

TITLE News

OCTOBER 2018

AMERICAN LAND TITLE ASSOCIATION



**Wire Fraud Coverage
or No Coverage:**

That's the Question

**Two Courts Rule Crime
Policies Cover Wire Fraud,
Business Email Compromise**

Manage commercial closings more productively than ever!

Introducing commercial functionality in **SOFTPRO SELECT**

You can **double your productivity and minimize human errors** with the new commercial real estate functionality of SoftPro Select.

- Multiple properties/parcels of land per order
- Multiple charge lines, buyers, and sellers
- Associate sales price, buyers, and sellers to each property

Now SoftPro Select allows you to:

- Choose “commercial” as the order type, no longer tied to regulated HUD or CDF forms
- Print a Master Settlement Statement for all buyers, sellers, and properties
- Print individual settlement statement types for buyers, sellers, and properties
- Customize the header, sections, signatures, and footer of each settlement statement – not just for each office, but for each order
- Specify who is responsible for each charge and associate one or more properties to a charge



Want to learn how to close commercial deals like a pro?

Download the essential guide at www.softprocorp.com/commercial



SOFTPRO[®]

800-848-0143
softprocorp.com/selectdemo

©2017 SoftPro. All Rights Reserved. SoftPro is a trademark and the property of SoftPro, its subsidiaries, and affiliated companies. All other trademarks are the property of their respective owners.



iN This Issue

VOLUME 97 | NUMBER 10 | OCTOBER 2018

COVER STORY

- 10** Wire Fraud Coverage or No Coverage: That's the Question
Two Courts Rule Crime Policies Cover Wire Fraud, Business Email Compromise

FEATURES

- 14** Is Everyone on the Hook for Wire Fraud?
White Paper Analyzing Recent Court Ruling Says Yes
- 16** 10 Things to Ask When Purchasing a Crime Policy
- 18** Loan Closer Convicted for Borrower's Loan Fraud
- 22** 7 Tips to Enhance Cybersecurity Awareness in Your Organization
Employees Often the Weakest Link
- 24** Mortgage App Fraud Spikes 12.4 Percent, CoreLogic Reports
- 26** ALTA: Plan to Reform GSEs Must Preserve Uniform Underwriting Standards
- 28** NTP Profile: Networking With Other NTPs Helps Build Robust Contact List

DEPARTMENTS

- 5** Publisher's Desk
- 6** ALTA News
- 30** Industry Update
- 36** Mergers, Acquisitions & Expansions
- 38** Closing Comment



**DON'T MISS THIS MONTH'S
DIGITAL ISSUE OF**

TITLENews

The digital edition of **TITLENews** includes a webinar recording on the changing face of fraud. The webinar discusses the latest wire fraud trends, techniques often used to launch a fraud and the best practices to keep your organization and your clients as safe as possible.

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



TitleNews is published monthly by the American Land Title Association. United States and Canadian subscription rates are \$100 a year for members and \$300 a year for nonmembers. For subscription information, call 800-787-ALTA.

Send address changes to *TitleNews*, American Land Title Association, 1800 M Street, Suite 300 S, Washington, D.C. 20036-5828.

Anyone is invited to contribute articles, reports and photographs concerning issues of the title industry. The Association, however, reserves the right to edit all material submitted. Editorials and articles are not statements of Association policy and do not necessarily reflect the opinions of the editor or the Association.

Reprints: Apply to the editor for permission to reprint any part of the magazine. Articles reprinted with permission must carry the following credit line: "Reprinted from *TitleNews*, the monthly magazine of the American Land Title Association."

©2018 American Land Title Association

Members Call Toll Free: 800-787-ALTA
Members Fax Toll Free: 888-FAX-ALTA
Visit ALTA Home Page: alta.org
Email Feedback to: service@alta.org

TITLENews

OFFICIAL PUBLICATION OF THE **AMERICAN LAND TITLE ASSOCIATION**

PUBLISHER + EDITOR IN CHIEF
Jeremy Yohe

DIRECTOR OF DIGITAL AND PRINT MEDIA
Shawn Sullivan

ASSOCIATION OFFICERS

PRESIDENT

Cynthia D. Blair NTP
Blair Cato Pickren Casterline, LLC
Columbia, S.C.

