpensive ways to meet and exceed your business goals. Professional development sessions are customized to fit the needs of all title professionals. It doesn't matter if you're an agent, underwriter, large business or small, our sessions will help you understand current industry issues and how to establish a competitive advantage over your competition. Our professional development tracks will focus on four important subjects affecting title professionals today.

Join our experts and discover how you can be proactive in the fight against fraud and better serve your customers in the process. Learn how to increase awareness among consumers on how to protect themselves from real estate fraud and mortgage scams during our Mortgage Fraud: Fact or Fiction session.

For small businesses looking for new ways to do more with less, check out our Back to Business Basics track.



Attendees can use these sessions to incorporate new approaches into your strategic plan and day-to-day operations. This track will focus how to squeeze more out of your current assets and get more bang for your buck!

Key in on Industry Insights and establish a competitive advantage by learning how to avoid costly problems during economic turbulence and legislation reform. The title industry is dotted with hazards, including governmental entities seeking to change how you do business. Learn to predict changes, including new information on RESPA Reform before they happen and stay ahead of your competition!

Our final track is all about keeping track of changing trends in the housing industry. New transaction types require specialized knowledge and our experts are ready to share the key components of the new deals that have been influenced by current market conditions. Join us for our Transaction Trends sessions to gain the knowledge you need to tackle this environment.

Each year, hundreds of title industry experts assemble at the American Land Title Association's Annual Convention to champion the work of our industry. ALTA wants our members to recognize how vital our work is to the continued prosperity of our nation and this gathering presents a premier annual opportunity for title professionals to tackle important issues facing our industry and to discover better ways to run your business. Your dedication and participation is an important part of reaffirming our commitment to the title industry and the millions of consumers we serve. Visit www.alta.org/meetings/annual and register today!

The Breakers in Palm Beach, Florida

The Breakers is a 140-acre, luxury oceanfront resort featuring an unparalleled array of amenities. Along with luxurious accommodations, the hotel offers guests unmatched service and an exceptional level of personalized attention. During your convention stay, you can enjoy a relaxing massage at the Spa, world-class cuisine, and private access to outdoor recreational activities.

Palm Beach is one of America's legendary resort destinations. In addition to some of the finest beaches in the world, Palm Beach offers a host of attractions—from museums to shopping on beautiful beachfront property. Home to more than 2,000 tourist attractions and restaurants, Palm Beach is densely populated with art exhibits, sporting events, and exclusive excursions sure to please any traveler.

As usual, ALTA has planned a number of activities for those times when you are not in meetings or for your spouse or guest to enjoy at their leisure. These include an historic look at The Breakers, snorkeling in the beautiful Atlantic Ocean, horseback riding along the beach, a bicycle tour of Palm Beach and a tour of the Henry Flagler Museum, the luxurious estate widely considered the Taj Mahal of North America. The mansion offers visitors a view into life during the early 20th century and is outfitted with original antique European furnishings.

Not far from the hotel, you can browse the designer boutiques along world famous Worth Avenue. A popular site for celebrity appearances and sightings, Worth Avenue is a great place to soak in Palm Beach's distinctive Mediterranean-style architecture. This area also features some of the finest gourmet restaurants in Palm Beach.

The city is also rich in culture and American history. Just a mile away from the resort is the Ann Norton Museum of Art. The Norton is world famous for its prestigious permanent collection including major works by Hopper, O'Keeffe, and Pollock as well as paintings by Degas, Gauguin, Monet, and Picasso.

Your stay at ALTA's Annual Convention promises to be relaxing and care free, which will provide you with a perfect mindset for learning at the Convention sessions. So sit back, relax, and enjoy your stay in Palm Beach!



Breathe Life Back Into Your Company

You are closer to success than you may think! In spite of what the media has swayed you to believe, your company's next level may be just a few simple steps away.

By Darryl Turner

Just like anything living, your company requires you to treat it the same way—assuming it has a dynamic resilience to adversity until you completely stop watering it. At that point, it did not die but was killed.

In order to breathe life back into your company, there are a few simple steps to take. They are logical and follow business protocol principles. What are the keys to these steps? They are simple! Not complicated, not confusing, not hard to understand and do not require a degree in rocket science. The primary thing they require is your ability to stop long enough to restart.

First let's look at the people who really do care as much as you do—your team players.

Too often people think that the team players in a title company don't care as much as managers and owners. This is simply not true.

Your staff does care. They care about the company, the customers, the future and your ability as a company to deliver value and to create security in this market.

Here are a few steps to engage your team in your future revenue development and growth:

Ask People Who Know

Talk to the people on your team. Ask them their opinion of the company, where it is strong and where it is weak. Then the key . . . listen! Listen

to what people have to say who deal inside the company every day.

