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Official Publication of the
American Land Title Association

TitleNews



Free Market vs. Regulation You Decide

Two ALTA members debate the continuing argument of allowing markets to operate freely or that government intervention is needed.

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> contents

TitleNews • Volume 89, Number 10



10

COVER STORY

Free Market vs. Regulation

The issue of just how much government intervention is necessary in a free enterprise system is an ongoing battle between proponents of laissez-faire and proponents who argue that continual and intense government monitoring is necessary to protect the consumer.

Features

20

INSIDE ALTA

2010 Annual Convention Preview

This year's ALTA Annual Convention in San Diego will provide insider insight into the current and future state of the housing and mortgage markets, while providing educational opportunities and business strategies needed to compete in the uncertain market in 2011 and beyond.

23

INSIDE THE INDUSTRY

ALTA and Surveyor Committees Complete Draft of 2011 ALTA/ACSM Land Title Survey Standards

The proposed 2011 standards are the result of a two-year effort and resulted in the first major rewrite since they were first adopted in 1962.

28

RUNNING YOUR BUSINESS

New Jersey Supreme Court Rules Underwriter not Liable for Attorney Defalcation

Before the state's Supreme Court ruling, an appellate court ruled Stewart Title was responsible even though the underwriter's former agent committed the theft months before he sought title insurance for the buyers.

30

RUNNING YOUR BUSINESS

Taking Your Marketing Strategy to the Next Level

It's not enough for settlement services companies to tout customer service anymore. Now, you must have a unique marketing message that stands out in the crowd.

Departments

4

Calendar of Events

5

From the Publisher's Desk

7

ALTA News

33

Industry News

37

New Members

38

The Last Word

calendar

ALTA EVENTS

- September 26 - 28* | 2010 Annual Accountants Meeting
Hotel Monaco
Portland, OR
- March 13 - 16* | ALTA 2011 Federal Conference
Liaison Hotel
Washington, D.C.

STATE CONVENTIONS

- November 3 - 5* | Florida
- December 1 - 2* | Louisiana

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Debate Between Free Market and Regulation Takes Center Stage

Americans traditionally support their federal government to the tune of about 19 percent of the Gross National Product (GNP). That's been a remarkably stable number over the past decade ... until very recently. Since the 2008 elections, federal spending has been growing exponentially. Today, it stands at nearly 26 percent of GNP. Along with more federal spending has come a greater role for the federal government in each of our lives, starting with a restructuring of our health care delivery system and ending, most recently, with a dramatic increase in the power of the federal government to regulate our financial system.

In passing the Dodd-Frank Financial Regulatory Reform earlier this year, Congress conferred a remarkable amount of power upon financial regulators. The new Consumer Financial Protection Bureau (CFPB) is to be run by a director rather than a bi-partisan board, which effectively gives a sitting president significant power to set the tone and direction of the bureau, nor is the bureau dependent upon Congress for its funding. This ensures that the "power of the purse" can't be used to influence bureaucratic decision-making. Moreover, the new regulator has nearly unlimited power to make new rules as it sees fit in reaction to an evolving marketplace.

What's not clear is how this regulatory construct will actually live. In the best case scenario, it will preserve the best that private markets have to offer – things like innovation, competition, diversification of products and an unwavering focus on meeting consumer demand – while preventing catastrophic bubbles, the aftermath of which we are now experiencing. In the worse-case scenario, it will constrain credit, raise prices, strangle innovation and discourage competition. Meanwhile, the 2010 elections are shaping up as a referendum on precisely the question of how much government is too much government, which is why we have devoted a good part of this issue of TitleNews to examining that question.

We've got two able spokesmen, both from the title industry, both members of ALTA, and each with a different perspective on the proper role and scope of regulation. Bob Miller, chief executive officer of TSS Software Corp., is a former economics professor, which you pick up from his writing, and an ardent proponent of free markets encumbered by fewer regulations. Chuck Dyer is the owner of Edward Title LLC in Ozark, Ark., who writes in a common-sense style when arguing that without sensible rules, there are no healthy markets. Our purpose in providing space to both views – other than exposing you to how smart and articulate are some of our members – is to give you some of the input you might want before pulling the voting lever in a few weeks.

Rarely has so much been at stake, not just for the title industry, but for the structure and soundness of the American economy. Enjoy the read, and remember to vote!



A handwritten signature in black ink that reads "Kurt Pfothauer". The signature is written in a cursive, flowing style with a long horizontal line extending to the right.

– Kurt Pfothauer



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ALTA Reports Q2 Title Insurance Premiums

ALTA reported title insurance premiums written during the second quarter of 2010 decreased 8.5 percent when compared to the same period a year ago. According to ALTA's preliminary Market Share Analysis, the title insurance industry generated \$2.3 billion in title insurance premiums during the second quarter of 2010, down from \$2.5 billion during the same period last year. For the first half of 2010, the industry reported \$4.4 billion in title insurance premiums, down 2.9 percent when compared to the first half of 2009.

The states generating the most title insurance premiums during the second quarter of 2010

were California (\$350.7 million, down 13.6 percent compared to second-quarter 2009), Texas (\$266.1 million, up 0.1 percent), Florida (\$169.9 million, down 2.2 percent), New York (\$150.8 million, up 2.4 percent) and Pennsylvania (\$97.1 million, down 19.2 percent). Only four states and the District of Columbia reported increases in title insurance premiums written when compared to second-quarter 2009.

Check out pages 26 and 27 for a comparison of premiums earned by all underwriters through the first half of 2010. ALTA expects to release its third-quarter Market Share Analysis around Dec. 1.

ALTA ANNOUNCES DETAILS FOR 2011 FEDERAL CONFERENCE AND LOBBY DAY

ALTA will hold its 2011 Federal Conference and Lobby Day from March 13-16 at the Liaison Hotel on Capitol Hill in Washington, D.C. This conference is the most time-sensitive event of the year. If it's affecting

title professionals and it involves federal legislators and regulators, you'll hear about it at the Federal Conference. This event is a time to have a collective "voice" for the title industry and to educate Congress about the work you do.

ALTA Comments on HUD's 'Required Use' Provision

The American Land Title Association provided comments to the U.S. Department of Housing and Urban Development's Advanced Notice of Proposed Rulemaking (ANPR) regarding potential revision or clarification of its "required use" provision.

ALTA supports HUD's efforts to strengthen and clarify the prohibition because questions and legal challenges have resulted from unclear definitions and enforcement, and consumers and industry stakeholders benefit from a level playing field, Kurt Pfotenhauer, ALTA's chief executive officer, wrote in the comment to HUD.

"Our experience in implementing the new RESPA rule shows the value of clear guidance and strong enforcement," Pfotenhauer said. "Implementation of the new RESPA rule has revealed a number of gaps in guidance resulting in conflicting interpretations of 'acceptable' practices. Conflicting interpretations

have made it difficult for market participants to determine if they were in compliance or to achieve an accepted uniformity of process. If conflicting interpretations of the 'required use' prohibition are not prevented, market variations will erode the efficacy and intent of improvements to the rule."

Any rulemaking HUD conducts should offer clear guidance to market participants so that the intent of rulemakings is fully understood and not misinterpreted. ALTA encourages HUD to draft "required use" guidance that ensures four main points:

1. *consumers benefit;*
2. *industry participants receive clear guidance on prohibited practices;*
3. *timely enforcement is in place to protect consumers and provide the market certainty that practices are acceptable; and*
4. *regulation provides a level, competitive playing field for all settlement service providers.*

NAIC Title Insurance Task Force Adopts Proposed Title Agent Stat Plan

National Association Insurance Commissioner's (NAIC) Title Insurance Task Force recently adopted the proposed title insurance agent statistical plan as well as the revised Quarterly and Annual Statement Instructions for underwriters. ALTA was deeply involved, providing constructive input to both of these projects, which afforded an opportunity to work closely with regulators to design a regulation whose impact is not unreasonably burdensome, but a regulation that will also produce information that gives regulators a better understanding of the title insurance industry.

It's expected the full NAIC will adopt the title agent statistical plan. ALTA will then commence its next advocacy efforts to guide state insurance departments on how to best implement the plan and the pitfalls they should avoid.

ALTA still has some outstanding issues it would like to see resolved surrounding policy counts, Full-Time Equivalent (FTE) employment information, confidentiality, implementation and calculating title agents' value.

As proposed, the data call would collect Full-

Time Equivalent (FTE) employment information on a quarterly basis. ALTA has asked regulators to start with an annual data collection because no cost-benefit analysis has been performed to determine regulatory burdens on the private sector. ALTA members believe that the benefit realized by collecting this information on a quarterly basis would not justify the cost to the industry of complying.

Another significant issue remains the confidentiality of the information that will be collected. ALTA urges the NAIC to recommend to states that adopt the title statistical plan that they be clear that the information collected will be held confidential, by application of the appropriate state law, and will only be made public in aggregated form. For states that do not have an applicable state confidentiality provision, one should be added legislatively. ALTA will work with state insurance departments to enact these protections if they are needed.

To implement the data call, ALTA encourages the NAIC and individual states that adopt the title statistical plan to first study the costs of performing this annual

data collection for title agents and for insurance departments.

ALTA suspects that additional costs for insurance departments would simply be passed on to title agents. If there are additional costs, appropriate relief must be available to title agents to meet these costs.

ALTA also proposes states that adopt or even consider adopting the title statistical plan to conduct a beta test to determine any additional considerations that would need to be made for state-specific issues. ALTA suggests this type of beta-testing be conducted with a narrow focus group of title agents, including title agents, direct operations of underwriters and attorney-agents. This testing should pinpoint and identify causes of concern in advance of data collection being required to be reported by a larger population of agents.

Regarding policy counts, the NAIC Statistical Plan Working Group discussed whether in a "simultaneous issue policy," is a "policy" considered one policy or both the lender's and owner's policy. ALTA encouraged the Working Group to adopt instructions consistent with the underwriter "state page"

form adopted by the NAIC Blanks Committee last fall.

These instructions state: "Number of Policies Issued During the Year[:] The number of policies issued means the number of original owner's policies and single issue loan policies issued but not simultaneous issue loan policies or closing protection letters."

