

July 2014

Official Publication of the
American Land Title Association

TitleNews

Tick Tock, Tick Tock...

Implementation of Best Practices Reaches Tipping Point



ALTA Best Practice:

Information and Data Privacy



What it means from a customer's point of view:

“My non-public personal information is being protected.”

What it means for you:

fntg.com/bestpractices

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2014 STATE CONFERENCES

July 10-12	Pacific Northwest (ID, MT, OR, WA) <i>Cle Elum, WA</i>
July 13-15	Michigan <i>Mackinac Island, MI</i>
August 6-9	Kansas <i>Manhattan, KS</i>
August 14-15	Minnesota <i>Walker, MN</i>
September 8-9	Ohio <i>Columbus, OH</i>
September 10-12	Colorado <i>Vail, CO</i>
September 11-13	Missouri <i>St. Louis, MO</i>
September 11-13	North Dakota <i>Grand Forks, ND</i>
September 14-16	Indiana <i>Indianapolis, IN</i>

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Look at What You're Missing
in this month's Digital Issue

July 2014

TitleNews

ALTA President Testifies Before Congress

The digital edition of TitleNews includes video of ALTA President Rob Chapman's testimony before Congress. Listen to Chapman's suggestions to improve the CFPB.

Go to www.alta.org to get your copy of Digital TitleNews Today!

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It's Our Job to Protect Integrity of the Real Estate Transaction

Abraham Lincoln, one of our greatest presidents, said, "You cannot escape the responsibility of tomorrow by evading it today." Those words ring true today as title professionals across the country implement ALTA's Best Practices in their operations. Those who adopt a wait-and-see attitude and evade implementation are not escaping the responsibilities of title and settlement companies in today's and tomorrow's regulatory environment. That is why the ALTA Board of Governor's released the following statement as guidance to our members:

An ongoing compliance management program is essential to the title and settlement business in today's regulatory environment. To that end, the ALTA Board of Governors recommends ALTA members complete the initial step in their adoption of the ALTA Title Insurance and Settlement Company Best Practices and conduct a self-assessment no later than September 2014. ALTA members should use the ALTA Assessment Readiness Guide to perform this self-assessment.

After completing the self-assessment, the Board encourages ALTA members to use the Compliance Guide to communicate their compliance management program with their lender clients and customers. Compliance is a constant process. ALTA is dedicated to providing services to aid our members with the Best Practices. More information can be found at www.alta.org/bestpractices.

As you incorporate the Best Practices in your business by September 2014, I encourage you to read our cover article where members share why they delved into implementation many months ago and discuss the length of time it took to complete the process. A recent compliance survey by QuestSoft revealed that mandates from the Consumer Financial Protection Bureau still dominate lenders' compliance concerns. In fact, CFPB-related rulemaking has captured the top spot in the survey every year since 2012, the first survey year available following the creation of the regulatory body. The survey also highlighted the fact that, for the more than 500 respondents, vendor management was cited as a growing concern.

It's important for title and settlement agents to understand the demands being put on lenders, and to be proactive and aware of how the industry will operate going forward as lenders will be more inclined to work with settlement service providers that have a risk management program in place. After all, lenders must assume legal liability for the companies they work with, so it is a prudent practice for lenders to select companies that have taken the time to show compliance with ALTA's Best Practices.



A handwritten signature in black ink that reads "Michelle Korsmo". The signature is fluid and cursive, written in a professional style.

- Michelle Korsmo, ALTA chief executive officer

CFPB Service Provider Bulletin Created Market Uncertainty, ALTA President Tells Congress

ALTA President Rob Chapman testified May 21 before the Financial Institutions and Consumer Credit subcommittee of the House Committee on Financial Services and offered suggestions to improve transparency and accountability at the Consumer Financial Protection Bureau.

During the hearing titled “Legislative Proposals to Improve Transparency and Accountability at the Consumer Financial Protection Bureau (CFPB)” Chapman presented several bipartisan ideas to improve how the CFPB regulates providers of financial services.

“When the Bureau operates in a transparent, open and iterative manner, the results are generally positive,” Chapman said. “However, when the Bureau makes unilateral decisions, rolls out initiatives, rules or processes in a more closed deliberation, the results are far more likely to be problematic.”

The CFPB’s April 2012 service provider memo is an example of how the lack of transparency can create



negative consequences. Although the bulletin restated longstanding guidance from other federal regulators, it shook up the industry as it reminded banks and nonbanks that the bureau will hold them liable for the actions of their vendors. Some believed that this notice was issued in advance of potential supervisory and enforcement actions. In fact, later that year the bulletin was used to support enforcement action against credit card companies for actions of their third party vendors. Unlike similar longstanding guidance from regulators, including the Office of the Comptroller of the Currency (OCC) in 2001, the Federal Deposit Insurance Corp.

(FDIC) in 2006, mortgage servicing settlement and accompanying consent judgments in 2012 as well as subsequent guidance from the OCC and Federal Reserve Board in 2013, the bureau’s bulletin provided little guidance to banks and nonbanks, according to Chapman.

“This lack of guidance provides businesses with many open, unanswered questions about how to demonstrate compliance,” he added. “This degree of uncertainty has driven disruptive, inconsistent, costly and inefficient changes in the business relationships and operations between mortgage lenders and ALTA members. We fear that this uncertainty will result in the

unintended consequence of small businesses being pushed out of the market because they are not able to keep up with their larger competitors.”

To improve outcomes for consumers and industry, Chapman encouraged Congress to pass a bill that would create a small business advisory panel at the CFPB. The Bureau of Consumer Financial Protection Small Business Advisory Board Act (H.R. 4383), bipartisan legislation sponsored by Rep. Robert Pittenger (R-N.C.) and Rep. Denny Heck (D-Wash.), would establish a small business advisory board at the CFPB, similar to those already established for outreach to community banks and credit unions.

Finally, Chapman suggested that the CFPB encourage public feedback on policy statements, bulletins and other guidance documents. He said public comments ensure documents are useful and understandable to industry and provide a safety valve to reduce unintended consequences.

Q1 2014 Title Premium Volume Decreases 16%

ALTA reported title insurance premium volume declined 16 percent during the first quarter of 2014 when compared to the same period a year ago.

The title insurance industry generated \$2.4 billion in title insurance premiums during the first quarter of 2014 compared to \$2.9 billion during the first quarter of 2013. This was the largest quarterly decrease in five years.

“Through disciplined expense management, the land title insurance industry posted almost \$100 million in net income despite the expected seasonal dip in premiums written,” said Michelle Korsmo, ALTA’s chief

executive officer. “The industry remains in a strong financial position and has admitted assets of \$8.5 billion, including more than \$7.6 billion in cash and invested assets.”

Market Share Among Title Insurance Family/ Company:

- *Fidelity Family (31 percent)*
- *First American Family (28 percent)*
- *Old Republic Family (15 percent)*
- *Stewart Family (13 percent)*
- *Independent Underwriters (12 percent)*

ALTA expects to release its second-quarter 2014 Market Share Analysis around Sept. 1.

ALTA Supports Senate Banking Committee Approval of Johnson-Crapo GSE Reform Bill

The Senate Committee on Banking, Housing and Urban Affairs voted 13-9 on May 13 to approve the Johnson-Crapo housing finance reform bill. During ALTA’s Federal Conference in May, more than 250 industry professionals lobbied Capitol Hill to ensure the following measures are part of any broader housing finance reform package:

- *Preserve the 30-year fixed-rate pre-payable mortgage*
- *Allow small businesses to compete*
- *Ensure that consumers—whether they live in urban, suburban or rural communities—have equal access to credit and competitive interest rates*
- *Preserve title insurance as an important underwriting risk management standard*

Help Us, Help You by Volunteering for an ALTA Committee

ALTA is only as strong as the participation of its membership, and once again, we have a fabulous opportunity to continue cultivating support for our valued committees.