Why is it that polls show many people do not like the job they are in? Easy, they are not an active part of the company. These people who claim to not like their job represent a large group who are simply not part of the "life" of the company. They are not asked about ideas, strategies and solutions. They are just there to do the job they have been asked to do.

The next time you brainstorm ideas, solutions and opportunities in your company (which should be right now), invite a few employees who would not normally be asked to participate. When you do, watch how things begin to change with them nearly immediately. When the meeting is over, watch how they interact with others outside of the meeting.

Ask People Who Have Already Chosen to Do Business with You

I have always said that if you want to find ways to make people want to do business with you, ask those who do!

Once you know what motivated someone to select your company, build your entire model around the common answers.

E+M=R The Economy + Your Model = Your Results

Since you cannot change the economy and you want to change your results, you must realize that the only thing you can do is re-engineer your business model. In other words, find what has worked and capitalize on it.



Design your business model around what works, not what you want to make work.

Have a focus group (but call it something different, see below). Many companies have experimented with these groups and have received some good results while not fully benefiting to the degree they could without the proper process and additional follow up.

Here Are Some Suggestions I Recommend You Do at These Sessions:

1: Don't Call it a Focus Group

Instead of calling it what people expect you to call it, call it your "Annual Strategic Planning Session." This method gets some bigger hitters to your session much easier. It does appeal to that "ego" side.

2: Have Someone Else Do It.

I recommend you have someone else facilitate your meeting. You can be in the room but many times have them strategically ask you to leave. It gets

better answers and also reiterates the scale of importance.

3: Give Them Something For Their Time (Where You Can).

I do many "Strategic Planning Sessions" for title companies across America. I have found that, in the end, if you give them a nice plaque and a polo shirt you will see them again . . . and again . . . and again.

The plaque typically makes it to their office and the polo shirt will be spotted in public usually in their office representing you.

Both the plaque and polo shirt should have an "ABC Title Annual Strategic Planning Event" tag line on it.

I'd be willing to bet that not many [customers] have told you that they started doing business with you because of the letter opener.

4: Ask the Questions

Ask the questions and allow them to write their answers on a blank sheet of paper without their name on it, and then open a discussion on each question after the pages are collected. That way you have a record of what people say and they are more likely to be honest if they can answer the questions anonymously.

Don't Let Any Customer Get Away

In an effort to grow your business, you will find yourself chasing after the people who already do business with you . . . or will you?

This has become an industry myth as most of the time the only person considered to be the customer is the one directing the business. In essence, anyone doing business with you is a customer! That means that whether they directed or not, they are a customer. Based on this thought, that means that two out of three of your "customers" plan to leave you at the end of the current transaction.

So, Here is a Rule:

You can grow your business simply by not letting customers get away. Put a plan together to give all parties the same service, communication, respect and attention that you normally give your directing customer.

Think About It This Way:

If you or your team were asked if they were more skilled at new customer acquisition or retention of existing customers, what would the answer be?

In nearly every case, when I ask this question, I am told (when people are honest) that they are better at retention. So with that being the case, the best model of growth is to use the traits that people are already good at. In other words, simply identify all parties involved in every transaction and prove that you are good at retention . . . keep them!

Live as if You Had No Sales or Marketing Budget

Many of us in the title industry have developed a reliance on item selling rather than value-based selling. We tend to be more comfortable walking in the realty or mortgage office with something in our hands to give them, such as a new desk calendar, some pens or a letter opener. And I'd be

Since you cannot build a business model using point #2, it becomes imperative that you completely build your model around the controllable aspects of point #1. This rarely, if ever, includes give-away items.

These items are nice as a thank you or name recognition, but should not be mistaken for marketing.

Communicate with your team at least once a week about customers, prospects, plans, systems, processes and results.

willing to bet that not many have told you that they started doing business with you because of the letter opener. You have most likely only picked up customers because of two reasons:

1. Something you did right (communicated value face-to-face)
2. Something another company did wrong (more common, 10 to 1)

Here are Some Facts:

1. Give-aways are not part of a sales plan.
2. Being nice is not part of a sales plan
3. Making regular calls is not part of a sales plan.
4. Sponsoring a breakfast at a local real estate office is not part of a sales plan.
5. Getting into every office in the market is not part of a sales plan.

The goal is to develop your company's step-by-step sales plan and then stick to it every minute of every day! Whatever you decide for that system to be, stick to it. Your sales efficiency drastically goes down as you exit off your plan.

Become a Team!

John Maxwell puts it best when he said, "Teamwork Makes the Dream Work."

The best football player in the NFL could never single-handedly beat the worst team in a game. Your company is stronger as a team with an average plan than it is with individuals and a great plan.

Communicate with your team at least once a week about customers, prospects, plans, systems, processes and results. Make it a point to meet on these topics. Don't let a single week pass without doing it.

The market is beginning to show signs of improvement everywhere and your customers are about to start getting busier! Are you ready to pick up that business while aggressively growing your customer base?