PRESIDENT-ELECT

Mary O'Donnell
Westcor Land Title
Insurance Company
Winter Park, Fla.

TREASURER

Don Kennedy
First American Title Insurance
Company
Santa Ana, Calif.

CHAIR, FINANCE COMMITTEE

Jack Rattikin III
Rattikin Title Company
Fort Worth, Texas

CHAIR, TITLE INSURANCE UNDERWRITERS SECTION

Daniel M. Wold
Old Republic National Title Insurance
Company
Minneapolis, Minn.

BOARD REPRESENTATIVES, TITLE INSURANCE UNDERWRITERS SECTION

Patrick H. Beall
Stewart Title Guaranty Company
Houston, Texas
David Townsend MTP, NTP
Agents National Title Insurance Co.
Columbia, Mo.

CHAIR, ABSTRACTERS AND TITLE INSURANCE AGENTS SECTION

William Burding Jr. NTP
Orange Coast Title Family of
Companies
Santa Ana, Calif.

BOARD REPRESENTATIVES, ABSTRACTERS AND TITLE AGENTS SECTION

Richard H. Welshons
DCA Title
Hastings, Minn.

Maureen Pfaff

Olympic Peninsula Title Company
Port Angeles, Wash.

IMMEDIATE PAST PRESIDENT

Steven G. Day NTP
Fidelity National Title Group
Jacksonville, Fla.

ASSOCIATION EXECUTIVE STAFF

INTERIM CHIEF EXECUTIVE OFFICER AND CHIEF OPERATING OFFICER

Cornelia Horner, CMP

SENIOR VICE PRESIDENT OF POLICY

Justin Ailes

VICE PRESIDENT

Kelly Romeo, CAE

VICE PRESIDENT OF COMMUNICATIONS

Jeremy Yohe

What Defenses Do You Have Against Cyber Crime?

THIS OCTOBER MARKS THE 15TH ANNIVERSARY of celebrating National

Cybersecurity Awareness Month, an annual initiative to raise awareness about the importance of cybersecurity. The goal of the collaborative effort between government and industry is to help ensure Americans have the resources to stay more secure online and increase resiliency against cyberattacks.

We know your operation faces significant financial losses and damaged consumer confidence if a cyber incident occurs. To manage risks posed by cyber threats, all your employees—from the CEO to the entry-level employee—must take precautions to ensure the safety of the company's network. Unfortunately, additional risks can come from business partners, other vendors and consumers. As we've reported, business email compromise (BEC) was the top online crime in 2017, with more than \$675 million in losses.

Over the past few years, companies have been disappointed to learn their crime/fidelity policies do not provide coverage for claims stemming from social engineering. Four years ago, Title Industry Assurance Company's (TIAC) underwriting manager, Capital Professional Insurance Managers (CPIM), introduced a cyber/privacy risk insurance program for title professionals. The product was created in response to the increase in the frequency and severity of cyber breaches, viruses, hacks and numerous other cyber threats.

The cover article in this edition brings good news for title and settlement companies, as two federal courts have held that a crime policy's computer fraud provision for losses provides coverage for spoofing attacks. This is a welcome change of course over past rulings that limited coverage.

Meanwhile, there's also an article that highlights a recent court decision in Pennsylvania that, according to the author, may hold everyone involved in a transaction liable if wire fraud occurs. The article concludes that participants—including title companies—may be held jointly liable for losses due to cybercrime if their email, systems or information is compromised.

Despite all the rulings, companies should review their policy language relating to computer, business email compromise or social engineering fraud and consider buying a stand-alone cybercrime and/or social engineering policy. On page 16, TIAC outlines the top questions you should be asking to find a crime policy that fits your needs. There are plenty of things that must be considered, from understanding your vulnerabilities to the types of coverage that are most critical to your business.

It takes shared responsibility to protect data and money. It also takes knowing what crimes your policy covers, and which ones it doesn't. Being prepared will put you in the best position to protect your business.