ALTA is now accepting volunteers for any of its 27 committees. If you are interested in volunteering, submit your name and committees in which you are interested by emailing Taylor Morris at tmorris@alta.org or by calling 202-296-3671. Deadline to submit your name is Aug. 1.

If you have a special

area of expertise (real property records, claims, international development or industry technology, for example), or if you have a special area of interest (such as membership, government affairs, public relations, research or employee and professional education, to name a few), there is a committee on which you can volunteer to serve.

The ALTA president-elect makes all committee appointments in the late summer for a term beginning after the Annual Convention in October.

Senate Banking Committee Passes ALTA-supported Bill to Extend Terrorism Risk Insurance Program

The Senate Banking Committee on June 3 approved S. 2244, the Terrorism Risk Insurance Program Reauthorization Act of 2014, by a unanimous vote of 22-0.

The bill, sponsored by Sen. Chuck Schumer (D-N.Y.), extends the existing TRIA program for seven years while taking steps to further protect taxpayers. Under S. 2244, the federal government would reduce the amount of reinsurance it provides for terrorism-related losses by 1% each year. The goal

is to increase the amount of losses insurance carriers hold by \$10 billion over the course of seven years.

Legislative action on the TRIA Program is uncertain in the House Financial Services Committee. Housing and Insurance Subcommittee Chairman Randy Neugebauer (R-Texas) publicly outlined specific principles several weeks ago and is close to releasing his version of a TRIA extension.

In April, ALTA signed a coalition letter supporting the program extension.

ALTA Education e-Kit

Don't Recreate the Wheel: Use ALTA's e-Kit

As you've probably heard, ALTA has developed an online title insurance education e-Kit to help members educate consumers, real estate agents, lenders, the media and others about the importance of title insurance. The videos, sample social media content, articles and brochures are all available for members to use in their social media strategy. One of the best tools available for the novice social media practitioner is ALTA's Social Media Dictionary. The dictionary includes 12 chapters on the most widely used social media platforms with definitions for key words and phrases. If you'd like more information, please visit www.alta.org/ekit.

Social Media Pro-Tip: Experiment with Video

Incorporating video into your social media content strategy will help engage your audience like never before. Social media users crave video and it's a trend that's certainly here to stay. According to Cisco, online video users are expected to double to 1.5 billion in 2016. A recent study by eMarketer found that 55% of marketers who use video in their email campaigns reported increased click-through rates. Don't be afraid of video. Experiment with video to determine the best way to be effective for your business. Possible videos could include product announcements, staff developments,

CEO updates, showcasing your business in the community, sales or discounted services, awards or certifications and so much more.



World Cup Fever

Did your office dress up in patriotic colors for the USA World Cup games? Did you plan a staff outing for the event? Send us your photos at social@alta.org and it may appear in next month's edition of *TitleNews*.



Third-Quarter Social Strategy Conference Call



Save the date for our Q3 Social Media Content Strategy call for 2 p.m. ET, Tuesday, Aug. 26. To join the call, please email social@alta.org for login information. Join us for an informal call discussing new content strategies, the latest social media news and hear ideas used by colleagues around the title insurance industry.

What Dictionary Should be Next?

Many of you know about ALTA's Social Media Dictionary. We currently have 12 chapters covering the following social media platforms: Facebook, Twitter, Pinterest, LinkedIn, YouTube, Google+, Vine, Snapchat, Instagram, Flickr, Foursquare and Yelp. What platform would you like to see added next? Email social@alta.org!

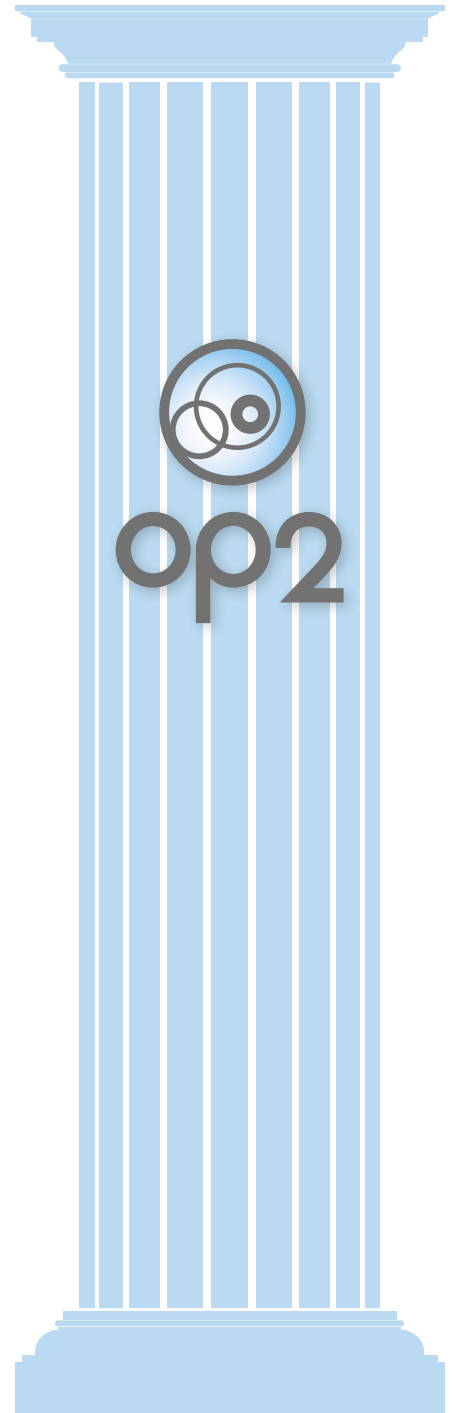
Come. See. Conquer Pillar #3.

op2 can help.

Lenders responsibilities under the new CFPB regulations, along with the industry's focus on Best Practices, puts today's title companies under much more scrutiny – and the protection of Non-public Personal Information (NPI), or Best Practice Pillar #3, is an area of particular focus. Recent security breaches at Yahoo! and Target illustrate how NPI can be compromised on a large scale but the responsibility for protecting NPI trickles down to even the smallest title and settlement agent.

op2 gives you the assurance of compliance with Best Practice standards and the lenders requirements and is the only hosted, private, secure and compliant cloud solution in the title and settlement industry that features the complete RamQuest software suite.

**Learn how you can conquer pillar #3
and so much more at op2online.com.**



Tick Tock, Tick Tock . . .

Implementation of Best Practices Reaches Tipping Point

Driving to a nearby lake to do some fishing, Jaime Kosofsky received a phone call from his office. He was expecting a call on a difficult foreclosure his law firm was handling. Kosofsky found a spot to pull over and called back. A minor inconvenience? Yes it is, but a reality in today's world of protecting sensitive data and complying with regulations. In the name of safeguarding non-public personal information (NPI), Kosofsky's firm, North Carolina-based Brady & Kosofsky, requires stringent passwords on work phones that require a mix of numbers, letters and punctuation.

"I can't swipe or put in a simple pin to answer my phone," Kosofsky said. "This is a small nuisance of a much larger dynamic that has changed how we operate." >>

By Jeremy Yohe



Title professionals across the country have been dealing with a changing market due to updated regulatory directives reminding lenders that they are responsible for the acts of third-party service providers with which they conduct business.

Many dove headfirst more than a year ago to implement ALTA's "Title Insurance and Settlement Company Best Practices" and get ahead of the curve. Others have stood pat—waiting on directives from lenders.

For companies sitting on the fence, time may be of the essence to prove they have complied with regulations requiring them to protect customer NPI and money, and have policies and procedures in place to reduce settlement risk.

While Kosofsky started investing in infrastructure to update his office six years ago, the past year has been an intense process.

"I basically quit practicing law and went to it," he said.

Proving Best Practice compliance also has impacted Kosofsky's hiring decisions. His firm is considering hiring attorneys with books of business, but "doesn't want the added expense of conducting multiple branch audits.