That is the formula for success!

Don't miss this topic and more during the 2009 ALTA Annual Convention.



Darryl Turner is Founder and CEO of The Darryl Turner Corporation, a national sales and training company based in Modesto, CA. His exclusive

business development system has been successfully implemented by more than 400 title companies across the country. For more information, call (209) 548-9000.



the title industry gives back

MLTA Food Drive Benefits local Salvation Army

The Minnesota Land Title Association (MLTA) launched a community service project in 2009 called “Title Gives Back,” which consists of a series of food drives at Association events throughout the year. The most recent food drive, benefitting The Salvation Army of St. Cloud, MN, was held during the Association’s Spring Seminar on April 6, 2009. According to Kathy Aro, MLTA’s executive assistant, it was the most successful food drive to date.

“The generosity of MLTA members has been tremendous, having donated more than 770 pounds of food and \$225 in cash,” said MLTA President Barbara Gilmore. “The St. Cloud Salvation Army was thrilled with our level of participation.”

In a letter to Gilmore dated April 15, 2009, Major Manuel Madrid, Jr., Corps Officer, writes: “Without help from friends and neighbors like you, we would not be able to keep our many programs going.”



▲ Some of the generous donation made by MLTA.

Suzanne Krupa of University Title Earns VIVA Award

Suzanne Krupa of University Title Company in College Station, TX, received the Rotary Club’s VIVA Award. She was nominated for the award by local REALTOR® Brandi Ring-Cooper.

The VIVA Award (Very Impressive Vocational Achievement) honors those who demonstrate Rotary’s Four Principles in their daily lives:

Is it the truth? Is it fair for all concerned? Will it build goodwill and better friendships? Will it be beneficial to all concerned?

“Hardly a day goes by that we don’t receive a compliment on Suzanne,” said Celia Goode-Haddock, president and CEO of University Title. “She sits at the reception desk and greets our customers, new and old. To them it feels more like visiting someone in their home because of the way Suzanne welcomes them and serves up refreshments. We couldn’t do without her. Our customers just wouldn’t let us.”

Krupa, who has been with University Title for 19 years, is the third individual at the company to earn the VIVA award. University Title was named “One of the Best Companies to Work for in Texas” in 2008 and 2009 by the Texas Association of Business and Texas State Council of the Society for Human Resource Management.

Stewart Goes Green

Employees of Stewart Title in Columbia, SC donated funds to plant 55 native pine, fir and cedar trees in the Plumas National Forest as part of the Earth Day celebration in April 25, 2009.

Stewart Title SC is one of more than 60 Stewart title companies that have gone “Green” as part of the company’s Green Title Initiative, which was developed to achieve eco-friendly benefits through environmentally friendly offices, practices and procedures.

Stewart offices can be recognized as Green when they have completed several steps focusing on their office, the real estate transaction, the environment and advocacy in their communities. The first step is utilizing a “paperless” process to reduce the amount of paper traditionally used during a real estate transaction. This includes online document management and delivery, electronic closings, eRecording and reducing unnecessary printing. Stewart’s Green Title Initiative was launched in late 2007 with the goal of 100 percent company-wide participation by 2010.

business strategies conference highlights



▲ Roundtable discussions focused on important industry topics such as Research Technology & RESPA Implementation



▲ Attendees learned about the latest technologies for the title industry.

ALTA's 2009 Business Strategies Conference took place April 19 - 21 in San Antonio, Texas, just off the Riverwalk at the Grand Hyatt San Antonio. The conference kicked off with a reception in the Exhibit Showcase, where attendees greeted old friends, networked, and learned about the latest technologies for the title industry.

The two-hour General Session on Monday brought representatives from the mortgage industry, REALTORS® and surveyors, who discussed how these various disciplines can work together to achieve common goals. The second part of the General Session featured representatives from ALTA's

RESPA Implementation Taskforce, who shared important information and answered questions regarding implementing the new RESPA. The session was moderated by Anne Anastasi, board member and chair of the Agents and Abstracters Section.

Over lunch, attendees joined in on more than 10 different roundtable discussions on important industry topics. The afternoon's Professional Development sessions, many of which were approved for CE/CLE credits, covered such topics as mortgage fraud, Google applications and innovations in the title industry.





▲ ALTA's RESPA Implementation Taskforce provides an update and answers questions regarding the new rule.



▲ Keynote Speaker Ted C. Jones, Ph.D., vice president and chief economist, Stewart Title Guaranty

The day was capped with a reception in the Exhibit Showcase, followed by a night of entertainment at the San Antonio Fiesta celebration, featuring the Cavalier's Parade of Floats along the Riverwalk.

The second day's General Session included expert panels comprised of senior agents and underwriters, who shared their experiences and personal insights, followed by questions from the audience.