JEREMY YOHE

ALTA vice president of communications

ALTA-supported Bill to Improve Guidance Issued by the CFPB Introduced in Senate

On Sept. 17, U.S. Sens. Orrin Hatch (R-Utah) and James Lankford (R-Okla.) introduced the ALTA-supported Give Useful Information to Define Effective Compliance Act (GUIDE Compliance Act, S. 3443). This proposed would enhance transparency and predictability to the rulemaking process of the Consumer Financial Protection Bureau (CFPB).

S. 3443 is a companion to the bipartisan bill that was passed out of the House Financial Services Committee on Sept. 13 by a vote of 38-14. H.R. 5534 is sponsored by Reps. Sean Duffy (R-Wis.) and Ed Perlmutter (D-Colo.).

ALTA applauded the senators for introducing the bill and encouraged the House to take up the bill. ALTA President Steven G. Day NTP thanked the members of Congress for acknowledging the need for a bureau that matches simple and clear regulations with helpful and illustrative guidance and examples.

“This legislation would create a more formal process at the CFPB for issuing useful guidance to complement the consumer financial laws it enforces,” Day said. “Having the CFPB provide more clarity to regulations, such as the Real Estate Settlement Procedures Act, allows ALTA members to better serve consumers and deliver peace of mind to homebuyers every day. Regulations create the rules of the road for consumers and business, and when everyone understands the guidelines, markets operate more efficiently. Regulations should support business activity in ways that maximize benefits for consumers, and we believe this bill helps achieve this.”

Sen. Hatch added, “The CFPB has immense responsibility in protecting consumers. With this responsibility comes the need for effective transparency and genuine accountability. This bill helps consumers and businesses better understand the agen-



cy's rules, and it also reduces the risk of misinterpretation of guidance. The GUIDE Compliance Act brings greater clarity and certainty to the CFPB's rulemaking process so that American households and businesses can consume, save and invest with confidence.”

According to Sen. Lankford, “The federal rulemaking process should be transparent and accountable to every American, and the BCFP should provide necessary or appropriate guidance related to the rules they implement. The GUIDE Compliance Act will provide consumers and providers a strong grasp of the rules issued by the BCFP, including a well-defined understanding of how those rules will directly affect them. This is a good, commonsense bill that will provide clarity for consumers and help prevent ‘gotcha’ enforcement. I look forward to the bill working its way through the legislative process to become law.”

Data Security Legislation Passes House Committee

A data security bill (H.R. 6743) introduced by Rep. Blaine Luetkemeyer's (R-Mo.) was passed by the House Financial Services Committee in September by a vote of 32-20. The purpose of this legislation is to codify federal regulators' data breach notification standards for the financial services industry. Specifically, the bill would create a regime in which state insurance regulators are required to put in place data security safeguards for customer information that are the same as those created by federal bank regulators.



MYTH: MILLENNIALS ARE NOT BUYING HOMES.

FACT: BUYERS 36 AND YOUNGER REPRESENT 34% OF HOMEBUYERS, THE LARGEST GENERATIONAL GROUP TO PURCHASE HOMES.*

Old Republic Title® provides time-saving, data-driven tools and resources that help title agents succeed in a fast-paced environment. Educate customers with our market-focused materials and keep your deals on track with tools that streamline the closing process. When you work with us, you're backed by industry professionals who understand your market and are there to support you every step of the way.

GET THE FACTS WITH OLD REPUBLIC TITLE. [OLDREPUBLICTITLE.COM/MYTHS](https://www.OLDREPUBLICTITLE.COM/MYTHS)

SafeChain to Integrate ALTA Registry Into Its Wire Fraud Prevention Platform

In September, ALTA announced that SafeChain will integrate the national ALTA Registry into its real estate wire fraud prevention platform SafeWire. Through the integration, mortgage lenders will be able to search the Registry and verify the identity of title insurance agents and settlement companies, providing an enhanced level of efficiency and security to the real estate transaction.

ALTA launched the ALTA Registry in 2017 as the first national database of title insurance agents and settlement companies. In addition to contact information and branch locations for agents and title companies, each ALTA Registry listing also includes a title agent or real estate attorney's unique seven-digit ALTA ID. As most real estate wire fraud schemes involve spoofing the identity of the title and/or settlement agent involved in transaction, the ability to verify the identity of these individuals using the ALTA ID and contact information contained within the ALTA Registry provides added assurance that lenders are interacting with legitimate parties to the transaction.