"I recently asked my partner if we should wait a year or grab local market share," said Kosofsky, whose firm is set to pass its SOC II assessment in early July. "If I have a paralegal sitting in front of a computer all day, I have to worry about privacy and everything else that goes with having an office."

Currently, Kosofsky's firm has one office that conducts business in two states. The firm has 50 employees and utilizes hundreds of contract workers. For every two attorneys, the firm now

has one IT person (The firm only had one IT person five years ago).

"My wife works with me and she can't go in parts of our office at the same time due to access controls," Kosofsky said. "When it's all said and done, this will be just another day. This will be how business is done. It will cost a little more to play, and I suspect we will see contraction in the industry."

Pillar Breakdown: Implementation Timeline

No matter how big the operation, the Consumer Financial Protection Bureau (CFPB) could potentially investigate to ensure a company has documented compliance controls. The size of a company, however, will impact the scope of the program.

For Bill Burding, general counsel of the Orange Coast Title of Companies, implementation of the Best Practices was time consuming and expensive as the company has 14 brands licensed in 47 states. It took the company roughly 16 months to implement the Best Practices and receive its Statement on Standards for Attestation Engagement No. 16 (SSAE 16 or SOC 1) Type II audit.

SSAE 16 is an auditing standard developed by the American Institute of Certified Public Accountants (AICPA). SSAE 16 verifies a service organization has been through an in-depth audit of its control objectives and control activities to ensure the processing and hosting customer data is done safely and securely. The SSAE 16 SOC 1 is a regulatory standard issued by AICPA.

To put it into context, these are some of the items Orange Coast completed prior to the audit:

- created two 60-terabyte clouds to store, in an encrypted fashion,

consumers' private NPI utilizing the newest technology and protections

- created a back-up cloud in a second location to ensure that in the event of a malfunction or natural disaster, the company could be operational in less than five seconds
- increased its error and omission, crime and cyber attack insurances above industry standards
- created numerous policies from clean desk to an automated complaint log so that everything is available to the personnel who need it
- created an online password-protected repository where customers can review all policies online to see all of the backup documentation that the auditors used to write their report
- created a daily three-way reconciliation process
- mandated use of positive pay and foreign and international wire blocks
- required yearly background checks and increasing the scope of those checks
- increased scrutiny of outside vendors who have access to NPI

Breaking down each pillar, Burding said it took about a week to complete pillar No. 1, which addresses licensing. "Most agents can get this done in a day," Burding said.

Kosofsky agreed saying this took him a day. Since his law firm is not a title agency, he only had to gather his business, law and notarial licenses. After scanning them in, Kosofsky set up a yearly Outlook reminder on Jan. 5 to update the licenses.

It took Orange Coast two months to complete the majority of pillar No. 2 and develop escrow account controls. Completing implementation of three-way daily reconciliations, and setting

ALTA Board of Governors Encourages Members to Conduct Self-Assessment by September 2014

During the Board of Governors meeting on June 19, ALTA's Board approved the following motion encouraging members to conduct a self-assessment of their adoption of Best Practices:

An ongoing compliance management program is essential to the title and settlement business in today's regulatory environment. To that end, the ALTA Board of Governors recommends ALTA members complete the initial step in their adoption of the ALTA Title Insurance and Settlement Company Best Practices and conduct a self-assessment no later than September, 2014. ALTA members should use the ALTA Assessment Readiness Guide to perform this self-assessment.

After completing the self-assessment, the Board of Governors encourages ALTA members to use the Compliance Guide to communicate their compliance management program with their lender clients and customers. Compliance is a constant process. ALTA is dedicated to providing services to aid our members with the ALTA Best Practices. More information about the ALTA Best Practices can be found at www.alta.org/bestpractices.

up foreign wire blocks and positive pay took an additional six months based on response from lenders. "Smaller banks had a harder time because they had to rewrite code," according to Burding. Implementation of the second pillar took Kosofsky's firm three to four weeks. The hardest thing for his staff was writing down what functions they performed. His firm created separate finance and accounting manuals. "We have a good funds act, so a lot of this was already in place," he added.

Pillar No. 3 and protecting NPI has caused the most heartburn for title professionals. Burding said it took his company 16 months to get to where it is now, but "you are never done with this." Kosofsky said his firm implemented a paperless process in 2008, so in reality it's been a slow process over the past six years. Things intensified over the past 18 months as the company installed

cameras in every hallway and a swipe card security system in certain areas, instituted a clean-desk policy and added one-way glass in every office to prevent anyone from viewing computer monitors. "I take a camera around the office and check for clean-desk compliance and even check trash cans," Kosofsky said. "A one-person shop does not have to go to the extreme that I had to go through."

Since Brady and Kosofsky record about 90 percent of its documents online—and the firm has not raised fees in about 10 years—pillar No. 4 (recording and pricing procedures) was completed easily by the beginning of the year. The law firm doesn't issue policies, so pillar No. 5 (policy production and premium remittance) does not pertain to its operations.

Upon completing pillar No. 6, Kosofsky's firm increased its professional liability limits and plans to add a fidelity bond even though the

state does not require them. "If a bank requires it under the OCC, I don't want to risk it," he added.

According to Kosofsky, his firm took four to five months to implement pillar No. 7, which addresses consumer complaints. Since replicating a consumer complaint file from an REO client, his company has logged four complaints.

Burding said his company knocked out pillars 4 and 5 in a month, while it took two months to compare and negotiate insurance rates to complete pillar No. 6. To complete pillar No. 7, Burding said it can take a day if a company is using a written complaint log or six to eight months if writing an automated program.

"This was a daunting task," Burding said. "If you are waiting to get ready for an audit to come, you are waiting too long. This isn't business as usual."

'Writing on the Wall'

The question that looms is "How can a small agency afford this?" While it may seem overwhelming, it can be done. Just ask Carolyn Toigo. She spent six months ensuring compliance with the ALTA Best Practices.

She bought new filing cabinets with locks, performed employee background checks, implemented email encryption, and increased and purchased additional insurance coverage's, just to name a few of the things she's done during the process.

The president of Wisconsin-based Dominion Title and Exchange Services even purchased a new vacuum cleaner. It wasn't to have a cleaner floor, the title company's server is located in a storage room. This meant the cleaning crew could potentially access NPI stored on its hard drive.

"We couldn't take that risk, so we decided to do the cleaning ourselves,"

said Toigo, who now shares cleaning chores with her six employees. “It’s important for title companies to analyze their operations because the Best Practices impact every part, from the landlord and the office cleaners to the IT department.”

To tackle implementation, Toigo divvied up the seven pillars of the Best Practices between herself and two employees, executive assistant Jennifer Fass and closing coordinator Stephanie Kabat.

Toigo assigned herself the third pillar, as well as ensuring the company maintained appropriate professional liability insurance and fidelity coverage. To start, she made a list of things the company physically did or needed to implement to ensure everything was in place.

She tackled insurance coverage first. Because her office backs up to a river, the company carries flood insurance. That policy was reviewed to verify there was proper coverage. Toigo plans to add cyber security coverage when she updates her errors and omissions coverage. At the end of the day, she said the changes will cost her company 30 percent more in insurance coverage.

Turning to security and protecting NPI, Toigo hit the store again. She purchased new workstations with lockable cabinets for each office and implemented a clean-desk policy. Coded locks were installed. Office keys are locked in a coded room. A system was implemented to encrypt email and protect NPI transmitted electronically. They also added privacy disclaimer language to all emails and

are working with a web developer to update the company’s privacy policy.

“We saw the proverbial ‘writing on the wall,’” Toigo said. “I do not want our company to ever be in a position of losing potential business because a lender or customer decides we are not qualified. Luckily for us, we had the wherewithal to afford this. That may not be the case for everyone. Until you really start doing this and follow all the pillars, you have no idea what you are in compliance with.”