The conference wrapped up with a luncheon and keynote speech by Ted C. Jones, Ph.D., vice president and chief economist with Stewart Title Guaranty Co. Jones

gave a very enlightening and at times hilariously entertaining view of where the economy is today and where it is headed.

If you weren't able to attend the conference, sessions and photos are available online at: www.alta.org/meetings/techforum/past/index.cfm. (Proceedings are exclusive to attendees and ALTA Members. Log-in and password required.)



▲ The Agents Section of the, "A View from Within the Title Industry" General Session.



▲ The Underwriters Section of the, "A View from Within the Title Industry" General Session.

Cyber Crime and Check Fraud

Cyber crime is growing exponentially, and check fraud accounts for more losses than all other forms of payment fraud combined. Read how to protect yourself and your company.

By Greg Lister

Recently, a small Midwestern company's computer system became infected with a virus that tracked keystrokes. The hacker was able to decipher the CFO's bank log-on sequence, illegally log on as the CFO, and send \$160,000 in ACH credits to bank accounts controlled by the hacker.

The following day the money was sent overseas. Several days later, the company discovered the transfers and contacted their bank. They were shocked to learn the bank's records showed an authentic customer log-on, and even more shocked when the bank refused to reimburse them for the loss. Banks are not responsible for the integrity of their customers' computers.

Cyber crime is growing exponentially. Nearly two thirds of all the malicious code ever written was in 2007; 2008 numbers, when avail-

able, will likely be worse. Symantec detected 499,811 new malicious code threats in the second half of 2007, a 571 percent increase over the second half of 2006.

How bad are these losses? The 2008 CSI Computer Crime and Security Survey showed the average annual loss due to computer security incidents was nearly \$300,000 per company, based on the 500 companies that responded.

Computer crime has become "professionalized" and functions underground in a black market economy very similar to a legitimate economy. Corporate and consumer bank account numbers, full identities, and Internet scams can be purchased at online cyber bazaars. Cyber criminals increasingly target end users on individual computers through the Web. Social networks like Facebook® and MySpace® are prime targets

for spreading malicious code when unsuspecting friends share infected files.

Cyber Crime Prevention Strategies

What can be done? The Verizon 2008 Data Breach Investigations Report found that, of the 500 data breaches they investigated, more than half could have been thwarted by simple security protections and procedures. Following are ways to protect your company, yourself and your family.

Individuals

Use anti-virus and anti-spyware software that removes or quarantines viruses, and set it to perform daily automatic updates. Consider Norton Internet Security 2009, AVG, Kaspersky, McAfee, etc.

- Use a firewall, which helps make you invisible on the Internet and blocks incoming communications from unauthorized sources. After installing it the first time, change the factory default password immediately.
- Don't click on links imbedded in emails. Manually type the URL into your browser bar.
- Unplug your Internet connection when you're away.
- Never reply to an email, text, or pop-up message that asks for personal information.

- Never open an email attachment unless you are expecting it or know what it contains.
- Download software only from Trusted Sites. Don't trust "free" stuff. "Free" downloads are often infected with malicious code. There is no such thing as a free lunch.
- Don't send sensitive files over a Wi-Fi (wireless Internet connection) network unless it is secure. Public "hot spots" are not secure.
- When you're not using Wi-Fi, turn off the wireless connection to your laptop.
- You can track your child's keystrokes, emails, IM, MySpace, Facebook, and all web sites visited by using Spector Pro (*spectorsoft.com*). Never divulge the source of your "parent's intuition."

Companies and Organizations

- Speak with your insurance agent about cyber crime coverage.
- Implement security policies to restrict unauthorized access to sensitive data.
- Ask your bank about using a "Security Token," a physical device or software that generates a random six digit number that expires and re-generates every 60 seconds and is part of the bank log-on and password sequence to thwart keystroke logger viruses.
- Require that all sensitive data be encrypted or password protected before transmission. Adobe Acrobat© does this easily.
- Regularly review updated patches for your operating system software and install those that tighten your security. (A patch is a small interim fix, like a bandage, that users can