Finally, ALTA recognizes the value in regulators understanding more about the nature of the businesses they regulate, particularly with title insurance. While the title statistical plan is a helpful roadmap to determining the income and expenses of title agencies, its key weakness is that it does not provide useful information about the product that results.

ALTA will continue to look for ways in which the value of the title search, exam and curative work that title agents perform to identify and correct errors and fraud and therefore prevent loss, can be better explained and demonstrated. If the errors and fraud that are detected were otherwise unidentified and uncorrected, consumers and policyholders would potentially face a loss that results in a claim on their title insurance policy.

ALTA Board Adopts New Endorsement, Approves Revisions to Two Forms

The ALTA Board approved recommendations to revise two existing forms and adopt one new endorsement during a meeting on July 26.

The Board approved the recommendation to create an ALTA endorsement 30-06 Shared Appreciation Mortgage for issuance on residential transactions. A shared appreciation mortgage may be used in connection with loan workouts or other finance transactions. This type of mortgage could secure payment of a portion of the appreciation in value of the land. The new ALTA Residential Shared Appreciation Mortgage Endorsement (30-06) is designed for issuance on mortgages covering one-to-four family residences.

The Board approved revisions to the Expanded Coverage Residential Loan Policy and the Short Form Expanded Coverage Residential Loan Policy.

The existing ALTA Expanded Coverage Residential Loan Policy is designed for issuance on mortgages covering one-to-four family residences. The existing Policy was most recently revised



02-03-10. In order to more consistently conform the Expanded Coverage Residential Loan Policy to the existing ALTA Loan Policy (6/17/06), Section 8(a) of the Conditions, concerning the extent of liability, has been amended.

The existing ALTA Short Form Expanded Coverage Residential Loan Policy is designed for issuance on mortgages covering one-to-four family residences. The existing Policy was most recently revised 01-01-08. The existing Policy incorporates, by reference, the ALTA Expanded Coverage Residential Loan Policy (01-01-08). The date reference has been changed to (07-26-10) in order to incorporate the most recently revised version of the ALTA Expanded Coverage Residential Loan Policy. A scrivener's error on the first page will also be corrected, changing "Amount of Insurance" to "Policy Amount" as originally intended.

ALTA Applauds FHFA for Proposal to Protect Consumers from Dangerous Financial Scheme

The American Land Title Association (ALTA) earned a significant victory as the Federal Housing Finance Board (FHFA) proposed to ban loans by Fannie Mae, Freddie Mac and the Federal Home Loan Banks on property encumbered by private transfer fee covenants (PTFs).

ALTA sent a letter urging the FHFA to issue guidance against PTFs. In its response, FHFA Acting Director Edward J. DeMarco said private transfer fee covenants run counter to the GSE's mission to increase liquidity, affordability and stability in the nation's housing finance system.

"Encumbering housing transactions with fees that may not be properly disclosed may impede the marketability and the valuation of properties and adversely affect the liquidity of securities backed by mortgages on those properties," he said.

The Notice of Proposed Guidance describes concerns that private transfer fees may:

- increase the costs of homeownership;
- limit property transfers or render them legally uncertain;
- detract from the stability

of the secondary mortgage market, particularly if such fees will be securitized;

- expose lenders, title companies and secondary market participants to risks from unknown potential liens and title defects; and contribute to reduced transparency for consumers because the fees often are not disclosed by sellers and are difficult to discover through customary title searches, particularly by successive purchasers.

The FHFA's proposal will be open to public comment until October.

"We applaud the FHFA for recognizing the growing concern surrounding private transfer fees and the threat they pose to consumers, as well as the negative impact they would have on Fannie Mae, Freddie Mac and Federal Home Loan Bank mortgage purchases," said Kurt Pfothenauer, chief executive officer of ALTA. "The FHFA made an important decision to protect the future health of the real estate market by providing guidance that Fannie Mae and Freddie Mac will not offer loans on properties with these dangerous fees attached to them."

Free Market vs. Regulation You Decide

Two ALTA members debate the continuing argument of allowing markets to operate freely or that government intervention is needed.

The issue of just how much government intervention is necessary in a free enterprise system is an ongoing battle between laissez-faire proponents and those who argue that continual and intense government monitoring is necessary to protect the consumer. Two of our members offer competing views on which theory is better for a healthy economy. Will more regulation lead us to recovery or only make things worse?



More Regulation for the Financial Services Industry?

Yes, If its Smart and Well Thought Out as Sound Policy Matters

By Chuck Dyer

More Regulation is just more government, which is always bad.

A popular theme today is that government just can't get it right. When polled, more than half of Americans are for less government, not more. Of course, those polls ask the generic question. When asked about specific programs, the polling changes.

People are generally for less of the government that affects other peoples' lives, not that government that touches their own. We want more police on our streets, better fire protection for our house, better schools and libraries in our town. We don't want potholes in the roads we drive to work on and we want parks for our children to play in. We want Social Security and Medicare for our families. It's all that other government that we want to get rid of.

Investments are too heavily regulated, except when our 401k tanks and then we want some rules, not just rules in place, but rules that are enforced (by the government) against the people who have gamed

the system leading to inflated prices (and later crashes) of our stocks; or rules (regulations) that would apply when our retirement funds, managed by trained and experienced managers, have been sold a position by a leading Wall Street firm in a mortgage security that said firm is simultaneously, pitching to the fund and, betting on the same security to fail. Not only is the Wall Street firm betting on the product to fail, the Wall Street firm is conspiring with another firm charged with creating the security. The second firm is actively arranging its failure by helping to choose the instruments most likely to fail. We want some government to take care of that too. The examples are almost endless. If you believe ideologically that government is good for national defense and nothing else, or, if you believe that the private sector will always do a better job than the government, skip the rest of the article. Wait for your own personal crisis and then read it. My grandmother has always told me that everyone, who isn't already, is just

one personal crisis away from being a liberal.

We should let the market sort things out.

Really? Even Alan Greenspan backtracked on this one.

There is an enormous gulf between absolute laissez faire capitalism and socialism or communism. The United States has never been completely on either side of the chasm

To many, free capitalism and markets means free from all regulation. That is an ideological statement. It's not close to practical. Never has been, never will be. If a market is completely free, then it will be subject to monopolization by a few players (monopolies would be legal without regulation to prevent them). It will be free to be gamed by insiders and cronies of those in power. I prefer a form of capitalism where players operate on a level playing field, where entrepreneurship and innovation are encouraged. Too much power and money in the hands of a few lessens both innovation and the ability of entrepreneurs to flourish. Crony capitalism and lack of transparency are bad things. Here are some examples.

Years before he kick started the leveraged-buyout craze by issuing debt for Drexel Burnham Lambert for corporate raiders, Mike Milken was already making a fortune trading junk bonds. His admirers would tell you it was the long hours and dedication to his craft. His detractors would tell you it was because his

trading desk was the also the market maker for most of the securities he was selling. Spreads of up to 50 percent of the face value of the bonds were not uncommon. Compared to the fraction of a cent difference between the bid and the asked on the New York Stock Exchange, I would say the old junk bond market lacked transparency and efficiency. It could have used some regulation. A good portion of that spread made Milken a billionaire. He still is, now that he is out of prison.

Too much power and money in the hands of a few lessens both innovation and the ability of entrepreneurs to flourish. Crony capitalism and lack of transparency are bad things.

Hedge funds have always found a safe haven in the exception to investment regulation carved out for well-heeled investors who are supposed to know what they are doing and don't need the protection of regulation. Do you remember Long Term Capital Management? The rocket scientists at this hedge fund leveraged up and bet heavily on derivative securities. So much so, that at the end, they held positions in derivatives of some foreign currencies that exceeded the actual float for the underlying currency. The taxpayers paid to wind up its financial deals to stave off systematic failures.

Early in the Bush administration, the vice president met with energy industry leaders behind closed doors

to discuss energy policy. We will never know with whom he met. We will never know exactly what was said. It is speculated but not speculative that several of the individuals with whom he met were leaders at Enron. The same Enron that ran the largest fraudulent scheme in the history of the energy business. At every turn, Enron's traders gamed markets that others thought were honest and hid things from Enron's own investors and auditors. Part of what Enron did was allowed by a lack of regulation.

It wasn't illegal, just bad policy. They also committed fraud, made allowable by a lack of enforcement of existing regulations. Enron's schemes hurt consumers and investors alike. None of which should have been a surprise, less regulation and lax enforcement were the backbones of the Bush administrations energy policy.

Since 1999, two pivotal moments played heavily in the recent financial fiasco. In both cases, we decided in favor of less regulation and both have cost us dearly. The first was when large banks got their wish and won the repeal of provisions of the Glass-Steagall Act that prohibited bank holding companies from owning other financial companies, such as Wall Street investment banks.

The second was the decision to forego the regulation of over-the-counter derivatives transactions between sophisticated parties as futures under the Commodity Exchange Act. It would have dire consequences related to a derivative security call, the Credit Default Swap.

For years, the mortgage industry operated by the same old stodgy but proven rules. To get a loan without government support, you needed 20 percent down or mortgage insurance. A borrower needed to have gross income of which 28 percent would cover the principal interest taxes and insurance of a mortgage payment and the total of ones payments including all debts wouldn't exceed 31 percent of one's gross income. With minor variations, this worked for years. Federal backing made for smaller down payments. Home ownership became a reality for the majority of our population. Then the rocket scientists in big investment firms on Wall Street decided that the money was too easy to ignore and furthermore all this loan-to-value and gross-income stuff was old school and unnecessary. If you worked in the business, you saw the result. Instead of 80 percent loan to value, we saw 100-plus percent loan-to-value loans, no-income verification loans, 80/20s, with the 8 percent loan sold as if it were secured with a 20 percent down payment.