Dominion Title uses a third party that shreds and destroys documents with NPI. The company backs up its information offsite every day, so Toigo had the IT company document its security policies. To speed recording and provide documentation of this process, the company now offers

2014 Annual Convention



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e-recording. Additionally, Dominion Title is working with a company to provide a disaster recovery solution. This will double Dominion Title's IT expenses.

All told, Toigo said the company has invested nearly \$40,000 to meet the requirements of Best Practices. They've shared with lender clients what has been done to ensure the integrity of the transaction, protect money and NPI.

"We've received positive feedback

"If our other full-time employees aren't in the office, there's not a second person to authorize a wire," she added.

Another area Dominion Title has struggled with is deciding what qualifies as a customer complaint, according to Kabat. While this is important to the company and a policy has been implemented, it's been difficult for the small staff to draw a line in the sand to determine what issues should be addressed and by whom.

■ **"Independent assessments and certifications will eventually become the minimum for title agencies to continue to do business with lenders and therefore be compliant."**

because they appreciate we are taking the initiative on this," Toigo said. "In the long run, we are hoping this will generate more business."

Toigo said the small but growing company followed many safeguards internally, but many items were not documented and they lacked the ability to prove the policies. The majority of Dominion Title's business is commercial, with about 10 percent of its orders being residential. Because of its business mix, the company typically holds large amounts of money in its escrow account. Aside from protecting NPI, the biggest adjustment involved disbursing funds. A significant part of Fass' duties were cutting checks and sending wires. Because of the need for segregation of duties the small staff at Dominion Title has had to juggle trust accounts based on who can balance and who can sign, according to Fass.

When analyzing pillar five, the company learned its title production software system could not tell them which files were closed and which transactions needed policies issued. The software provider is working to provide details on when policies are issued.

"We remit when we issue a policy. Now we have proof," Toigo said.

The only outstanding issues from Dominion Title being completely compliant with Best Practices, according to Toigo, are the ability to send policies to its underwriters that don't want them and finding an approved company to conduct an assessment and issue a certification. "Whether you're a company with two employees or 50, there's a lot to tackle. I consider our company a typical agent, and if people want ideas on what we did, we'd be happy to help them," Toigo added.

In Florida, Majesty Title Services LLC began the implementation process during the summer of 2013. After completing an internal assessment, Majesty Title CEO Vincent Cassidy selected a local accounting firm to perform an assessment on six of the seven pillars. A company specializing in security compliance performed the assessment for pillar No. 3.

Cassidy added that while the process was time consuming and required a sizeable financial investment for his 20-employee company, it is important to demonstrate to lender and real estate clients "that we take protecting non-public information very serious."

"The market is changing as a result of the Dodd-Frank legislation and the creation of the Consumer Financial Protection Bureau," he said. "Specifically, lenders have more responsibility for the actions of their vendors, which includes title and settlement companies. Lenders will be asking for more assurances from title agencies that they can comply with industry Best Practices. Independent assessments and certifications will eventually become the minimum for title agencies to continue to do business with lenders and therefore be compliant."

'Get This Done Now'

As reported previously in *TitleNews*, the CFPB's new Closing Disclosure—which goes into effect Aug. 1, 2015—will heighten the need to protect NPI. Settlement agents and lenders will need to securely share private data in order to complete the Closing Disclosure.

Currently, settlement agents are required to provide the HUD-1, while lenders provide the revised TIL

I can sum up our company's use of SoftPro in two words: "Central Hub." We have grown with SoftPro, and utilize them for HUD-1 and title commitment prep, closing/disbursing, IRS 1099 reporting, scheduling, CPL's and policy jackets, e-recording, ordering tax certifications, tracking mortgage releases, bank account reconciliation and order tracking. Every role in our company uses SoftPro 360 integrations! SoftPro's support center is also top notch in their responsiveness, friendliness and thoroughness.

Ken Kirkner

Philadelphia, PA

Trident Land Transfer Company

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disclosure. The Bureau proposed two alternatives for which party is required to provide consumers with the new Closing Disclosure form. Under the first option, the lender would be responsible for delivering the Closing Disclosure form to the consumer. Under the second option, the lender may rely on the settlement agent to provide the form. However, under the second option, the lender would also remain responsible for the accuracy of the form.

■ **“If you’ve only implemented some (of the Best Practices), wake up. Get this done now. You need to make implementation a priority.”**

While it’s uncertain which entity will complete the form and provide it to the consumer, many believe settlement agents will be responsible for the information contained in their systems (generally pages two and three of the Closing Disclosure). Meanwhile, the creditor will be responsible for preparing information contained in its system (generally, pages one, four and five). After preparing their respective parts, either the lender or settlement agent would combine the documents and provide the completed Closing Disclosure to the consumer. This option would require both creditors and settlement agents to prepare and safeguard information currently under their control, as they do now under TILA and RESPA.

“Whatever partnership lenders and settlement service providers develop, systems will need to be in place to efficiently exchange and

protect sensitive customer data,” said Diane Evans, ALTA’s president-elect. “This is where ALTA’s Best Practices come into play because they emphasize maintaining the integrity of transactions and can help ensure lenders have the ability to continue working with as large of a network of settlement providers as possible.”

In reality, a system to securely transmit settlement statements should already be in place. Many title and settlement agents have asked “When

do I need to start sending HUDs through encrypted email?” The short answer is “now,” according to GreenFolders’ Scott Fairbanks.

“There will come a point that if you’re not using secure email, lenders will no longer do business with you,” he said. “My recommendation would be to start this now. I don’t know if you’re ever going to get a lender issuing a specific date, but sooner rather than later seems wise.”

Lenders already are sending questionnaires asking title and settlement agents what they are doing regarding Best Practices. At the end of the day, it all comes down to where the lender decides to place its liability.

“It’s a smart business decision to really start taking a look at this now, be ahead of the curve, implement the Best Practices and compete on them,” Fairbanks said. “When you can tell your lenders and real estate agents that you embrace Best Practices, care about

consumer information and care about lender expectations, that’s going to help you grow your business.”

Pat Stone, chief executive officer of Williston Financial Group, encourages title companies to embrace compliance and start looking at themselves as financial services providers in order to stay relevant in a dramatically changing industry. During the 2014 National Settlement Services Summit, Stone lauded ALTA for the creation of the seven pillars of the Best Practices.

“If you’ve only implemented some, wake up,” he said. “Get this done now. You need to make implementation an absolute priority”

Stone believes this age of compliance is a pristine opportunity for title professionals to demonstrate to clients their value to the real estate transaction.

“Settlement services companies manage the closing, which is one of the most vulnerable and sensitive elements of the entire transaction,” Stone said. “We take part in a great deal of interaction with the consumer. We are responsible, in many cases, for managing the escrow account—the borrower’s and the lender’s money. We are entrusted with sensitive data. We are sentinels against mortgage fraud. And now, if we choose to embrace the role, we can be partners to our clients in the compliance effort. This is also an opportunity for the title industry to at long last demonstrate to the consumer that we play a vital function in the real estate transaction.” ■



Jeremy Yohe is ALTA’s director of communications. He can be reached at jyohe@alta.org.

Lender Third-Party Service Provider Liability: Analysis and Timeline

Unprecedented Lender Regulation Triggers a Compliance Age in the Title and Settlement Industry

BY CHRISTOPHER GULOTTA

Lenders, regulators and title underwriters recognize that independent title and settlement agents (ITSAAs) play a critical role in the facilitation of mortgage finance transactions. These mostly small and closely-held companies possess the local knowledge, expertise, efficiency and coverage needed to enable consumers, lenders and underwriters to consummate such transactions nationwide, with nearly unlimited scalability, on a daily basis. Beyond ensuring that lenders are primary lien holders, the role of ITSAAs requires that they have extensive contact with consumers and lenders, handle highly sensitive non-public personal information (NPI), and receive and disburse huge sums of funds. This requires lenders, consumers and scores of parties involved in such transactions to reach beyond the traditional expertise of ITSAAs, and to rely upon their fidelity and adherence

to a score of expanding federal and state laws, rules and regulations.