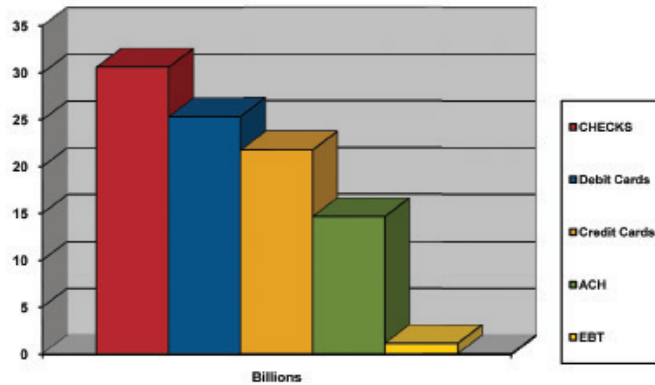


Chart 1: Total Non-Cash Payments by Method

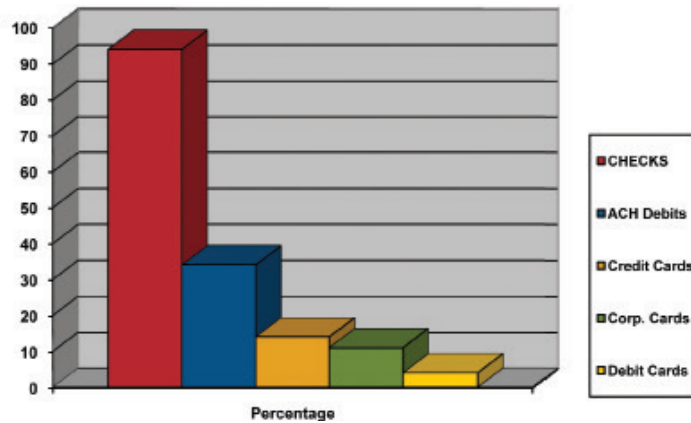


Chart 2: Percentage of Fraudulent Transactions by Method

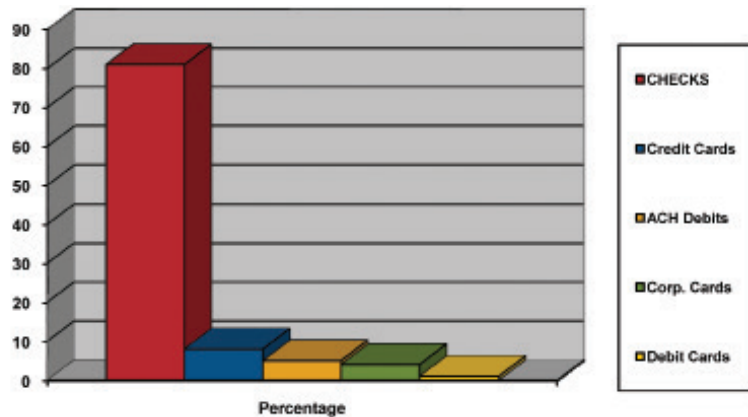


Chart 3: Percentage of Dollar Fraud Losses by Method

- apply when they can't wait until the next release of an application.)
- Develop written policies for using flash drives. Some companies fill in the flash drive port with epoxy to stop data theft.
- Install software to restrict the sites users may access.
- Use a network-based Intrusion Prevention System (IPS).
- Maintain a "whitelist" of trusted Web sites. (A whitelist is a filter

that described what is allowed rather than what is not allowed.)

- When employees leave the company, immediately disconnect their access to the company's network and building, shut down remote connections, and collect their company cell phones, iPDA's, etc.

Download Frank Abagnale's new fraud bulletin and read Page 15 for more strategies: www.safechecks.com/services/fraudbulletin.html

Check Fraud

Why are we still talking about check fraud in the 21st Century? Because check fraud accounts for more losses than all other forms of payment fraud combined, according to the Payments Fraud and Control Survey conducted by the Association of Financial Pro-



dominant; everything else pales by comparison.

Check fraud comes in many forms, but ultimately are all variations of two themes: counterfeit checks and altered checks. Counterfeit checks are often created with inexpensive software and printed on blank, uncontrolled check stock. Forgers print the account number and bank routing

Check Fraud Prevention Strategies

Check fraud is big business, and often involves criminal gangs that are both clever and resourceful. To reduce your risk of loss, follow these strategies.

1. Use high security checks that have 10 or more safety features. High security checks help deter forgers' attempts because they are more difficult to alter or replicate. They establish the basis for an indemnity claim on a converted item under Check 21 (Check Clearing for the 21st Century Act), and prevent losses on some holder in due course claims. Frank Abagnale designed one of the most secure checks in America, the SuperBusinessCheck, which can be viewed at www.supercheck.net.
2. Implement Positive Pay, an automated check-matching service offered by many banks. This service can identify most (not all) counterfeit checks and prevent them from paying. Under Positive Pay, every day a company issues checks it transmits a file containing the check numbers, dollar amounts and payee names to its bank. The bank stores the data and compares the in-clearing checks against the check issue data. If the in-clearing check

Implement Positive Pay, an automated check-matching service offered by many banks.

professionals. The three charts illustrate this point.