These loans could not have been originated if investors didn't buy them, and buy them they did. So much so that Fannie and Freddie eventually asked in because no one wanted to bother with old fashioned lending of the type they facilitated. The money used to buy a large portion of the portfolios of these

mortgages was borrowed with money backed by the government through the FDIC since now investment banks could own commercial banks and vice versa. Bank regulators overlooked the potential lack of value of these bank assets. Part of the reason no one worried was that the investments were backed up by a derivative security known as a credit-default swap. Here's how they work. A owes B \$10,000.00. Company X issues a credit-default swap to B which guaranties payment of the loan if A defaults. It could have been done with insurance, but insurance is regulated. Credit-default swaps are not. The biggest player in issuing credit default swaps was AIG. Heard of them? AIG owes half of all the money the Fed is owed and they are

amount. No one has a good grasp on what the final damages might be. Insurance contracts would have had a one to one relationship with the outstanding debt. The potential liability from the credit-default swaps is unknown. Multiple contracts could be and were written for the same debt. The liability on the derivatives is likely more than the original debt on which it was based.

So far, we have only talked about how tearing down regulatory walls indirectly affected title insurance by wrecking the housing and lending business. Let's look at how it's affected us specifically.

The end of the Glass-Steagall provisions meant that previously mentioned companies not only originated and sold worthless

The end of the Glass-Steagall provisions meant that previously mentioned companies not only originated and sold worthless mortgages, they created in-house title insurance companies to capture business.

not a commercial bank. In meetings meant to explain the situation, they are referred to as a "shadow bank." I like my banking done in the cold sober light of day.

A further issue of the credit-default swap problem is that because they are not regulated, no one is sure how many were issued and in what

mortgages, they created in-house title insurance companies to capture the business. It single handedly eliminated what was a fairly level playing field. Was this particular way of doing captive business innovative? Did it lead to advances and efficiencies in the way things are done? Not that I can see. Business



captured at the beginning with no real opportunity to shop it isn't a free market, it's a very expensive market for consumers. At the height of the boom, we couldn't identify as much as 50 percent of the recordings in the counties in which we work. The companies that sucked that money out of the system are long gone. The money they made is in the ether. Companies like mine are still here to go about the business of title assurance which is still a necessary function and likely always will be.

While unwise regulations are dangerous, regulation isn't our enemy. Regulation exists and is necessary, like it or not. The key is not blathering on about freedom but to have the discussion, weigh the options and make good choices based on sound policy and reason. To oppose regulation because all government involvement in private enterprise is bad, is to not enter the conversation. It's a conversation we must have and that we as title people must take part in.



Chuck Dyer is the owner of Edward Title LLC in Ozark, Ark. He has a juris doctorate from the University of Arkansas School of Law.

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The Title Industry Needs Economic Freedom

Why less government, not more, is crucial.

By Robert D. Miller, Ph.D.

Our industry faces a breathtaking torrent of new government regulations and market controls. The result is a shockwave of uncertainty. As we struggle to recover from a seismic market meltdown, the epicenter is Washington, D.C., where a deficit-spending binge and false promises to “fix” the financial system have turned into exploding bureaucracy and expanded powers for the very perpetrators of the crisis. The philosophic and economic principles on which our industry vitally depends — above all the sanctity of contract and property rights, sound money and credit, and market pricing of financial risk — are under full assault. If this trend continues, what’s left of our economic freedom will be entirely supplanted by economic interventionism. It’s time to change direction.

Interventionism and Our Industry

The doctrine of economic interventionism — which has a long and sordid history — advocates government intercession in markets to influence economic outcomes. This doctrine draws its rationale from the

notion of “market failure” — the false premise that markets, when left to function freely, “fail” to bring about “desired” results.

Of course, this begs the question: Desired by whom? The answer: Politicians and bureaucrats. Put another way, an interventionist economic system is one in which government force supersedes the uncoerced interaction of buyers and sellers as the primary means of organizing economic behavior.

Interventionism in our industry is pervasive. It ranges from a host

of state regulatory schemes to overwhelming federal involvement in mortgage and housing markets. The Federal Reserve System (the Fed), the Federal National Mortgage Corporation (Fannie), the Federal Home Loan Mortgage Corporation (Freddie) and the Department of Housing and Urban Development (HUD) are leading examples of such interventionism.

Fed-fueled Housing Policy—A Monetary House of Cards

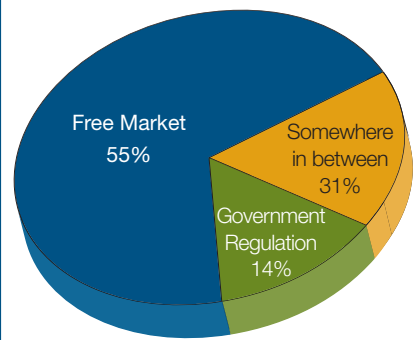
The Fed is America’s government-controlled, central banking system and the world’s largest nationalized financial institution. Its initial legal authority derives from the Federal Reserve Act of 1913.

That legislation granted the Fed monopoly control of the U.S. money supply and promised Americans future “price stability.” The Fed’s mandate subsequently expanded to securing “full employment.” But America’s nearly century-long experiment with government-controlled, central banking has failed — the U.S. dollar has lost 95 percent of its purchasing power and the notion that government can produce full employment is a cruel delusion. And the folly doesn’t end there.

The Fed is the root economic cause of the housing disaster. As Pepperdine University’s George Reisman rightly contends, “the housing bubble was inaugurated and sustained by a process of massive credit expansion, i.e., the lending out of newly created money

Where Do You Stand on the Issue?

ALTA polled its members to see where they stand on the issue of free market or government regulation. Here are the results:



by the banking system, operating with the sanction and support of the country's central bank.”

And Hoover Institution economist, Thomas Sowell, correctly states:

“The development of lax lending standards, both by banks and by Fannie Mae and Freddie Mac standing behind the banks, came not from a lack of government regulation and oversight, but precisely as a result of government regulation and oversight, directed toward the politically popular goal of more “home ownership” through “affordable housing,” especially for low-income home buyers. These lax lending standards were the foundation for a house of cards that was ready to collapse with a relatively small nudge.”

He continues, “That nudge came as the Federal Reserve System, having lowered its own interest rates to an extremely low one percent, began slowly raising the interest rate back toward more normal levels in 2004. Unusually low interest rates had been used earlier by the Federal Reserve, in order to maintain credit spending in the economy at large, at a time when the economy seemed about to decline otherwise. But such extremely low interest rates could not be maintained indefinitely, without an unending supply of easy credit leading to inflation. Federal Reserve authorities therefore began gradually but steadily raising their interest rates over time, from its low of one percent in 2004 until the Fed's interest rate reached 5.25 percent in 2006.”

Moreover, the latest financial crisis is not the first or worst Fed-caused calamity. Its disastrous monetary contraction during the period 1929-1933 and the ensuing Great Depression hold that distinction. Economic historians have shown that

the Fed's aggressively easy money policy during the 1920s, combined with the mistaken conviction that the Fed was capable of preventing an economic depression, triggered the worst American economic downturn to date.

And now, the Fed's manic creation of new money in a desperate attempt to cure the ills caused by its reckless credit expansion from 2001-2004 will likely trigger an even worse outcome. Congress must craft legislation aimed at phasing out the Fed and replacing America's monetary house of cards with solid gold.

■ The Fed's manic creation of new money in a desperate attempt to cure the ills caused by its reckless credit expansion from 2001-2004 will likely trigger an even worse outcome.

The Anatomy of Housing Policy Chaos

The U.S. government's housing policy, from the 1929 Hoover administration to the present, has operated on the premise that government intervention in housing markets is a prerequisite of housing affordability and a high rate of home ownership.

This is a classic example of government acting on the “market failure” doctrine. In practice, creating Fannie, Freddie, and HUD is a manifestation of this doctrine applied to the U.S. mortgage and housing markets. These government agencies were established and persistently

expanded for the explicit purpose of raising home ownership rates above levels politicians and bureaucrats believed would occur in a free market.

Though their pedigree dates further back, Fannie and Freddie have operated since 1968 and 1970, respectively, as “government-sponsored enterprises” (GSEs). Fannie, prior to its conversion to a GSE, was a direct government agency (the Federal National Mortgage Association) established in 1938 to finance home mortgages with federal money channeled through local banks. Today's Fannie, along with HUD — which traces its roots

to the U.S. Housing Act of 1937 and has since metastasized into a massive federal bureaucracy — are modern-day consequences of the Depression-era interventionist movement called the “New Deal,” one of America's most extensive, distorting and expensive seizures of economic control by the government.

Yet the mistakes of the past appear to be completely lost on today's interventionists. When Fannie and Freddie failed in September 2008 they were placed into conservatorship of yet another new government agency and have since been on taxpayer life support amounting to \$150 billion and counting.

Additionally, the government now insures the vast majority of U.S. mortgages. History teaches that such titanic bets with taxpayers' money are unlikely to have happy outcomes.

As an antidote, consider Canada. The Hudson Institute draws this comparison: "Canadian banks are not compelled by laws such as our Community Reinvestment Act to lend to less creditworthy borrowers. Nor does Canada have agencies like Fannie and Freddie promoting 'affordable housing' through guarantees or purchases of high-risk and securitized loans. With fewer incentives to sell off the mortgage loans, Canadian banks hold a larger share of them on their balance sheets."

Economic history and economic science provide irrefutable evidence of the supremacy of free markets over interventionism.

"A homeowner in the U.S. can simply walk away from his loan if the balance on his mortgage exceeds the value of his house. The lender has no recourse except to take the house in satisfaction of the debt. Canadian mortgage holders are held strictly responsible for their home loans and banks can launch claims against their other assets."

Canada's rate of home ownership now exceeds that of the U.S. The country has not experienced a housing crisis and no major Canadian financial institution has required a taxpayer bailout. The long-term soundness of America's mortgage and

housing markets requires abolition of Fannie, Freddie and HUD.

Interventionism Versus Freedom

A properly functioning government — one that makes and enforces objective law, i.e., law based on the principle of individual rights — is essential to successful operation of a free market. In practice, this means a government limited to adjudicating disputes, punishing fraud and stopping physical aggression; it does not mean a government engaged in social engineering via economic intervention.

The U.S. housing market collapse was not caused by market failure—it was caused by government failure.

This fiasco, and the government's feeble attempts to "fix" it with more of what caused it, show that interventionism typically breeds more interventionism and, in turn, greater economic instability.