Heightened legal and regulatory compliance requirements are only part of the picture. In addition, leading institutions have become more involved in the regulatory arena, including multiple federal and state regulators, lenders and the American Land Title Association (ALTA). Collectively, these parties aim at rendering the title and settlement process safe and sound and ensuring closings are conducted in a manner that best protects consumers. ALTA's Best Practices provide ITSAAs with a tangible list of critical criteria that endeavors to reconcile all regulatory sources and industry mandates.

Yet there are some tensions and conflicting goals among the stakeholders, which create industry uncertainty over how to best adapt to and embrace this rising compliance expectation. For example, the Office of the Comptroller of the Currency (OCC) and the Consumer Financial

Protection Bureau (CFPB) have differing regulatory objectives. While both regulators make clear that lenders are responsible for all the vendors in their supply chain, the OCC requires lenders to act in a safe and sound manner, whereas the CFPB requires lenders to act in a manner that provides consumer protection in the context of consumer financial laws. These seemingly consistent goals can, in operation, sometimes conflict. (For example, a consumer's right to select vendors can conflict with the safety and soundness of the closing process.) Moreover, the operative guidance these regulators provide was designed to be "flexible" or discretionary. In effect, this leaves lenders with the sword of Damocles hanging overhead when trying to determine how to implement, scale and push down these mandates to an industry that varies in practice from state to state and often county to county.

Understandably, lenders are struggling to determine how to implement these mandates, given the lack of a uniform, national consistency regarding closing practices and the roles of ITSAAs. Lenders also grapple with how, if at all, to scale-down such requirements and how to determine what precisely is "appropriate" in each circumstance and in each closing locality.

In the absence of a uniform, consistent guideline for compliance, a concrete timeline and a clear understanding of what is expected of

ITSAs, an implementation ambiguity exists at a time when all should be moving forward.

So what are ITSAs to do?

Fortunately, for such companies, ALTA created and charged a task force with developing a list of the most essential categories of compliance. In fact, ALTA went further by meeting with the principal stakeholders—including lenders, regulators, underwriters and agents—to produce the seven pillars of its “Title Insurance and Settlement Company Best Practices.” The association created the Assessment and Certification processes to be as robust and consistent as possible with what such stakeholders and the industry deem most appropriate moving forward into the emerging *Compliance Age* of our industry. Throughout the following chronology of operative regulatory guidelines, rules and bulletins, the various regulatory agencies emphasize and generally are in agreement on the following key points and expectations regarding lenders’ risk management of their third-party service providers:

- **Lenders are responsible for their third-party service providers:** A lender’s use of service providers does not diminish its responsibility to ensure that all related activities are conducted in a safe and sound manner, consistent with applicable laws and regulations. In fact, service providers are subject to the same risk management, consumer protection and privacy obligations that would be expected if the lender were conducting the activities directly. Service providers are also subject to the same regulatory oversight and scrutiny as lenders.
- **Reliance on third-party relationships can significantly**

increase a lender’s risk profile:

In particular, a **lender’s strategic, reputation, compliance and transaction risks** are all heightened by the use of third-party service providers.

- **To control this risk, lenders should adopt a risk management process (RADDCO):** A risk-management process should include: (a) A *risk assessment* to identify the lender’s needs and requirements; (b) proper *due diligence* to identify and select third-party service providers; (c) written *contracts* that outline duties, obligations and responsibilities of the parties involved; and (d) ongoing *oversight* (monitoring) of the third parties and third-party activities.
- **Lenders have flexibility in their oversight of third-party service providers:** A lender’s risk-management system should reflect the complexity of its third-party service provider activities and the overall level of risk involved. Each lender’s risk profile is unique and requires a tailored risk mitigation approach appropriate for the scale of its particular third-party relationships, the risks present and the ability of the lender to manage those risks. Thus, no single system is ideal for every lender or circumstance.

Timeline Summary

July 2001: The OCC releases “**Interagency Guidelines Establishing Standards for Safeguarding Customer Information**” (12 CFR § 30, Appendix B). The OCC ensures that national banks and federal savings associations operate in a safe and sound manner and in compliance with applicable laws. In these guidelines, the OCC advises that

a lender, in fulfilling its oversight obligations, should: (a) exercise appropriate due diligence in selecting its service providers; (b) enter into contracts requiring service providers to implement appropriate measures to meet the objectives of the guidelines; and (c) monitor its service providers to confirm they are implementing the agreed-upon security measures. As part of this monitoring, a lender should review audits, summaries of test results or other equivalent evaluations of its service providers.

November 2001: The OCC releases **Bulletin 2001-47, “Third-Party Relationships: Risk Management Principles.”** Providing further guidance to lenders on managing risks that may arise from their business relationships with third parties, this bulletin highlights four key requirements of a lender’s risk management process: (a) risk assessments to identify the lender’s needs and requirements; (b) proper due diligence to identify and select third-party service providers; (c) written contracts outlining duties, obligations and responsibilities of the parties involved; and (d) ongoing oversight of the third parties and third-party activities.

June 2008: The Federal Deposit Insurance Corporation (FDIC) releases **Bulletin FIL-44-2008, “Guidance for Managing Third-Party Risk.”** This bulletin and the supporting financial institution letter describe potential benefits and risks arising from third-party relationships and outline risk management principles for a lender’s significant third-party relationships.

March 2012: The five largest mortgage servicers enter into consent judgments. The Justice Department, HUD and 49 state

attorneys general announce the filing of their landmark \$25 billion agreement with the nation's five largest mortgage servicers to resolve violations of state and federal law. The agreement provides for "new servicing standards" that mortgage servicers are required to implement. Servicers are required to oversee and manage third-party relationships in which they must perform due diligence and conduct reviews to ensure viability. Servicers

the policies, procedures, internal controls and training materials of service providers to ensure that the service provider conducts appropriate training and oversight of employees; (c) include in service provider contracts clear expectations about compliance, as well as appropriate and enforceable consequences for violating any compliance-related responsibilities; (d) establish internal controls and on-going monitoring

oversight and management of third-party relationships that involve critical activities [including] significant bank functions (e.g., payments, clearing, **settlements**, custody)." This heightened expectation places banks and ITSAs even more squarely in the regulatory cross-hairs.

If this mounting regulatory concern and effort to identify the risks associated with the use of service providers were not enough, consider how the largest mortgage lender has recently weighed in on this. In a newsletter to its settlement agents, Wells Fargo makes clear that as third-party compliance expectations increase, so too will Wells' expectations of its service providers, through increased monitoring and performance metrics. The lender said it supports ALTA's Best Practices and identifies a "transition time" to become a compliance "top performer." Wells inquires into whether the implementation process has begun and whether ITSAs are able to document and validate it independently.

In conclusion, while we do not have a uniform template or a hard timeline for compliance, a True North for ITSAs is clearly to work diligently to document and demonstrate compliance with ALTA's Best Practices. Doing so will help ensure a company is well-positioned to withstand lender or regulator scrutiny and that it is able to tangibly demonstrate and market precisely what the up-stream referral sources will now require. ■

■ "True North for independent title and settlement agents is clearly to work diligently to achieve and be able to demonstrate compliance with ALTA's Best Practices."

must also conduct audits of third-party providers to ensure compliance with applicable state and federal law and that servicers regularly review and assess the adequacy of the internal controls and procedures of their third-party providers

April 2012: The CFPB releases Bulletin 2012-03, "Service Providers." This bulletin makes clear that the CFPB expects supervised banks and nonbanks to oversee their business relationships with service providers in a manner that ensures consumer protection through compliance with federal consumer financial law. Specifically, the CFPB expects lender banks to have "an effective process for managing the risks of service provider relationships." Lender banks should: (a) conduct thorough due diligence to verify that each service provider understands and is capable of compliance; (b) review

to determine whether each service provider is complying with the law; and (e) take prompt action to address any problems identified through the monitoring process, including terminating the relationship where appropriate.