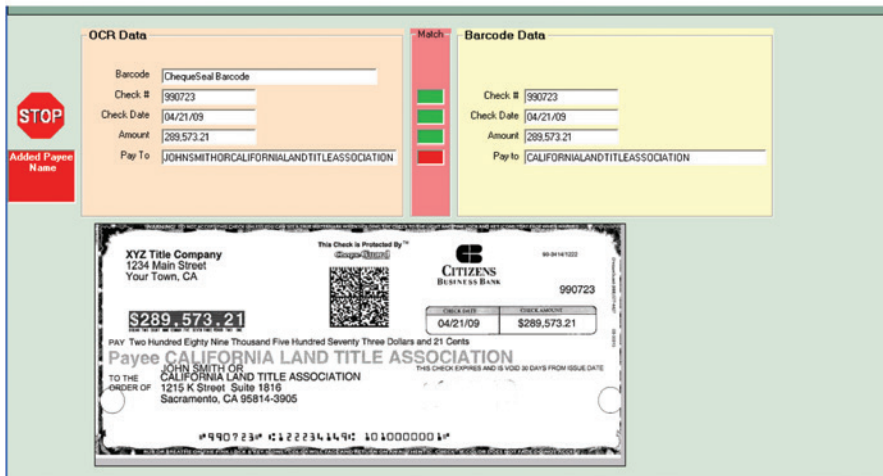
Chart 1 shows Total Non-Cash Payments by Method, reflecting how payments are made in the United States. Payment by check is still the most common.

Chart 2 shows Percentage of Fraudulent Payment Transactions by Method. Checks are the most common method of making fraudulent payments.

Chart 3 shows the Percentage of Actual Fraud Losses by Method, reflecting how many dollars are actually lost. Check fraud is the most

number of a legitimate company on the counterfeit checks.

Altered checks are original authentic checks that were stolen and have had the payee names and/or dollar amounts altered. Counterfeit and altered checks, including fake Cashier's Checks, are often used to close escrow on a real estate purchase that is immediately resold, or to purchase big-ticket commodities that are resold. These commodities include everything from automobiles to computer chips.



matches the data, the bank pays the check. If it does not match, the check becomes an exception item that the company reviews, to decide if it should be paid. Visit www.positivepay.net for more information.

Forgers understand the banking system and how Positive Pay works. They know that most Positive Pay systems compare the check number and dollar amount, but not the payee name, so they alter or add a new payee name. A few banks offer Positive Pay with Payee Name Verification, but forgers beat those systems by adding a payee name two lines above the original payee name, which is outside the field the bank's software scans. (See "New Technologies" section.)

- Prevent altered payee names by using high security checks with toner anchorage, good quality toner, and a hot laser printer (rough paper setting), and by printing the payee name, address and dollar amount in a 14-point font.
- Do not close back-to-back escrows on a Cashier's Check unless you can verify the check. Criminals present counterfeit bank Cashier's Checks

after banking hours, knowing that the check cannot be verified until well after they are gone. Never call the phone number printed on the check. If the check is counterfeit, the phone number will ring to an accomplice who will verify the counterfeit check as legitimate.

- Separate financial duties within your organization to prevent embezzlement. The person preparing checks should not sign or reconcile the account. All new vendors added to the master vendor file should be verified by someone independent from the process.
- Reconcile your accounts immediately upon receipt of your bank statement and report any discrepancies to your bank without delay. The UCC (Universal Commercial Code) allows 30 days from the date the bank statement is mailed for the account holder to reconcile. However, the bank can shorten that timeframe by printing and distributing the new timeframe in a disclosure statement.

New Technologies

The latest technology in fraud prevention is the "secure seal" barcode and the "secure name font," shown in

Illustration 4. The secure name font prevents added or altered payee names. The payee name is printed once in the normal position, then again in a much larger font that is positioned immediately above the original name.

The encrypted barcode contains the payee name, dollar amount, account number, check number, issue date, etc. It is like on-board positive pay, but without the need to transmit the check issue file to the bank. If a fake payee name is added to the check, it would be discovered by the bank when the printed information is compared to the barcode data, as shown in Illustration 5.

The secure name font and secure seal barcode are created with a printer driver. No additional hardware or software is required. The printer driver can also create a Positive Pay check issue file to send to the bank. Learn more on Page 14 in Frank Abagnale's fraud bulletin, which can be downloaded at www.safechecks.com/services/fraudbulletin.html.

By implementing these measures, most check fraud losses can be prevented.

Don't miss this topic and more during the 2009 ALTA Annual Convention.

Greg Litster is president of SAFEChecks®. He is a former 18-year banker, is an associate of Frank Abagnale (subject of Steven Spielberg's blockbuster movie, "Catch Me if you Can"), and is editor of Mr. Abagnale's fraud bulletin, Check Fraud, Identity Theft, Holder in Due Course and Cyber Crime, Volume 8. He has served as an expert witness in several check fraud and embezzlement cases. Contact Greg at 800-949-2265 or greg@safechecks.com. For more information, visit www.safechecks.com.

James R. Maher

The American Land Title Association mourns the passing of former Executive Vice President James R. Maher. Jim died in his home in McLean, VA, on Tuesday, May 5th, with his wife, Kathy, and son, Matthew, by his side.