But intervention advocates tell us new and additional schemes are good if they are "smart" and "well planned." Such has been their fatal conceit from time immemorial — always with the pretense that knowledge possessed by government officials is somehow superior to that produced by the discovery process of the free market. Of course if this were true, the former Soviet Union would

now be the paragon of economic progress instead of economic failure.

Economic history and economic science provide irrefutable evidence of the supremacy of free markets over interventionism. But ultimate repudiation of government economic control derives from philosophy.

A market-based economic system hampered by interventionism is a mixed economy — i.e., a volatile mixture of freedom and government controls. As philosopher Ayn Rand wrote in her famous anthology *Capitalism: The Unknown Ideal*: "If parasitism, favoritism, corruption, and greed for the unearned did not exist, a mixed economy would bring them into existence."

"Since there is no rational justification for the sacrifice of some men to others, there is no objective criterion by which such a sacrifice can be guided in practice. All 'public interest' legislation (and any distribution of money taken by force from some men for the unearned benefit of others) comes down ultimately to the grant of an undefined, undefinable, non-objective, arbitrary power to some government officials. The worst aspect of it is not that such a power can be used dishonestly, but that it cannot be used honestly."

Economic freedom and earned prosperity are corollaries. Our industry, like our country, fundamentally derives from economic freedom. It is what we need now, and what we must fight for going forward, if success is our goal.



Robert D. Miller is co-founder and chief executive officer of TSS Software Corp. More information can be found at www.iwantTSS.com.



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2010 Annual Convention Preview

This year's ALTA Annual Convention in San Diego will provide insider insight into the current and future state of the housing and mortgage markets, while providing educational opportunities and business strategies needed to compete in the uncertain market in 2011 and beyond.

This past year has been one of transformation for the mortgage and real estate industry. Implementation of the new RE SPA rule, expiration of the homebuyer tax credit, lapses in the national flood insurance program, and of course the massive mortgage reform legislation have all, and will continue, to impact our industry.

This requires industry participants to remain constantly informed on how the changes will impact their operations and how they will remain competitive. We've built the general sessions and educational tracks with this in mind.

The three general sessions at the convention are packed with great presentations.

On Oct. 14, Fannie Mae Chief Economist Doug Duncan will provide his thoughts on when the mortgage market will rebound. Duncan provides all economic, housing, and mortgage market

forecasts and analyses and serves as Fannie Mae' thought leader internally and with external constituent groups.

"I would like to hear Doug Duncan again, considering the current economic conditions and his entertaining presentation of very important information," said



▲ Fannie Mae Chief Economist
Doug Duncan

Jan Fisher, vice president national business development for Old Republic Site Management Services.

Rounding out the general session on Oct. 14 will be Theresa Payne, associate deputy assistant secretary at FHA. Payne had been with the Department of Housing and Urban Development since 1996. She served as an attorney in the Office of General Counsel, worked in both the enforcement and policy offices of RESPA.

On Oct. 15, attendees will get an unfiltered view of the Obama Administration and Capitol Hill from Tucker Carlson, a Fox news senior political analyst. As a magazine and newspaper journalist, he Carlson has reported from around the world. He recently launched a political news website titled The Daily Caller. If you are pinning for information on



▲ Fox News Senior Political Analyst
Tucker Carlson

how November's election will shake out, you won't want to miss Carlson's general session presentation.

For what is becoming a yearly can't miss panel, ALTA has once again assembled top executives from our nation's major underwriters to continue the conversation about the future of the title industry. ALTA CEO Kurt Pfothenauer will moderate a panel of top executives from the national underwriters following Carlson's discussion. Participants include Chris Abbinante, Fidelity National Title Group; Dennis J. Gilmore, CEO, First American Title Insurance Co.; Malcolm S. Morris, chairman & CEO, Stewart Title Guaranty Co.; Rande Yeager, chairman & CEO, Old Republic National Title Insurance Co.

"This is an exclusive opportunity to hear from the leaders of the national underwriters and tap into their insights and industry trends," Pfothenauer said. "We will probe these leaders to get their thoughts on what the underwriters' plans are for streamlining operations, search standards, how underwriters will continue to utilize independent agents, and many other items impacting the industry."

Richard Bitner, the general session keynote speaker on Oct. 16, will help attendees understand how government policy and private investment activity are impacting the current and future state of housing and mortgage finance.

"With the mortgage finance and housing industries having experienced unprecedented challenges these last few years, the question on the minds of industry professionals is 'Where is the industry headed next and have we

truly seen a bottom to this market?'" Bitner said.

As a recognized expert on the housing market as well as a publisher of several finance publications, Bitner will provide audience members with a comprehensive and easy to digest presentation on the intricacies of the housing crisis. His dynamic and high-energy style will give the audience a captivating look at events that caused the crisis, the issues currently affecting mortgage lending, and what the future has in store for the broader housing markets.

While his book *Confessions of a Subprime Lender: An Insider's Tale of Greed, Fraud & Ignorance*, provides an in-depth examination on the crisis, his keynote address goes one step further, enabling audience members to understand the key drivers that will impact the future of the housing markets for years to come.

Audience members who attend his presentation will learn:

- Why the government-backed and private mortgage securitization markets continue to struggle.
- How policy decision-making at the

Don't Be Left Out

Visit www.alta.org/meetings/ annual to register and find out more about the convention schedule, including dinners, receptions and tours.

federal, state, and local levels are impacting the short and long-term viability of mortgage lending.

- What critical factors will impact the future of mortgage finance and by extension, housing.
- How to recognize that a bottom to the housing market is finally in sight.

Bitner spoke at the Pennsylvania Land Title Association's annual convention earlier this year, providing attendees with a "down-to-earth and engaging look at the real estate crisis," according to Pam Croke, executive director of the Pennsylvania Land Title Association.

"He de-mystified the morass of events that led to the crisis and gave tremendous insight into what it will take to see an end to it," she said. "The audience appreciated his



easy and approachable manner and all walked away with a far greater understanding of the economic events that are shaping our future.”

We will dig deeper into the issue of RESPA reform within the professional development sessions. ALTA’s professional development sessions, which are provided through ALTA’s Land Title Institute, are organized into four educational tracks allowing one session from each time slot. Here’s a look at the four tracks:

- Regulatory & Compliance
- Business Acumen
- Industry Standards
- Marketing & Management

Within the Regulatory & Compliance track, two sessions on RESPA will be featured. One session featuring Mary Schuster of RamQuest, Heather Birkholz of ET Investments and Don Booher of Colorado Title & Escrow will examine how Colorado Escrow & Title implemented a business model that resulted in an increase in market share.



A second session featuring Paul Mass of ClosingCorp, Don Partington of Fidelity National Title Group, Barton Shapiro of HUD and Richard Roof of Ellie Mae will discuss technology solutions available to assist with compliance of the new RESPA regulations. The panel will help title agents learn how to leverage the Internet to assist lenders in complying with RESPA, while marketing their brand more effectively and profitably.

“Nothing has impacted our industry in recent memory as much as RESPA Reform,” Shuster said. “While we have largely mastered the fundamentals of this change, questions remain about how to identify new opportunities for growth and efficiency provided by the new rule. The one thing we know for sure, is that RESPA Reform is just the beginning of many regulatory reforms. The best minds in the industry will gather in San Diego and learn from one another how to successfully adapt and grow our companies in this new climate of policymaking that will impact our businesses for years to come. Attendees will learn practical steps they can take to ensure their success with RESPA Reform, and also to help them construct a model to apply to future regulatory changes.”

ALTA also is providing a dose of sessions aimed to provide attendees easy-to-implement tactics to improve their operations. As business picks up, there will be opportunities to sell your services, and perhaps, hire new employees due to the increased demand.

One of the fastest areas of employment litigation relates to employee claims of back wages and overtime for misclassified employees. Damages can run into the thousands

and even the millions of dollars. Richard Andreano and Lindsey Weber, both of Patton Boggs LLP, will address which employees are exempt and which are not, and share the latest guidance on this topic issued by the U.S. Department of Labor.

Chris Black of Winged Foot Title will provide solutions and equip title agency owners and managers to capitalize on the growing short sale market. He will share real life examples of how an agency leveraged the short sale market in Florida to earn Realtor clients and create a steady pipeline of repeat business.

Darryl Turner of The Darryl Turner Group returns and will teach attendees how to get your entire staff to sell your operation’s services. After attending, owners and managers will be able to implement a model to immediately get closers, processors and escrow officers to sell and build revenue within existing staff.

Meanwhile, Mike Pryor of The Pryor Experience will help attendees learn how to create their own office culture. He will offer tips on managing employees in a character-based office culture, so owners and managers can assess their office and apply guidelines to create and maintain an environment that is productive and fun.

“Whether you are looking to change your office atmosphere, pick up super-charged sales techniques, or just network with experienced professionals, the professional development sessions represent an incredible opportunity,” Pryor said. “The small group format of these sessions allows participants to identify and personally interact with subject matter experts on critical business topics.”

ALTA and Surveyor Committees Complete Draft of 2011 ALTA/ACSM Land Title Survey Standards

The proposed 2011 standards are the result of a two-year effort and resulted in the first major rewrite since they were first adopted in 1962.

By Gary Kent

The final draft of the proposed 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Survey Standards was approved by a joint committee of the American Land Title Association (ALTA) and the National Society of Professional Surveyors (NSPS), a member organization of the American Congress on Surveying and Mapping (ACSM), which met Aug 11 in Chicago. The document will be proposed for adoption by the ALTA Board in October and the NSPS Board of Governors and Board of Directors in November. Assuming both organizations approve the new document, it will become effective on Feb. 23, 2011.

The proposed 2011 Standard is a major revision — the first significant rewrite of the Standards since they were first adopted by ACSM and the American Title Association (now ALTA) in 1962. The revised Standards represent the culmination of over two years of concentrated work by a large NSPS committee and a select group of title attorneys with ALTA member companies.