October 2013: The OCC releases Bulletin 2013-29, "Third-Party Relationships: Risk Management Guidance." This bulletin replaces and rescinds Bulletin 2001-47 and raises the compliance bar for banks in the context of their management of third-party relationships. The OCC raises concern that banks may generally have "failed to" assess the risks associated with third-party providers, perform due diligence and on-going monitoring of these relationships, and enter into agreements properly assessing internal risk management capabilities. The OCC now expects "more comprehensive and rigorous



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SOME THINGS ARE IMPORTANT TO KNOW.

HOW TO BUILD A FIRE:

1. Ensure your fire-building area has proper ventilation unless you want a smoky ambiance.
2. Locate some tinder. Anything from a newspaper to small twigs works. Just pile up a few handfuls without stopping to read the paper.
3. Layer in kindling. Think airy... just a few pieces with lots of room between them. Try for a tipi or criss-cross short sticks.
4. Top everything off with four or five pieces of firewood.
5. Strike a (hopefully) long-handled match to light the tinder in a few places. You can blow lightly on the tinder now, add more tinder pieces or just wait and hope for the best.
6. Your kindling will catch the drift from the tinder, and then you can add more kindling, or firewood, as needed. Don't smother things...leave space for air and marshmallows.

HOW TO GIVE A KILLER COMPLIMENT:

1. Keep an open eye or ear for a complimenting opportunity. You might even file away future compliment material based on conversations you overhear.
2. Be specific! Don't just offer a vague, "lookin' good today." Give enough details that it supports step one, and offers a truly uplifting moment!
3. Wrap things up with a question to prove you're sincere. You might ask if others have noticed, or how they attained their awesome new status... anything that proves you're polite and interested works well.

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'Big Dance' Connects ALTA Members with Legislative Leaders, Provides Educational Forum

Nearly 250 Title Professionals Canvass Capitol Hill Advocating on Behalf of Industry during Federal Conference and Lobby Day

Having attended two previous ALTA Federal Conference and Lobby Days, Guy DeFrances Jr. knows his way around Capitol Hill. He's experienced many successful meetings with members of Congress explaining the value of title insurance. This year was no different.

DeFrances, general counsel for Connecticut Attorneys Title Insurance Co. (CATIC), partnered with Rich Hogan, another conference veteran and CATIC's legislative and regulatory counsel, for their Hill meetings. The two learned a few new things this year, one of which could have a direct impact on business in Connecticut.

"We had very good meetings with our delegation, including direct discussions with two of our Congressmen," DeFrances said. "At one of those we learned of an issue brewing at the Bureau of Indian Affairs that may have an impact in our state."

Aside from learning about the emerging issue with Native American land, DeFrances gained another valuable take-away from this year's

Federal Conference and getting to Capitol Hill early in the morning.

"Not only do you get through security quickly, you have a good chance of speaking with a member before their day starts to get busy," he joked.

While the event proves invaluable to veteran attendees, advocacy rookies realize the importance as well. First-time attendee Amy Niesen, president of the Dixie Land Title Association and general counsel of Land Title Company of Alabama, described the Federal Conference as ALTA's "Big Dance." Nicole Plath of New Jersey-based Fortune Title Agency (and also a first-time attendee) agreed with the assessment of the conference.

"By far this was the best ALTA conference I've attended," Plath said. "The education was phenomenal, and I really enjoyed speaking directly with our representatives."

All told, nearly 250 title professionals attended the conference and held 256 meetings with members of Congress or their staff. During meetings, Lobby Day participants discussed methods to improve the way the Consumer Financial Protection

2015 Federal Conference and Lobby Day

Mark your calendars now for next year's Federal Conference, which will be held May 18-20 at the Mandarin Oriental in Washington, D.C.

Bureau (CFPB) works with small businesses, GSE reform and the importance of renewing tax relief for struggling homeowners who have lost their home to foreclosure or are considering a short sale. Prior to canvassing Capitol Hill, conference attendees heard from an array of expert speakers on various topics impacting the industry.

2014 Midterm Elections

Kicking off the conference, representatives from the Republican and Democratic senatorial committees shared the latest in their polling data and offered some predictions on who will take the Senate. Nathan Klein, polling and analytics director for the National Republican Senatorial Committee, and Dan McNally, regional political director at the Democratic Senatorial Campaign Committee, each offered analysis on why each of their parties will be able to claim victory in the mid-term election. Democrats currently hold 55 seats to the GOP's 45. Republicans need a net gain of six seats to wrest control from Senate Majority Leader Harry Reid.

What Does Dodd-Frank Reform Mean to You?

Justin Ailes, ALTA's vice president of government and regulatory affairs, led a panel discussion on Dodd-Frank reforms that Congress could consider in the coming months. Participating on the panel were Len Wolfson of the Mortgage Bankers Association, Joel Kopperud of the Council of Insurance Agents and Brokers, Elizabeth Eurgubian of the Independent Community Bankers of American and Sam Whitfield of Credit Union National Association.

Improving the Closing Process

ALTA President-elect Diane Evans moderated a panel with the CFPB's Brian Webster and Noerena Limon. With new mortgage disclosures finalized, the CFPB is turning toward ways to improve the closing process. The CFPB staff commented on the anecdotes and information closing professionals and consumers provided during the public comment period on ways to improve the mortgage closing process and solutions to reduce the biggest pain points for consumers. Webster and Limon also addressed the bureau's e-closing pilot program.

Economic Outlook

Michael Fratantoni, the Mortgage Bankers Association's chief economist and senior vice president of Research and Industry Technology, offered analysis on recent economic statistics and trends in mortgage rates and lending volume. He said the Mortgage Bankers Association cut its 2014 loan origination forecast for the second time this year to around \$1.05 trillion. Purchase orders should rebound in the second half of the year and continue to grow in 2013. Even if rates continue to drop, he does

not expect an increase in refinance activity. Refinance volume is expected to remain in the \$100 billion range per quarter for the next couple of years, according to Fratantoni.

ALTA TIPAC Awards

ALTA honored six individuals for their efforts in helping to raise a record amount of donations in 2013 for the Title Industry Political Action Committee. TIPAC raised a record \$420,000 in 2013. So far in 2014, TIPAC has raised \$338,148 from 460 contributors.

"We could not have done this without the help of our outstanding TIPAC trustees who volunteer their time to raise money for TIPAC," said Bill Burding, TIPAC's chairman.

Here's a look at who won the awards:

- **Top Underwriter Award:** John Hollenbeck of First American Title Insurance Co. This award goes to the person who raised the most money from an underwriter in 2013. Last year, Hollenbeck raised \$93,135 from 172 contributors at his company. So far in 2014, through Hollenbeck's efforts, First American has raised over \$88,000 from 196 contributors.
- **Top Agent Award:** Peter Griffiths of Land Title Guarantee in Colorado. This award is given to the person who raised the most money from agents in 2013. Last year, Griffiths raised \$16,915 from 49 contributors at his company and an additional \$4,470 from other companies in Colorado.
- **Outstanding State Award:** David Welshons of DCA Title in Minnesota. This award is presented to the person who raised the most money during a state convention in 2013. Last year, Welshons raised over

\$6,000 at the Minnesota State Land Title Association state convention.

- **Company Campaign Award:** David Townsend of Agents National Title in Missouri. This is a new award given in years when a company gets 100 percent of its eligible employees to contribute to TIPAC.
- **Creative Trustee Award:** Craig Haskins of Knight Barry Title in Wisconsin. This new award recognizes trustees who find new ways to raise money for TIPAC. Haskins hosted a happy hour at his state convention. Partnering with Dave Townsend and Darin Trites, Haskins helped ALTA organize its first TIPAC Tailgate at the 2013 Annual Convention.
- **Rookie of the Year:** Jeff Bosse of Bosse Title Company in Indiana. In 2012, Indiana did not have a trustee and only raised \$2,275 from four contributors. In 2013, Bosse helped increase those numbers to \$11,075 from 37 contributors.