Jim joined ALTA in 1984 as general counsel and was promoted to the top staff position in October 1988, which he held until 2007.

Before joining ALTA, Jim spent 10 years with the U.S. Department of Housing and Urban Development (HUD), where he served as attorney-advisor in the

Home Mortgage Division and later as trial attorney in the Inspector General and Administrative Procedures Division.

In addition to his extensive background in the Washington legislative, federal agency and legal arenas, Jim's years at HUD and experience working on RESPA were instrumental in helping ALTA navigate the waters of RESPA reform. He was considered one of the foremost experts on RESPA throughout the industry.

He will be sorely missed.

"Jim will be remembered as an unassuming, easy-to-work-with advocate for our industry . . . and he loved ALTA."

Mike Pryor
President & CEO
Lenders Title Company
2008-09 ALTA President

"To most title people of my generation Jim Maher was ALTA. I was fortunate to call Jim my friend and I will miss him greatly. Jim had a gift of helping people to meet or exceed their own expectations. He was able to see one's potential and help them tap into it. Much of my success in business and in life can be tied directly to my involvement with ALTA and Jim was the catalyst to help make those things happen. Above all, Jim was a man of honor, ethics, loyalty, friendship and respect. He never asked more than he gave and he made my life a better place."

Mark Billbrey
Sr. Vice President & COO, Central Title Group
Old Republic National Title Insurance Co.
ALTA Past President (2004-05)



"Jim Maher helped the title industry navigate through some of the roughest waters in the history of the industry. Building on his experience at HUD in implementing RESPA in the mid-1970's, Jim came to the ALTA with both a strong grounding in how federal regulation of the real estate settlement services industries worked, and a clear vision of how it should work. Jim's experience and vision served the title industry well for more than 25 years. Jim was a great client and a dear friend. I am proud to have known him and to have worked for him."

Sheldon Hochberg
Partner
Steptoe & Johnson, LLP



For nearly 21 years, Jim Maher served as Executive Director of the American Land Title Association. In that capacity he was called upon to lead and often defend the title insurance industry in this country. How lucky we were to have someone with his integrity, honesty and stellar reputation serve as our voice. On a personal note, I lost a dear friend. Fond memories of Jim and thoughts of his remarkable character are a comfort to all of us who knew and loved him.

Phil Schulman
Partner
K&L Gates

“Everyone connected with ALTA and especially those of us on the Forms Committee lost a valued mentor and dear friend with the passing of Jim Maher. Jim had remarkable knowledge and insight into the workings of the mortgage and title industries. But it was Jim’s warmth and wit at both the meetings and the dinners that followed (along with his ability to select a perfect wine) that will keep him in our memories.”

Jerry Gorman
Sr. Vice President, Downstate Operations
Attorneys’ Title Guaranty Fund, Inc.



“Jim was a good friend. He was smart and competent and great to work with. He understood the industry very well and helped to effect changes that will bear fruit for many years. Running ALTA is not an easy job and Jim did it very well. He was the right guy at the right time and he has a lot to be proud of. I will miss Jim . . . as all of us in the industry will.”

Parker Kennedy
Chairman & CEO
The First American Corporation
ALTA Past President (1993-94)



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Maryland Land Title Association
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ALTA Title Insurance Regulatory Survey

The Title Insurance Regulatory Survey is the most comprehensive collection of regulatory information and practices of the title industry available. Newly available for purchase is The Title Insurance Regulatory Survey Summary Chart for all 51 jurisdictions.

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For more information, or to purchase the survey, please go to www.alta.org and click on Resources for the Title Insurance Regulatory Survey.

Christopher Naughten Joins Old Republic National Commercial Title Services

Old Republic National Commercial Title Services (ORNCTS) announced the appointment of Christopher Naughten as vice president and commercial counsel, responsible for the growth and development of the company's local and national commercial business. With 27 years of title industry experience, he is part of the team being formed and directed by Dennis Vendetti, vice president and manager of the Washington, D.C. office, which opened in Spring of 2009.

"Naughten delivers a superior breadth and depth of title experience and real estate knowledge to today's complex commercial transactions," stated Peter Ostrander, vice president and national sales manager, ORNCTS. "In his new role, he will work closely with our commercial team in Washington, D.C. to service local and national customers."

ORNCTS is a division of Old Republic National Title Insurance Company, which is expanding its national footprint in the major commercial real estate markets. The Washington, D.C. commercial operation is the commercial division's newest office.

Christopher McLendon Appointed VP of Business Development for TSS Software

TSS Software Corporation has appointed Christopher McLendon as vice president of business development to oversee all business development initiatives with an emphasis on growing the company's national footprint. McLendon has worked in the mortgage and settlement services industry for more than ten years, most

recently as managing partner with ClosersEdge, LLC.