Several hundred suggestions and comments from dozens of interested surveyors and attorneys across the country were reviewed over the course of two years during this effort, and many of them were incorporated into the new draft. A number of suggestions were otherwise good, but were, for

An Introduction to the New 2011 ALTA/ACSM Survey Standards

If you want to get up to date on the first major rewrite of the Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys since 1962, you won't want to miss ALTA's 2010 Annual Convention. A professional development session will discuss the numerous changes and updates including the new format of the 2011 ALTA/ACSM Standards. Also, attendees will learn how to identify the primary changes in the 2011 Standards, and hear an explanation about the records research required to be provided to the surveyor. This will be an open forum to encourage questions from the audience. Speakers will be Gary Kent of The Schneider Corp. and Jay Kay Seymour of Professional Land Consultants Inc. To register for the Annual Convention, go to www.alta.org/annual.

whatever reason, rejected by the committee. A few represented a lack of understanding of the purpose of a Land Title Survey and the need for a collaborative title industry/surveying profession effort.

Other suggestions represented comments from persons who simply do not have the benefit of understanding the challenges of writing a national standard. For example, there are differences across state lines and in state standards or practices as related to the name of the final product (called a “plat” in most states, but a “map” in some), mandatory monumentation (issues related to Records of Survey in western states), and when a new description should be prepared (a regular practice in some states, but not in most).

Notwithstanding the complete reformatting and reorganization represented by the 2011 Standards, following are some of the primary highlights of the changes in the standards from 2005 to 2011.

An effort was made to standardize wording with regard to the property being surveyed, which has, in the past, been referred to as the “premises,” the “property,” the “parcel,” and the “tract.” The 2011 Standards use the term “the surveyed property,” except where it is not appropriate.

Also made more consistent was the use of varying terms such as “visible,” “observed,” “observable,” and “physical” in earlier versions. The 2011 Standards use the term “observed in the process of conducting the survey” wherever possible and appropriate.

With regard to the boundary, other significant additions include a sentence that defines what constitutes an ALTA/ACSM Land Title Survey, guidance on Land Title Surveys of non-standard types of properties (such as marinas, trailer parks and campgrounds), a recognition of the existence of

the normal standard of care, and a section that addresses need for the application of proper boundary law principles in the resolution of boundaries. The issue of junior/senior rights has also been addressed. Where there is a water boundary, there is now a requirement that the feature located on the survey (e.g. bank, edge of water, low water line, etc.) should bear some relationship to how that boundary is described in the writings.

The measurement standards have been fully incorporated into the Standards for the first time since 1986, rather than being a separate attachment. In addition, the term Relative Positional Accuracy has been changed to Relative Positional Precision (RPP) to properly reflect what the term actually represents. The definition of RPP (formerly RPA) has also been clarified and the points involved in the analysis are now limited to the actual corners of the property surveyed. To assist in the understanding and application of RPP, the committee is working with volunteers to develop a document that will not be part of the Standards per se, but that will be a reference for surveyors with respect to the measurement standards.

Other changes include several sub-sections and a new Table A item that clarify the surveying and depiction of easements – both on-site and off-site. Other new Table A items include one related to wetlands locations and one which requires the surveyor to have professional liability insurance. A new section on deliverables gives a nod to digital copies.

Finally, the section on the certification now includes wording requiring that “the plat or map shall

Job Well Done

ALTA would like to acknowledge the hard work and dedication of Gary Kent, PLS, chair of both the ALTA Liaison Committee and of the NSPS ALTA/ACSM Standards Subcommittee, along with the many knowledgeable participants, for their contributions to this multi-year effort. ALTA extends special thanks to those involved in the joint committee meeting: Craig Amey, PLS (MI), Richard Bales, Esq. (IL), Patrick Beehler, PLS (WA), Daneece Berge, Esq. (TX), Paul Burn, PLS (NV), Paul McNamara, Esq. (MA), and Curt Sumner, PLS (VA).

bear only the following certification, unaltered ...” (emphasis added), except as may be required by jurisdictional requirements (some states require additional specific wording).

Comments on the final draft have been very positive and the committee looks forward to final adoption. Again, the draft is subject to approval by ALTA and NSPS, so readers are encouraged to “stay tuned” for publication of the new standard. In the meantime, please visit the ALTA Web site’s Policy Forms Page at www.alta.org/forms to review the “Related Documents - Proposed for Approval” section and review the proposed draft (no login required).



Gary Kent is the chair of the Liaison Committee with the ACSM and the NSPS ALTA/ACSM Standards Subcommittee.

Total Solution: (toht-l *suh-loo-shuhn*)

-noun

whole or complete answer to a problem or a question

-verb

the act of solving a problem or problems entirely

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Comparative Family/Company Summary (Six Months - 2010 vs. Six Months - 2009)

Company Name	2nd Quarter Total Premiums Written - 2009	Market Share	Percent Increase, decrease
FIDELITY FAMILY			
Chicago Title Ins. Co.	752,517,133	17.1%	2.3%
Fidelity National Title Ins. Co.	688,267,711	15.6%	4.8%
Commonwealth Land Title Ins. Co.	193,904,322	4.4%	-2.0%
Alamo Title Ins. Co.	23,855,226	0.5%	0.1%
Continental Title Ins. Co.	907,290	0.0%	-0.3%
Chicago Title & Trust Co.	-	0.0%	0.0%
Lawyers Title Ins. Corp.**	-	0.0%	-8.4%
Ticor Title Ins Co.*	-	0.0%	-2.9%
Ticor Title Ins. Co. of FL*	-	0.0%	-0.8%
Security Union Title Ins. Co.*	-	0.0%	-0.7%
Chicago Title Ins. Co. of OR*	-	0.0%	-0.3%
United Capital Title Ins. Co.**	-	0.0%	0.0%
Total - FIDELITY FAMILY	1,659,451,682	37.7%	-8.1%
FIRST AMERICAN FAMILY			
First American Title Ins. Co.	1,065,716,342	24.2%	1.2%
First Canadian Title Ins. Co.	52,732,715	1.2%	0.4%
First American Title Ins. Co. of NY	50,047,326	1.1%	0.1%
First American Title Ins. Co. of OR	16,215,764	0.4%	-0.2%
First Title PLC (UK)	11,960,951	0.3%	0.1%
Ohio Bar Title Ins. Co.	5,814,165	0.1%	0.0%
First American Title Ins. Co. of Australia	1,142,847	0.0%	0.0%
First American Title Ins. Co. of LA	836,286	0.0%	0.0%
Mortgage Guarantee Title Ins. Co.	112,746	0.0%	0.0%
T.A. Title Ins. Co.##	-	0.0%	-0.1%
Port Lawrence Title & Trust Co.##	-	0.0%	0.0%
Penn Attorneys Title Ins. Co.###	-	0.0%	0.0%
Western National Title Ins. Co.##	-	0.0%	0.0%
Land Title Ins. Co. of St. Louis##	-	0.0%	0.0%
Total - FIRST AMERICAN FAMILY	1,204,579,142	27.4%	0.7%
STEWART FAMILY			
Stewart Title Guaranty Co.	557,296,206	12.7%	1.2%
Stewart Title Ins. Co. of NY	53,844,406	1.2%	0.2%
National Land Title Ins. Co.	5,057,362	0.1%	0.0%
Arkansas Title Ins. Co.	3,479,684	0.1%	0.0%
Stewart Title Limited (UK)	3,421,327	0.1%	0.0%
Stewart Title Limited of Australia	693,241	0.0%	0.0%
Stewart Title Guaranty Co. de Mexico	637,773	0.0%	0.0%
Stewart Title Limited of Poland	290,534	0.0%	0.0%
Stewart Title Limited of Czech Republic	-	0.0%	0.0%
Stewart Title Limited of New Zealand	-	0.0%	0.0%
Stewart Title Limited of Slovakia	-	0.0%	0.0%
Monroe Title Ins. Corp.####	-	0.0%	-0.1%
Alliance Title of America#####	-	0.0%	0.0%
Stewart Title Ins. Co. of OR	(107,806)	0.0%	0.0%
Total - STEWART FAMILY	624,612,727	14.2%	1.3%

Company Name	2nd Quarter Total Premiums Written - 2009	Market Share	Percent Increase, decrease
OLD REPUBLIC FAMILY			
Old Republic National Title Ins. Co.	447,940,407	10.2%	3.9%
Mississippi Valley Title Ins. Co.	8,386,552	0.2%	0.0%
American Guaranty Title Ins. Co.	3,644,943	0.1%	0.0%
Total - OLD REPUBLIC FAMILY	459,971,902	10.4%	3.9%
FAMILY TOTALS			
	3,948,615,453	89.7%	-2.3%
REGIONAL COMPANIES			
National Title Ins. of NY	128,919,867	2.9%	2.8%
Title Resources Guaranty Co.	57,238,966	1.3%	0.1%
Westcor Land Title Ins. Co.	52,945,724	1.2%	0.4%
North American Title Ins. Co.	34,377,502	0.8%	0.2%
Investors Title Ins. Co.	24,286,541	0.6%	-0.2%
Connecticut Attorneys Title Ins. Co.	22,341,083	0.5%	0.1%
Alliant National Title Ins. Co.	20,040,467	0.5%	0.1%
New Jersey Title Ins. Co.	15,929,898	0.4%	0.1%
WFG Title Ins. Co.^^	13,249,766	0.3%	0.2%
Southern Title Ins. Corp.	11,360,288	0.3%	-0.1%
Land Title Ins. Corp. of CO	9,393,532	0.2%	-0.1%
Security Title Guarantee Corp. of Balt.	9,219,115	0.2%	0.0%
Washington Title Ins. Co.	7,168,924	0.2%	0.0%
Commerce Title Ins. Co.	6,015,323	0.1%	0.0%
Attorneys' Title Guaranty Fund of CO	5,150,822	0.1%	0.0%
Dakota Homestead Title Ins. Co.	4,709,844	0.1%	0.0%
Attorneys' Title Guaranty Fund of IL	4,592,135	0.1%	0.0%
Attorneys' Title Ins. Fund^	4,313,757	0.1%	-1.5%
EnTitle Ins. Co.	4,191,140	0.1%	0.1%
General Title Ins. Co.	2,768,991	0.1%	0.0%
Conestoga Title Ins. Co.	2,734,472	0.1%	0.0%
Iowa Title Guaranty	2,711,417	0.1%	0.0%
Agents National Title Ins. Co.	1,978,470	0.0%	0.0%
American Security Title Ins. Co.	1,808,651	0.0%	0.0%
American Eagle Title Ins. Co.	1,796,877	0.0%	0.0%
WFG National Title Ins. Co.	1,205,479	0.0%	0.0%
Arsenal Ins. Corp.	941,248	0.0%	0.0%
National Investors Title Ins. Co	880,254	0.0%	0.0%
National Attorneys' Title Assurance Fund	341,661	0.0%	0.0%
Manito Title Ins. Co.	236,676	0.0%	0.0%
Mississippi Guaranty Title Ins. Co.***	132,386	0.0%	0.0%
Title Guaranty & Trust Co. (TN)	113,143	0.0%	0.0%
Dreibelbiss Title Co.	110,325	0.0%	0.0%
First Atlantic Title Ins. Corp.	48,250	0.0%	0.0%
Bankers Guarantee Title & Trust Co.	29,163	0.0%	0.0%
Total - REGIONAL COMPANIES	453,282,157	10.3%	2.3%
TOTAL - ALL COMPANIES	4,401,897,610	100.0%	0.0%

New Jersey Supreme Court Rules Underwriter not Liable for Attorney Defalcation

Before the state's Supreme Court ruling, an appellate court ruled Stewart Title was responsible even though the underwriter's former agent committed the theft months before he sought title insurance for the buyers.