"With wire fraud on the rise, everyone in the real estate transaction – lenders included – must increase their level of vigilance to maintain the integrity of the process," said Tony Franco, SafeChain co-founder and CEO. "Integrating the ALTA Registry ALTA ID into SafeWire enhances the level of security we're able to provide to all parties, bringing us one step closer to completely eliminating fraud in the wire transfer process."

Learn more about the ALTA Registry at altaidregistry.org.

ALTA Awards Designation to Title Professional in Missouri

ALTA has awarded a National Title Professional (NTP) designation to Chuck Bowman, president of the Monarch Title Co. in Columbia, Mo. Having attained the NTP designation on Aug. 1, 2018, Bowman joins more than 80 other industry leaders who have earned the professional designation.

A title-industry professional since 2002, Bowman is the incoming president of the Missouri Land Title Association for 2018-2019 and will be installed in early September. Bowman also received his Missouri Title Professional (MTP) designation from The Chris Elliott Missouri Title Professional Program on Sept. 8, 2017. Bowman serves on various boards including the Board of Trustees for the Missouri Federation for Economic Development; Job Point; the Boys and Girls Club; and CrimeStoppers in Columbia, Mo.

To apply for the NTP designation and for more information, go to alta.org/ntp.



Membership by the Numbers

ALTA is the title insurance and settlement services industry resource for advocacy, education, communications and networking. Here's a look at some membership numbers from the past month.

- New Members: 31
- New Associate Members: 11
- New Attorney Members: 19
- Total Members: 6,337
- State With Most New Members: Florida

For a list of the latest new and associate members, as well as real estate attorneys who recently joined, go to alta.org/new-members.

CALENDAR

2018 ALTA CONFERENCES

ALTA ONE

Oct. 9-12

Los Angeles, Calif.

STATE CONFERENCES

ARIZONA

Oct. 3-5

Fort McDowell

FLORIDA

Nov. 12-14

Duck Key

KENTUCKY

Nov. 13

Louisville

LOUISIANA

Dec. 5-7

New Orleans

ALTA 2018 TIPAC Donors

The Title Industry Political Action Committee (TIPAC) is ALTA's voluntary, non-partisan political action committee. TIPAC raises money to help elect and re-elect candidates to Congress who understand and support the issues affecting the title industry. TIPAC has received \$ 505,435 from 763 donors so far in 2018. Check out who has supported the industry at alta.org/tipac.

Your competitive advantage.

Streamline your closing processes and gain a competitive edge with First American's **Agent Advantage**, a suite of business services targeted to help you meet your growth and compliance needs.

Learn more about **Agent Advantage** services including title production, policy typing, escrow disbursement and lender solutions at firstam.com/AgentAdvantage.



First American Title™

866.701.3361 • www.firstam.com

First American Title Insurance Company makes no express or implied warranty respecting the information presented and assumes no responsibility for errors or omissions. First American, the eagle logo, First American Title, and firstam.com are registered trademarks or trademarks of First American Financial Corporation and/or its affiliates.

©2018 First American Financial Corporation and/or its affiliates. All rights reserved. NYSE:FAF

**Wire Fraud Coverage
or No Coverage:**

That's the Question



*Two Courts Rule
Crime Policies
Cover Wire Fraud,
Business Email
Compromise*



By Steve Gottheim

WE ALL KNOW THE DRILL BY NOW.

A fraudster gains access to a real estate agent's or consumer's email account. They monitor the progress of a transaction. At an opportune time, they spoof a party's email and contact the title or escrow company sending false wiring instructions. This subterfuge induces the company to wire the transaction proceeds or agent commission to the fraudster.

By the time the scam is discovered, the money is long gone, and the title company's only hope is its insurance. Will this wire transfer fraud or business email compromise (BEC) attack be covered? The answer will depend on what type of policy the title or escrow company purchased, as well as its location.