"Chris is a dynamic and entrepreneurial leader who knows his way around the mortgage and title industries," said Barbara Miller, President and COO for TSS. "His expertise and acumen will help TSS accelerate its national growth."

TSS Software Corporation, headquartered in Annapolis, MD, is the nation's largest independent provider of software and services for real estate title, settlement, and abstracting companies. Its flagship product, TitleExpress, is the mission-critical software system selected by more than 16,000 settlement services professionals nationwide. For more information, go to www.iwantTSS.com, or call 443-321-5600.

Five Prominent Title Executives Join Madison Title Agency

Madison Title Agency, part of the Madison Commercial Real Estate Services (MCRES) family of companies based in Manhattan, announced the addition of five prominent New York title insurance specialists: Patrick Anarumo; Terence P. Guerriere, Esq.; Joseph J. Napolitano; Danielle Sprouls, Esq.; and Louis H. Weinberg, Esq. All have played major roles in New York's largest and most important commercial and residential transactions, most recently with Liberty Title Agency in Manhattan.

MCRES Director of Operations, Elliot S. Zaks, said, "These five individuals have distinguished themselves as among the most successful, client-focused title professionals in the nation. We look forward to working with this exceptional team to further expand MCRES's dominant profile in the New York real estate market and beyond."

Madison Title Agency is a nationwide title agency that handles searches, writes policies, manages transactions and provides closing and escrow services in all 50 states.

Stewart Lender Services Offers Centralized Services for the Homeowner Affordability and Stability Program

Stewart Lender Services, a wholly owned subsidiary of Stewart Title Company, recently announced its centralized title and settlement services to specifically address the new Homeowner Affordability and Stability Program (HASP).

The centralized services are powered by StewartPlus, a comprehensive title solution addressing the requirements that may arise with a HASP refinancing mortgage transaction – without delaying the delivery time of the title commitment and policy. StewartPlus is designed to reduce both costs and the processing time for lenders' origination loans for the secondary market. It is available for the first- and second-lien mortgage transactions where lien information is required, and standard endorsements are included.

With Stewart's centralized title and settlement services, borrowers have a dedicated staff person to answer questions and resolve issues that could affect their closing. Customers experience decreased turn times with an average commitment delivery in less than two business days, including escrow efficiency through customized settlement workflow with electronic order placement, automated notifications and real-time status on all transactions.

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Member Participation Makes a Difference to Congress

There is a myth that Members of Congress do not appreciate the thousands of messages sent to us each day. The idea could not be further from the truth. The reality is that hearing from our constituents allows Congress and the democratic process to function the way our founding fathers intended. The key to being involved in the political process is being a well-informed, vocal, and active constituent, and one of the easiest ways to do that is to be a part of your industry's trade association.

I take your letters and e-mails seriously and do my best to establish healthy relationships with constituents who represent their industry. It is through these relationships that I learn about the issues that matter most to you. Members of Congress listen to active constituents and consider their opinions. Active participation shows a sincere interest in your industry, and this is an important factor when measuring a business's commitment to its clients. Association leadership combined with member participation has a critical impact on the future of your industry.

Trade associations represent a wide spectrum of industries, which legislators and regulators recognize and appreciate. Due to their specialized focus, associations can educate Congress with a great degree of expertise that guides them in policymaking and legislation/regulation reform. The reality is that Members of Congress are experts in many things but cannot be experts in everything. I rely on trade associations and other industry representatives to educate me on important issues with which I am less familiar.

Associations are stocked with professional staff with considerable expertise in regulatory issues and legislative affairs affecting their industry. The conversation trade associations provide educates Congress, stimulates the exchange of information, and helps fuel the policymaking process.

Trade associations, as the national voice of a business community, rely on member participation to know what is happening on local and state levels. This not only helps to identify national trends, but also allows associations to build consensus at all levels. Similarly, Members of Congress need to know what is happening in their districts so they can better represent their community. One of my colleagues once said, "Members of Congress every day hear from the moneyed side of the issue, and they must have counterbalance by hearing from the grassroots. There is nothing more eloquent to a member of Congress than the voice of his/her constituents."

It's up to association members to actively participate in order to maximize the impact of an industry's voice. You can do this simply by keeping your trade association informed about issues in your state and by contacting your representatives about issues affecting your business, community, and industry. Congress wants to know about what matters to the constituents they represent, and one of the best ways to do this is to actively participate in your industry's trade association.

As a friend of the title insurance industry, I depend on the American Land Title Association to keep me informed on the important issues your industry faces. I'm proud to say we've made great progress over the past several months, but there is still much to be done. Simply put – we need your help. I strongly encourage you to get involved with ALTA. By actively participating in ALTA meetings and events, you can make a difference in your community and here in Washington.



– U.S. Congressman Travis W. Childers (D-MS)

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