The New Jersey Supreme Court overturned a lower court's decision ruling that Stewart Title Guaranty was not liable for money a now disbarred attorney stole from his clients because the misappropriation of funds took place before the attorney acted as the underwriter's agent.

"Plainly stated, no agency relationship existed between [the attorney] and the Title Company at the time the funds were misappropriated," Justice John Wallace Jr. wrote for the unanimous Court in *New Jersey Lawyers' Funds for Client Protection v. Stewart Title Guaranty Co.*, A-44-09, in overturning an appellate court's ruling.

In January 2004, Stuart and Susan Goodman sold their New Jersey home and received approximately \$325,000 in net proceeds. Richard Pizzi, who had previously represented the Goodmans in other real estate transactions, represented them at the real estate closing. The Goodmans intended to use the proceeds generated from the closing to purchase another home. Rather than receive all the proceeds from the sale of their previous home, the Goodmans instructed Pizzi to disburse \$50,000 to them and to retain the balance in his attorney trust account until the closing took place on the new purchase. Unknown to the Goodmans, and without their authorization to act on their behalf

in such a manner, Pizzi removed the Goodmans' money for his personal use.

On May 19, 2004, Pizzi contacted Atlantic Title Agency Inc., agent for Stewart Title, and ordered title insurance for the Somerset property. Pizzi instructed Atlantic Title that it was a cash deal, and his clients wanted to close on Monday, May 24, 2004. On the same date, the Goodmans wired Pizzi an additional sum of \$20,000 because they believed it was necessary to satisfy their obligations at closing.

On May 25, 2004, Atlantic Title mailed to Pizzi a Commitment for Title Insurance for the Goodmans' new home. The cover letter instructed Pizzi that after the closing occurred, he must provide Atlantic Title with an Affidavit of Title, a check in the amount of Atlantic Title's Final Invoice, the Completed Attorney Closing Report Form, and any other documents required by the Commitment.

Pizzi was disbarred by consent in 2005 and the Lawyers' Fund for Client Protection awarded the Goodmans \$307,456. The fund then moved to have Stewart Title reimburse its payout.

Mercer County Superior Court Judge Bill Mathesius dismissed the suit, finding Pizzi stole the Goodmans' money before he had contact with Atlantic Title Insurance Co., Stewart Title's agent.

An appellate division reversed, saying Stewart Title should reimburse the fund, even though Pizzi committed the theft months before he sought title insurance for the buyers.

Stewart Title's defense was its disclaimer it sent to Pizzi. When it issued the insurance commitment, the company sent an "Important Notice of Disclosure" along with

Winkelstein. They specified the "preferred and most effective method of service should include a signed verification from the client/insured acknowledging receipt of the notice."

The panel cited the court's ruling in *Sears Mortgage Corp. v. Rose*, 134 N.J. 326 (1993), where the justices ruled that in order not to be held liable for attorney misconduct, the title insurer must notify the

"Further, the Title Company never represented to the Goodmans that Pizzi had actual or apparent authority to act on its behalf," Wallace said.

"We agree with the Title Company's position that the circumstances that gave rise to an agency relation in Sears – the authorization to the attorney to perform functions on behalf of the Title Company, the attorney's manifestation of consent to the agency, and the third-party's reliance on the agent's apparent authority to act for the principal – are not present here."

Michael Fasano, an attorney with Lomurro, Davison, Eastman & Munoz, submitted a brief on behalf of the American Land Title Association and New Jersey Land Title Association. He argued that the Appellate Division decision is inconsistent with *Sears* and principles of agency law. He noted that Pizzi was not the agent of the title company at the time of the theft, and therefore the title company was not in a position to prevent the theft. It adds that after *Sears*, the Commissioner of Banking and Insurance modified the law to negate the "agency" status under *Sears* and to provide a type of optional coverage for attorney misapplication of funds at closings. The brief pointed to N.J.S.A. 17:46B-9, which authorizes title insurers to mail notices or forms to the proposed insured's attorney, and contends that even if the failure to give actual notice to the insured is relevant, such notice does not change the fact that no theft occurred within the scope of the agency relationship discussed in *Sears*.

Stewart Title sent an "Important Notice of Disclosure" alerting the buyers that their lawyer was not its agent and that the underwriter "assumes no liability for any loss, cost or expense incurred by you because your attorney or your lender's attorney has made a mistake or misapplied your funds."

the other papers, saying the buyer's lawyer was not its agent and that it "assumes no liability for any loss, cost or expense incurred by you because your attorney or your lender's attorney has made a mistake or misapplied your funds."

In reversing, the appellate division held that simply sending notice to the buyer's attorney was not enough. Stewart Title should have informed the homeowners directly that the title policy did not cover the risk of Pizzi's defalcation, said Judges Jose Fuentes, Amy Piro Chambers and Michael

homebuyer directly that it is not responsible.

Wallace said Stewart Title could not be held liable here simply because Pizzi already had stolen the money from the Goodmans months before he sought to purchase insurance for them.

"When Pizzi applied for title insurance and the Title Insurance mailed its standard notice and disclaimer to Pizzi, the Title Company was not in a position to prevent the theft because the theft had already occurred," he said.

Taking Your Marketing Strategy to the Next Level

It's not enough for settlement services companies to tout customer service anymore. Now, you must have a unique marketing message that stands out in the crowd.

In the "good old days," the name of the game for settlement services firms was customer service. Settlement services have always been, to some degree or another, commoditized. So it has been our ability to turn an order quicker, with fewer errors and faster responses to unique customer requests that has set our industry's top performers apart from the rest.

Similarly, marketing our services has been a mix of direct sales, endless networking and the occasional flyer or trade show sponsorship. And when we've left our flyer or brochure behind at a sales visit, it has generally touted our exceptional customer service. After all, it's difficult to tout our pricing. It's a real challenge to create a "revolutionary" new settlement service. And, although our technology, experience and operational facility may or may not be state of the art, let's be honest: the customer cares about speed,

accuracy and quality of service. A firm's production system or level of expertise is, to the client, simply a subset of customer service.

The problem with our industry's marketing challenge is that we all start to sound and look the same — at least from a marketing or advertising perspective. In fact, one

would be hard pressed to find a settlement services firm that doesn't claim to offer very best customer service, the very fastest turn time and the most competitive pricing. The result is that, in many cases, our marketing becomes wallpaper or white noise to the very prospects we are trying to win.

I am a strong believer in the concept of accurate and authentic marketing. If one claims to be something that his or her business really isn't, the client will figure it out soon enough, to the detriment of the firm. But I'm also a believer in having a unique marketing message. If one's message doesn't stand out, how can one expect to win the sale?

This year is the 25th in business for our abstracting and research firm, Hollerbach & Associates. Over that time, we've been blessed with a great staff and a little bit of luck as well.



I'm telling my story not to blow my own horn, but rather, to share with my peers in the industry one example of a small settlement services company doing something a little different with its marketing. The approach of my firm, in particular, is not likely to work for each and every company. But hopefully, it inspires a few folks out there to rethink their own marketing approach.

For many businesses, a 25th anniversary serves as its own slogan or advertisement. It's easy enough to purchase a few ads and sponsorships announcing one's anniversary, and it may even be effective. But as our firm's anniversary approached, I wanted to try something above and beyond that.

Our firm's message for years and years has been We Know Texas Better. We are based in San Antonio, and are confident in our understanding of the subtle (and not so subtle) differences of all 254 counties in our great state. It's not something many can claim. When others were touting cradle to grave services, jumping on the bundled services bandwagon or making the move to default and foreclosure-based products, my team stuck to our guns. Our understanding of the unique and highly desirable marketplace of Texas has always been our unique value proposition to customers large and small, nationwide.

So the thought of simply announcing we'd made it through 25

years didn't seem quite enough to us. It wasn't entirely consistent with We Know Texas Better. And it wasn't, to be honest, that unique.

As proud Texans, we decided we'd go a little further. Instead of promoting ourselves, we'd promote something we know and love from our home state: the county courthouse. In Texas, the county courthouse is more than a place for trials, proceedings and dusty records. It's a community center, home to festivals and public gatherings, even hangings in yesteryear. We are proud of our courthouses in Texas, and many are architecturally stunning. But they are also aging. Many of them are near or past their 100th year in existence.

BACK TO SCHOOL WITH LTI! BUY ONE GET ONE FREE ALL ONLINE COURSES

It's that time of the year... everyone is heading back to school. Go back with ALTA's Land Title Institute and "Rely on LTI" to provide industry training for title professionals made by title professionals.