Excellence in Advocacy

During the conference, ALTA honored Diane Calloway for her leadership as an advocate for the title industry. ALTA President-elect Diane Evans awarded Calloway with ALTA's first Excellence in Advocacy Award. Calloway has developed numerous first-name relationships with members of Congress and state legislators.

"She's the first person we call when there's an issue in Georgia," Evans said. "When we meet with elected officials from the South, the first thing he or she says is 'How's Diane? It's these personal relationships that make our lobbying efforts effective. Diane has spent years developing these relationships by being a resource and a friend.'" ■

conference highlights



2014 Federal Conference Photos

To view photos, go to: www.flickr.com/photos/altaonline





Polly Ann Epting

Title: Owner

Company: Coffey County Land Title Co. Inc.,
Burlington, Kansas

How long have you been in the title industry and how did you get started in this profession?

I've just completed my 26th year as the owner of Coffey County Land Title. I got started in this profession totally by accident. I was a real estate agent with two sales that needed to close. I was on vacation over New Year's and my broker was going to close them while I was gone.

I expected to come home to find two commission checks waiting for me. Instead, I found out he couldn't close the deals because the local abstract office had declared bankruptcy and closed their doors. That left us with no one to do the title work. He convinced me I could open an abstract/title business and hire the employees of the bankrupt company. I had no idea what I was doing, but by Feb. 1, we were open for business. It's been a learning experience ever since.

What excites you about what you do or what is the most challenging aspect of your job?

I love helping people complete their purchases and their refinances. I

feel that we are doing such a good service for the community. We're in a small town (population 2,800), so I know a lot of the public personally. I want them to all feel that we are on their side and want the best for them and that we'll make it easy for them. The most challenging aspect has to be keeping up with the ever-changing rules and regulations, and being totally alert at all times for accuracy and honesty.

What's your best industry "war" story?

Where would I begin? I'm very proud that we have not had a claim in those 26 years. That might be some kind of a record. I do know of one husband who forged his wife's signature on a proceeds check and didn't give her the share to which she was entitled, but that wasn't our fault. (I think he's still in jail.)

Explain why the title industry is a great career opportunity for those entering the workforce?

Originally I couldn't understand why my real estate broker would encourage me to get into a business where a company had just declared



bankruptcy. That just didn't seem smart. But he convinced me that I could make it work even if the other company

had failed. It did prove to be profitable, so I finally asked my secretary (who had worked for the previous company owner) why he went bankrupt when I seemed to be making money. She said that every time he got ahead, he'd head to Vegas.

This industry seems to have it all: full-time work, part-time work, flexible hours, secretarial work, research (if you like that sort of thing) and working with the law. A law license is about the only license I don't have.

Persons of any age can do the work. My newest hire is over 70 and is starting a new career with us after retiring from another long-time job in manufacturing. I'm afraid most of the public just doesn't understand what we do.

What advice do you have for professionals starting their career in the industry?

Make sure you hire good people to work with you. Make sure you make it fun for your employees. We have five women in our office and

we all get along. That's pretty hard to believe. Go to title school every opportunity you can and take courses and classes such as those offered by ALTA or your state association, and never stop learning. Never assume that you have learned this business. There is always something new of which you must be aware.

Why are you a member of ALTA?

I was first a member of the Kansas Land Title Association. Then being a member of ALTA seemed to be the way to see the bigger picture. At every event I learn something new by sharing with other members. Going to the various conventions and seminars has raised the professionalism of our company. There's no doubt in my mind that it has all been worth

for almost 48 years. We have raised two wonderful children (a son and a daughter) and now have four brilliant grandchildren.

For 10 years, Gary and I were marine dealers, selling and repairing boats, Mercury motors, campers, travel trailers and accessories. We actually got along well working together. He stayed in the shop doing repairs and installations, while I stayed in the office and the showroom.

I doubt that too many know that I collect clowns. My collection now exceeds 200, and they come in all shapes and sizes. I have door stops, tape dispensers, jewelry, life-sized child clowns, circus posters, jigsaw puzzles (framed), needle-point clowns, and on and on it goes. I pick them up all over the world when we travel.

■ “Never assume that you have learned this business. There is always something new of which you must be aware.”

the expense and the time I've spent being involved. I have served on the Education Committee for over 10 years. That has been a very rewarding experience. We have some sharp, smart professionals on that committee. It is always a learning experience when we meet, and we are like family.

Tell us something that others in the industry may not know about you?

I've been married to my high school sweetheart (we met when I moved to his hometown as a sophomore)

If you could have dinner with anyone, who would it be and why?

That is such a difficult question. I admire a lot of people who have been achievers. One man I have always admired was Zig Ziglar. I've missed that chance to have dinner with him, because we've lost that wonderful optimistic man, but I was fortunate to hear him speak a number of times. For that I feel fortunate. He didn't seem to have a negative bone in his body. Right now I'd like to meet Dr. Ben Carson. Remember that name!

ALTA Member Profiles

ALTA periodically profiles members in *TitleNews*. If you know someone who would make a good candidate for a profile, please send us an email and tell us why at communications@alta.org.

What's your favorite book or movie? Why?

I try to squeeze in as many books as possible, so it's difficult to name a favorite. I like both fiction and non-fiction. I really like a good mystery and true stories that have some meaning for life. One recent book does stand out—*Heaven Is For Real*. It's a true story of a little boy who died, went to heaven and saw God. It's also now a movie. *Chariots of Fire* stands out in my deep memory. It's a story of triumph. I love winners.

What do you do to unwind from a stressful day?

More and more, I look forward to just going home to a cup of coffee and a crossword puzzle or Spider on my Kindle Fire. Those are things that I'm convinced will help prevent dementia. I have a number of favorite TV shows, mostly crime thrillers. I tape them all, so I don't have to be home any particular evening. I only cook dinner one day a week (Thursdays) and Wednesdays are optional. So, I can usually unwind with dinner out. ■

Drop in Refinances Dampens First-quarter Results

A significant decrease in refinance volume coupled with a harsh winter led to a difficult first three months of the year. Here's a summary of the several underwriters' earnings reports:

Fidelity

Fidelity National Financial's title division reported a pre-tax loss of \$15 million during the first quarter of 2014. This compared to pre-tax earnings of \$169 million during the same period a year ago.

The loss was attributed to a 48-percent decline in refinance orders compared to the first quarter of 2013. Meanwhile, purchase orders increased 1.5 percent during the first quarter of 2014 versus the prior year first quarter.

During the latest quarter, Fidelity's direct operations opened 469,000 orders (55 percent of which were purchase) compared to 392,000 opened orders during Q1 2013. Meanwhile, the company closed 295,000 orders (52 percent of which were purchase) during Q1 2014, compared to 307,000 closed orders during the first quarter of 2013.

First American

First American Financial called 2014 a "transition year" as the company reported its title insurance segment posted first-quarter 2014

pre-tax earnings of \$42.6 million, down from \$64.3 million during the same period a year ago.

Earnings were impacted by a drop in refinance orders, which comprised 42 percent of all residential orders during the first quarter of 2014. Refinances accounted for 60 percent of all residential orders during the first quarter of 2013.

First American opened 271,200 direct orders during the first quarter of 2014. This compares to 376,600 direct open orders during the same period a year ago. The company closed 180,100 direct orders during Q1 2014, compared to closing 291,400 direct orders during Q1 2013.

Old Republic

Old Republic International Corp. reported that due to the transitioning mortgage market its title insurance operation posted pre-tax earnings of \$4.7 million during the first quarter of 2014. This is compared to earnings of \$21.5 million during the same period a year ago.

The decline in title insurance premiums and fees reflects a significant drop in refinance transactions since mid-year 2013, the company said in a release. The effects of the drop in refinance orders were magnified by adverse winter weather conditions, a rise in mortgage interest

rates and lingering uncertainty about credit availability.