Special Buy One, Get One Free!
Sale orders cannot be processed through online ordering. Go to www.alta.org/lti/monthlyspecial.pdf for a back to school order form:

Online Courses Available:

Title 101 | Course 1
Title 201 | Course 2
Escrow Accounting Procedures
Ethics in the Title Industry



That is why we decided to partner with the Texas Historical Commission to advocate its Historic Courthouse Preservation program. For a few years now, this agency has worked with local communities, and the Texas Land Title Association not only to preserve, but to restore some of the oldest courthouses in the state, often with visually stunning results.

While we have had the satisfaction of supporting a cause near and dear to our hearts, we have also used this as a marketing campaign. What says “We Know Texas Better” than advocating for the very heart of our business — the courthouses? We have been promoting a “Courthouse of the Month” in a variety of advertising and marketing campaigns. Instead of

boring our market with yet another announcement about our anniversary (although we’re quite proud of it, we understand that it isn’t attention grabbing news to most of our clients and prospects), we are showing them beautiful architecture, and one state’s efforts to restore and preserve it. The

saying for years. We understand our market, and support our neighbors.

This may not be your key message. Perhaps it is your technology. Perhaps you really do have something about your customer service that stands out from the pack. Perhaps you really are a national provider able

Even though there are fewer firms in existence, competition for customers can be fierce.

visuals, we believe, are much stronger than the typical title advertising. And the message is what we’ve been

to be all things to all customers. But I am willing to bet that there is a more unique way to promote that.

Business leaders in the settlement services industry cannot deny that times are changing. Even though there are fewer firms in existence, competition for customers can be fierce. It’s time for us to take our messaging to a more sophisticated level. It’s time for us to not only speak to our direct customers, but to the consumer as well. And, I believe, it’s time for us to put a little more thought into what we say. I believe our industry has a great story to tell. And it’s time to tell it well.

Get New Marketing, Management Ideas at Annual Convention

Several Professional Development sessions at the 2010 Annual Convention will help you learn how to successfully grow your business. Here’s a glimpse:

How To Get Closers To Sell!

In this session, Darryl Turner, The Darryl Turner Corp., will teach you how to get your entire staff selling. After attending, owners and managers will be able to implement a model to immediately get closers, processors and escrow officers to sell.

H.E.A.R.T. Management - What’s Your Office Culture?

If you are not creating your own office culture, then someone else is. Join this session as Mike Pryor, The Pryor Experience Co., offers tips on managing title company employees in a character based office culture. Learn to assess your office and apply proven guidelines to create a productive and fun environment.

Agency Growth Through Successful Short Sale Orchestration

Of all the potential growth markets for any sized agency, the short sale market is the most misunderstood. It is also the most accessible and has the most potential for profitability and growth. Chris Black, Winged Foot Title LLC, will provide solutions for title insurance agency owners and managers to capitalize on the short sale market.

Jim Hollerbach is the president and CEO of San Antonio-based Hollerbach & Associates a title research and abstracting firm in its 25th year. He is a long time member of the Texas Land Title Association and an endorsed member of the Texas Bankers Association. You can learn more about the firm and the Courthouse of the Month program at www.Hollerbach.com, e-mailing info@Hollerbach.com or by calling 800-580-8485.

Calif. Title Company Reaches Settlement over Alleged Failure to File Rates

A title company agreed to a settlement after allegedly failing to file rates with the California Department of Insurance, according to Insurance Commissioner Steve Poizner.

According to the settlement, Corinthian Title Co. Inc., licensed to transact title business in San Diego county, allegedly failed to file escrow rates between October 2008 and November 2009 despite the fact it solicited and provided escrow services during that time; failed to comply with its underwriter's filed rates, resulting in overcharges and undercharges; and gave discounts on lender title insurance policies in residential refinance transactions that did not meet qualification criteria for those discounts, resulting in undercharges alleged as illegal rebates to induce the referral of business.

This settlement with Corinthian includes a \$100,000 monetary penalty, plus a \$10,000 reimbursement of legal fees and costs to the

Department of Insurance. The settlement also includes an agreement by Corinthian Title to cease and desist from failing to file rates and to cease and desist from failing to conform to filed rates. Additionally, the company agreed to cease and desist from engaging in illegal rebate conduct.

Corinthian has also agreed to undergo changes in its business practices, including agreeing to conduct a compliance audit of each title order and escrow order prior to billing the order to make certain the charge adheres to filed rates. The company will also conduct compliance training of all title marketing representatives and other internal personnel regarding rate compliance requirements and illegal rebate issues. They will additionally submit and implement a corrective action plan to establish an oversight and training program to ensure conformance with filed rates, rules, and rating systems.

Former Pennsylvania Title Agent Sentenced for Stealing Escrow Funds

A former Pennsylvania title agent was sentenced to nearly five years in prison after pleading guilty to a charge of embezzling money from a title insurance company, according to the U.S. Attorney for the Middle District of Pennsylvania.

Senior District County Judge Malcolm Muir sentenced Ellery A. Crissman to 57 months in prison and three years of supervised release after admitting to stealing \$1.6 million from an escrow account from September 2007 through December 2008 while serving as a title insurance agent for Ticolor Title Insurance Co.

At the time he embezzled the funds, Crissman also was the president and treasurer of Fidelity Closing Services LLC, a real estate settlement services company based in State College, Pa., which conducted closings for real estate transactions involving lenders and mortgage brokers from

Pennsylvania and other states.

The embezzlement and misappropriation of these funds from the escrow account by Crissman caused the issuance of numerous insufficient funds checks to recorders of deeds, banks, lenders, mortgage companies, appraisers, and settlement service providers.

He admitted using the embezzled funds for his personal benefit, including transfers covering the operating costs of other companies that he owned, to make personal loans to a State College car dealership and to make payments to his ex-wife.

Crissman agreed that he caused a financial loss of between \$1 million and \$2.5 million involving more than 50 victims; and that he abused a position of trust in committing the offense. He also agreed to make full restitution to victims in the amount to be determined by the court.

RamQuest Integrates With eRecording Partner

RamQuest Inc., a software provider to the title insurance industry, announced the addition of eRecording Partners Network (ePN) to the network of service providers on its Closing Market digital network. RamQuest's Closing Market is an application to application interface that electronically connects business partners allowing each participant to work from within their own software.

Using the ePN integration, RamQuest's Closing Market-enabled customers can electronically connect to county clerk's offices nationwide to facilitate their electronic recording needs. While eRecording at its most basic level improves the quality of data, offers quicker turnaround time and

provides cost savings, eRecording with ePN offers title companies using the service the additional benefits of a partnership approach and an unmatched commitment to customer service.

RamQuest and ePN customer Trinity Title of Texas is experiencing these benefits first-hand.

"Trinity Title of Texas (San Antonio Division) is proud to have developed a relationship with ePN," said commented Hank Macias, Vice President of Trinity Title of Texas. "ePN has gone and continues to go the extra mile in the service it has provided for Trinity Title, San Antonio. ePN understands our company's needs and, thereby, continues to grow the recording services product it provides."

TSS Integrates with CaseAware

TSS Software Corp., provider of software to the real estate title and settlement industry, announced a new integration with CaseAware for its flagship solution, TitleExpress. The integration with CaseAware allows law firms to export information in a format compatible

with TitleExpress. CaseAware users may export over 170 pieces of data, such as borrower and seller information, assessed property value, and mortgages of record. The exported data is then imported in to TitleExpress using the Multi-Order Import feature.

Westcor Continues Expansion with Opening of N.J. Operations

Westcor Land Title Insurance Co. announced the opening of new agency operations in Red Bank, N.J. The latest opening adds to its national plan of organic expansion coast-to-coast. The new office represents the fourth market expansion in 12 months.

Susan Wenzel, formerly with First American, will lead the team as the state

agency manager. She comes to Westcor with more than 30 years of experience. Accompanying her is Scott Sumner, formerly with Chicago Title, who will serve as state counsel. Joining the team from Fidelity National is Chris Marra as the New Jersey operations manager and Susan Ney as the office administrator.

eLynx Releases Service to Help Closing Agents, Lenders Comply With RESPA

eLynx, a portfolio company of American Capital, released its new eHUD service, a component of the Electronic Closing Network (eCN), that makes it easy for lenders and closing agents to comply with RESPA regulations governing good faith estimates (GFE) and the HUD-1.

Recent changes to RESPA regulations limit the differences allowed between the fees disclosed on the GFE and the amounts collected from the borrower at the closing table. These controls require that lenders and settlement agents work closely to negotiate fees and limit differences on the HUD-1 while

preparing mortgage documents.

In the past, preparing the HUD-1 was a manual process that required numerous phone calls and faxes. eLynx's new eHUD service provides a mechanism for lenders and settlement agents to collaborate electronically and in real-time. All parties can quickly and transparently negotiate the fees on a HUD-1 before reaching the closing table. The eHUD service also automatically compares the fees to the original GFE, identifying differences that exceed the allowable amount. This allows lenders and settlement agents to improve their RESPA compliance, according to eLynx.

VMC Reports Significant Decrease in Short Sale Closing Timeline

ServiceLink, Fidelity National Financial's National Lender Platform and a provider of origination, loss mitigation and default services, reported the company's short sale business model is resulting in dramatically reduced short sale approval and closing timelines.

The Pittsburgh-based company is reporting completed package and contract acceptance in less than 30 days from the moment it receives the file assignment from the servicer. Just a year ago, the industry was constrained by delays as long as three months from the time an agent submitted a package to contract approval.

ServiceLink is also reporting that the timeline from contract approval to closing has been reduced to less than 45 days, providing for a total short sale completion time of less than 75 days. Previously, the entire short sale process could take over five months.

"The biggest difference we're making in the industry is our streamlined asset management approach," said Jane Johnson, SVP of Loss Mitigation at ServiceLink. "Our sites across the country are staffed with experienced

short sale specialists, and that's allowed us to scale quickly and efficiently to offset our clients' capacity struggles."

ServiceLink began expanding its loss mitigation operations early this year in anticipation of an increased number of short sale transactions. With a combination of tenured, client-dedicated teams devoted solely to short sale transactions and a strong focus on quality control, the company has emerged as one of the leading outsource companies for loss mitigation services. ServiceLink remains one of the few providers that can manage end-to-end and component loss mitigation without the need for further outsourcing.

Johnson attributes ServiceLink's success to the firm's unique process. Unlike the traditional outsourcer model, ServiceLink employs dedicated closing teams that support the servicer from initiation through liquidation with an emphasis on the closing process.

"It's a process newer entrants to the marketplace will struggle to develop," Johnson said.

Title Company Helps Struggling Settlement Attorneys Survive Recession

Since early 2008 Passport Title Services has helped over 45 title attorneys and previous title-company owners stay in business despite massive declines in business volume, which caused large numbers of them to close their doors or look for more cost-effective ways to handle dwindling business.

Passport Title, headquartered in Rockville, Md., offers a solution for attorneys (and previous title-company owners) in Maryland, Virginia and Washington, D.C., attorneys who retain some clients and business but not the ability to handle it profitably in house.

The new service allows attorneys to survive by outsourcing existing work to a team of experienced title professionals. Not

only are the attorneys able to eliminate almost all of their overhead costs, liability, bonding and insurance requirements and all administrative tasks, but Passport shares an unusually high percentage of gross income per case as compensation, making it easier for them to earn a living on fewer cases than in the past, the company said.

"No processor has less than 13 years experience, and they all work here in Maryland — not overseas. That, plus accuracy and fast response times, is what it takes to satisfy demanding professionals who previously managed their own employees," said John Cotter, president of the Passport Title.

TitleSoft Announces Grant Program for Title Agents

TitleSoft Inc., a software development corporation, announced the formation of Special Technology Grant Program (STGP) designed to provide U.S. title agents a much-needed financial vehicle to enhance mission-critical workflow and brand servicing velocity.

The grant program comes at a time when such a valuable boost to market competitiveness might otherwise be cost prohibitive. The TitleSoft grants cover a considerable portion of technology migration costs, often exceeding \$5,000 per installation.

Old Republic Bolsters Exec Team in California

Old Republic Title Co. Inc. announced the hiring of **Adam Cleary** as vice president, national commercial services, and **Jeff Dasse** as vice president, Southern California major accounts division.

Old Republic Title Co. Inc. announced the hiring of Adam Cleary as vice president, national commercial services, and Jeff Dasse as vice president, Southern California major accounts division. Cleary was previously with Stewart Title Co., while Dasse was with Fidelity National Title Co.. “Adam and Jeff are highly experienced and have well-established clientele, making them a fantastic

addition to the executive team,” commented Tori Robinson, vice president and manager of commercial sales. “Their hiring underscores Old Republic’s commitment to furthering sales initiatives at both a local and national level.” Cleary has more than seven years’ experience in the title industry, focusing on commercial real estate with a specialty in alternative energy. He is based in the Orange County office.

Dasse has returned to Old Republic with 10 years of title experience, and concentrates his business in all aspects of commercial real estate. He will serve the Southern California market.

North American Title Bolsters Underwriting Team

North American Title Co. has added **John K. Graham** and **George Sutherland** to the company’s mountain region underwriting team covering the states of Arizona, Nevada, Colorado and Minnesota. Both will serve as senior underwriting counsel. Together they bring over 40 years of underwriting expertise and



transactional experience to the clients of North American. Graham will reside at North American’s Phoenix, Arizona headquarters and Sutherland will be located at North American’s Denver, Colorado headquarters.

Stewart Adds Underwriter Veteran to Chicago Operation

Stewart National Title Services announced that **Larry Vaughan** has joined its Chicago operation. In his role as vice president and associate senior underwriter, Vaughan will work alongside Jeff Dahlen, vice president, underwriter and manager for the Chicago office.

With more than 25 years of title industry experience, Vaughan is an expert in the commercial

underwriting arena. He previously held major positions at the regional and national levels for Fidelity National Title Group, LandAmerica Financial Group and Chicago Title Insurance Co. Vaughan received his J.D. from New York University School of Law and a B.A. degree from Marquette University.



Title Industry Veteran Joins ResWare

Adeptive Software, makers of the title, escrow, settlement and real estate software ResWare, announced the addition of title industry expert **Kathy Kling** as director of Customer Support.

Kling will utilize her depth of experience in the title industry to play a vital role in helping ResWare customers enable efficient paperless process flow and tracking by utilizing the product’s powerful Action Items feature. In addition to working directly with customers, she will

relay feedback and recommend product enhancements to the ResWare product engineering team.

Kling has more than 20 years of experience in the title industry. She has held a variety of positions, including trainer, escrow advisor, and senior escrow officer at well-known companies, including Fidelity National Title, First American Heritage Title Company and Land Title Guarantee Company.



New Members

COLORADO

Sandra Bernard
1st Denver Title, Inc.
Greenwood Village

FLORIDA

Justin Hidy
Atypical Title, LLC
Fort Lauderdale

Laila M. Farewaag
Laila M. Farewaag
Boynton Beach

Abe Moussa
Total Title Solutions
Clearwater

GEORGIA

Phillip Hibbard
Phillip Scott Hibbard, P.C.
Augusta

MARYLAND

Sabrina Harper
Choice Settlement Group, LLC
Upper Marlboro

MINNESOTA

Bradley Hendrikson
Esquire Title Service LLC
Farmington

MISSOURI

Edward E. Sterling
Gilmore & Bell, P.C.
Kansas City

NORTH CAROLINA

Paul Harrington
Landmark Title Services, Inc.
Cornelius

OHIO

Michael Maniche
Guardian Title & Guaranty Agency, Inc.
Cleveland

PENNSYLVANIA

Karen Campbell
Specialty Settlement Services, LLC
Northumberland

TEXAS

Carie Gwinn
**Baylor County Abstract
 and Title Company**
Seymour

Glena W. Yates
Central Texas Land Titles, Inc.
Marble Falls

Deborah Landrum
Gaines County Abstract Company
Seminole

Daryl Halencak
Homestead Title Company, Inc.
Crowell

Jay Tucker
Reliant Title Agency, LLC
Austin

WEST VIRGINIA

Samuel White
White, Samuel I., P.C.
Charleston

Associate Members

CALIFORNIA

Jennifer Lagria
FLEX Closing Corp
Irvine

GEORGIA

Wayne Reece
Reece & Associates
Atlanta

INDIANA

Diana S. Nichols
CEseminars.org
Indianapolis

TEXAS

Lisa Harrow
ASAP Pro Notary Services
Southlake

Anna Sewart
Barry & Sewart, PLLC
Houston

Stephen Coen
Coen Law Firm, P.C.
Arlington

Dale Hamilton
Dale E. Hamilton, P.C.
Dallas

Kevin McCarthy
TexSearch, L.L.C.
Midland

First American Names Two Senior Finance Leaders

First American Financial Corp. announced the appointments of **Max Valdes** as chief financial officer and **Mark Seaton** as senior vice president, finance.

Valdes is a seasoned executive who has been with the company for more than 22 years. He brings extensive experience to his new position, having served as First American's interim chief financial officer from January 2006 through March 2006 and from April 2008 to January 2009. After beginning his career with PriceWaterhouseCoopers, Valdes joined First American

in 1988 and went on to serve in various management roles, including chief financial officer of the company's primary underwriter, First American Title Insurance Co. Seaton, who joined First American in 2006, will lead the company's treasury, finance, investment management and investor relations activities. Prior to joining First American, Seaton worked for BancBoston Capital, a private equity firm in Boston, and for Robertson Stephens, a San Francisco-based investment banking firm.

Building for a Better Tomorrow

“I like the dreams of the future better than the history of the past”

- Thomas Jefferson

Two years ago, something was very wrong. The nation’s financial system was in a free fall. Major institutions were teetering on the brink and the housing market was the hardest hit sector of the floundering economy. Fast forward to October 2010 and we are still mired in a recession – the nation’s longest recession since the Great Depression – as the housing sector remains in a most precarious position.

Over the years, the title industry has proven its pedigree as a survivor and innovator. ALTA conceived an action plan in response to the present day recession and the impact it is having on our industry. A Build, Back, Better program was initiated. The plan consists of three elements – leadership, industry image enhancement and a personalized program to educate policymakers. Simply put, the Build, Back, Better initiative is the catalyst for title industry reform within the evolving real estate/ mortgage markets.

Throughout the year, ALTA has taken a leadership position on matters critical to the industry’s welfare. ALTA was instrumental in providing HUD and lenders with reliable and accurate responses to RESPA reform issues; led the charge and formed alliances to ban private transfer fee covenants; successfully urged Congress to adopt a true housing market stimulus – the \$8,000 first time homebuyer tax credit; limiting the federal reach of the Consumer Financial Protection Bureau; and, responsible for the introduction of consumer friendly legislation enabling borrowers to have the right to examine documents in advance of closing.

Another component of the ALTA action plan is the enhancement of the industry’s value proposition – namely, articulating to federal and state officials the public benefits generated by the title industry. The industry’s value added proposition is being told.

The third leg of the action plan incorporates a personalized policymaker education program. ALTA members have been encouraged to host an office tour and closing for their federal and state representatives.

Members of Congress welcome the opportunity to gain an understanding of the detailed work that goes into the professional service the industry provides in the real estate conveyance process.

Your association responded to the industry’s clarion call for action ... today’s recession will evolve into tomorrow’s opportunity.

In closing, I wish to express my deepest appreciation and gratitude to my Board colleagues. Your vision, advice and friendship will always be the hallmark of the Class of 2010. The ALTA professional staff – my “wingmates” led by Kurt Pfothenhauer – devised a most successful flight plan. ALTA generated 1,000 plus new members and reversed a projected budget deficit to a budget surplus. Also, sharing the spotlight is TIPAC’s recent growth spurt. During the 2009-2010 congressional election cycle, the industry’s PAC is on track to reach or exceed its goal of \$500,000. TIPAC Chairman John Voso and Past President Mike Pryor deserve the hosannas.

And finally, I would like to welcome President Elect Anne Anastasi. Her understanding and appreciation of the industry in general and state regulation and RESPA in particular is such a valuable resource. ALTA is in the best of hands.

It was an honor to serve as your 2010 president. Thanks for the memories.



Mark E. Winter



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