Mark Bilbrey, president of Old Republic Title Insurance Companies, said the company's long-term strategic emphasis on the agency side of the title business has allowed the company to maintain a "degree of profitability in a very weak market."

Stewart

Stewart Information Services announced several transactions during the first quarter of 2014 as the company adjusted to a significant decrease in refinance volume. The company reported a pre-tax loss for the first quarter 2014 of \$18.6 million, compared to pre-tax earnings of \$7.1 million for the first quarter of 2013.

During the quarter, Stewart announced the acquisitions of Wetzel Trott Inc. and the title and collateral valuation business lines of DataQuick Lending Solutions, as well as an agreement to acquire LandSafe Title. The three deals cost a reported \$39.9 million.

During the first quarter of 2014, Stewart's direct operations opened 83,700 orders compared to 105,100 direct open orders during the same period a year ago. The company closed 52,100 direct title orders during Q1 2014, while closing 73,100 orders during Q1 2013. Refinancing orders were 16.7 percent of total opened orders in the first quarter 2014, down from 32.2 percent in the first quarter of 2013. ■

Survey Shows Homeowners Want to Take a Mulligan When Buying a Home

Though they felt prepared, many recent homebuyers would do more homework and make some different choices if they had a second chance, according to Chase research.

The independent survey gave 807 recent homebuyers a chance to reflect on how their home purchase turned out. The “What I Wish I Knew About the Homebuying Process” survey provides a comprehensive look at the level of their preparedness during the homebuying

process and what living with the home purchase has been like.

Nine of every 10 buyers felt prepared when they bought their home, but in hindsight, 56 percent wish they were armed with more knowledge about the financial aspects of purchasing a home. Specifically, buyers wanted to know more about:

- *The ins and outs of closing on the house—22 percent*
- Making the offer and negotiating—19 percent

- Financing a home—15 percent

Longer, shorter and more expensive? Most recent homebuyers were surprised by how long the homebuying process took: 40 percent said it took longer than they expected, while 16 percent got a pleasant surprise on timing. Like generations before them, they also faced the cold, hard facts of maintaining their new homes: 34 percent overall said upkeep cost more than expected; a majority

(51 percent) of first-time homebuyers had that sinking feeling.

Who you gonna call?

Two-thirds of recent homebuyers sought advice from real estate agents, while 45 percent turned to banks, mortgage bankers and loan officers.

ALTA encourages members to direct consumers to its consumer website, www.homeclosing101.org, to learn more about the closing process and title insurance.

North American Title Group Partners with Real Estate Data Shield

North American Title Group has contracted with Real Estate Data Shield (REDS) to provide online training for its settlement services employees as well as other personnel, addressing compliance with data privacy laws and regulations. The online training will guide North American Title associates

through the different types of personal information, compliance with laws and regulations, life cycle of files and storage, as well as data-handling operations. Associates will then be required to review and acknowledge security and confidentiality policies currently in place at North American Title.

SoftPro Partners with Data Trace’s Texas Tax Service

SoftPro, a supplier of title, closing and escrow software, integrated its SoftPro 360 business exchange tool with Data Trace Information Services’ specialty tax service for Texas. As a provider of

title plant, tax information and document images nationally, Data Trace’s Texas Tax service provides tax information on residential and commercial properties across all 254 Texas counties.

AmeriCal Title Expands Footprint to All California Counties

Linear Title & Closing announced that its wholly owned subsidiary, AmeriCal Title Co., has expanded its licensed footprint in California from one county to all 58 counties. Linear Title acquired AmeriCal in 2012 and has been writing title policies in Orange County since that time. “California

is home to some of the largest and most active real estate markets in the country,” said Nick Liuzza, president and CEO of Linear Title & Closing. “The opportunity to significantly expand our market share in California is something that Linear has been working toward since we acquired AmeriCal in 2012.”

Adeptive Integrates with Certus Recording

Adeptive, the developers of ResWare, recently integrated with Certus Recording, which provides recording fees and transfer taxes, to reduce losses and ensure documents are recorded correctly.

The partnership provides users of ResWare with the option to choose Certus for recording their data. Certus provides guaranteed recording fees and transfer taxes for real estate transactions.



Celebrating 25 Years of Service to ALTA Members and the Title Industry!

Times were tough for title professionals in the 1980s. Like today, E&O insurers were either ceasing to offer coverage or raising rates dramatically. To respond to this crisis, ALTA members created Title Industry Assurance Company (TIAC) to provide a long-term stable E&O market for its members.

25 years later, TIAC is one of the longest running and successful E&O insurance providers available! Combining broad coverage, expert claims and underwriting services, and competitive rates, TIAC is the choice for title professionals!

If you have not received a quotation from TIAC lately or compared our broad coverage, contact us at 800-628-5136 or complete our online premium estimate form at www.cpim.com/tiac.



**Title Industry Assurance Company,
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Speaking Before Congress and Representing the Industry a Memorable Experience

As someone who has launched and operated two companies, I'm not shy when it comes to conversing with staff and customers. It comes naturally. As chief information officer for Old Republic, I manage more than 150 information services employees who support nearly 350 offices. When dealing with computers, servers and data, you get used to putting out fires.

In May, I had the opportunity to participate in a hearing before the Financial Institutions and Consumer Credit Subcommittee of the House Committee on Financial Services and offer suggestions on improving the Consumer Financial Protection Bureau (CFPB).

Let me just say, speaking before Congress is a totally different ball of wax than running a company and managing a department. Like previous presidents before me, I did not take this honor lightly. With help from ALTA staff, I revised my oral remarks and written testimony numerous times. We prepped for several hours at the ALTA office prior to heading over to Capitol Hill.

With all the preparation, it still was intimidating to sit at the witness table in front of members of Congress. While daunting, we had an important message to convey to the committee members. Our main point is that the CFPB can be improved to benefit consumers and industry—specifically, so the Bureau can better serve small title companies, attorneys and settlement agents. Small businesses comprise 65 percent of ALTA's membership and we are on Capitol Hill every day fighting for our industry.

A portion of my testimony addressed the uncertainty in the marketplace caused by the CFPB's 2012 service provider memo. Because the CFPB was unclear about what is expected, mortgage originators have varied practices, policies and procedures in their vendor risk management. There are additional questions about the application of the CFPB's bulletin to the title and settlement industry because consumers primarily choose the provider of real estate settlement services, unlike a traditional bank vendor.

The result is that businesses are shooting in the dark as they attempt to invest in systems and processes to protect consumers. Many of our members are concerned they will no longer be allowed to compete for business when a mortgage is financed by certain lenders. You can be sure ALTA will continue to assist the CFPB in developing policies that benefit consumers and industry. A level playing field with clear rules is something we all deserve.

It was an honor to represent our industry before Congress. As we move forward in a constantly shifting regulatory environment, ALTA will continue advocating for our important role in the mortgage and real estate process.

— Rob Chapman, ALTA president





Based on the shell and markings, it's quite likely that this fella has been around as long as Old Republic Title.

ORT has been supporting the American dream of property ownership for more than a century. We've stood the test of time by standing behind our obligations and sticking to our core values of doing business with integrity, providing unparalleled financial strength and underwriting expertise.

For an underwriter that's here for the long run, count on Old Republic Title.

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Underwriters in the Old Republic Title Insurance Group, Inc. are: Old Republic National Title Insurance Company, Mississippi Valley Title Insurance Company and American Guaranty Title Insurance Company.

ALTA

Education e-Kit

ALTA members have access to an Education e-Kit, which includes information in a variety of formats that can be easily downloaded and used by members to educate others about title insurance and the closing process.

What's in the e-Kit?

- ☛ *Homebuyer presentation*
- ☛ *Videos*
- ☛ *Educational articles and blog content*
- ☛ *Social media content*
- ☛ *Brochures*
- ☛ *Letter to homeowner*
- ☛ *Consumer website*
- ☛ *Details about steps in a home purchase and a refinance*

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