Coverage for spoofing under a crime policy has been a hot issue in courts this summer. Recently, two federal circuit courts found that a crime policy's computer fraud provision covers losses from a spoofing attack. This contrasts a series of past cases that limited coverage under these clauses to unauthorized intrusions into the policyholder's systems. See *Universal Am. Corp. v. Nat'l Union Fire Ins. Co. of Pittsburgh, Pa.*, 25 N.Y.3d 675, 679 (N.Y. Ct. App. 2015); *Pestmaster Servs., Inc. v. Travelers Cas. & Sur. Co. of Am.*, 656 F. App'x 332 (9th Cir. 2016).

While this is encouraging news for policyholders, the safest course of action is to review your policy language relating to computer, BEC or social engineering fraud and consider buying a stand-alone cybercrime and/or social engineering policy.

Here's a look at some of the recent court rulings affecting cyber coverage.

American Tooling v. Travelers

In *American Tooling Center, Inc. v. Travelers Casualty and Surety Co. of America*, No. 17-2014, 2018 WL 3404708 (6th Cir. July 13, 2018), the Sixth Circuit found a crime policy that covered direct losses due to computer fraud in a situation involving \$800,000 in losses for payments made by a manufacturer intended for its supplier. In this case, American Tooling subcontracted the production of some materials with a Chinese company. Criminals intercepted



The district court said that there were “intervening events” between the spoofed email and the loss, like the American Tooling’s initiating the transfers without verifying the bank account a known safe contact at the subcontractor.

a request from American Tooling for invoices from the contractor. The fraudster sent falsified wire instructions to American Tooling. American Tooling, believing the instructions to be genuine, transferred approximately \$834,000 to the criminals.

When the fraud came to light, American Tooling paid the actual vendor 50 percent of the amount due and the vendor agreed that the remaining 50 percent would be contingent on insurance recovery. American Tooling made a claim under its computer crime/fraud policy from Travelers but the claim was denied.

The policy stated the insurer would, “pay the Insured for the Insured’s direct loss of ... Money ... directly caused by Computer Fraud.” The lower court agreed with Travelers, that coverage did not exist because American Tooling did not suffer a “direct loss.”

The district court said that there were “intervening events” between the spoofed email and the loss, like American Tooling’s initiating the transfers without verifying the bank account with a known safe contact at the subcontractor. The district court also held that coverage for “Computer Fraud” required the fraudster to gain access to the insured’s computer.

The Sixth Circuit rejected these arguments. Using Michigan law, the circuit court found that “direct” meant an immediate or proximate cause, rather than a remote or incidental cause. Applying this standard, the court held that the fraudulent email was the proximate cause of American Tooling’s decision to wire funds to the incorrect account. The court explained: “A simplified analogy demonstrates the weakness of Travelers’ logic. Imagine Alex owes Blair five dollars.

Alex reaches into her purse and pulls out a five-dollar bill. As she is about to hand Blair the money, Casey runs by and snatches the bill from Alex's fingers. Travelers' theory would have us say that Casey caused no direct loss to Alex because Alex owed that money to Blair and was preparing to hand him the five-dollar bill. This interpretation defies common sense."

Further, the Sixth Circuit rejected the insurer's argument that the policy's definition of "Computer Fraud" requires the fraudster to gain access to the insured system and wire the funds out themselves. The court said if the insurer wanted to limit its exposure, it should have specifically written those terms into the definition in the policy.

Medidata v. Federal Insurance Co.

The American Tooling opinion came shortly after a similar opinion from the *Second Circuit in Medidata Solutions Inc. v. Federal Insurance Co., No. 17-2492, 2018 WL 3339245 (2d Cir. July 6, 2018)*. In his case, financial employees wired over \$5 million to fraudsters believing they were acting on the orders of the company president.

The fraudster spoofed the e-mail address of Medidata's president too convince the company's finance department to wire money for a purported corporate acquisition. Medidata used Google's Gmail for its business email. The deception led Medidata's finance team to transfer \$4.8 million to a bank account in China.

Federal Insurance Company, a unit of Chubb Corp., insured Medidata under an executive protection policy that included coverage for computer fraud. Federal denied coverage, alleging there was not a direct loss since Medidata employees that took additional steps before wiring the funds. Additionally, they argued that there was no coverage as the loss was the result of a breach to Medidata's systems.

The Second Circuit sided with Medidata, finding that the fraudsters crafted a computer-based attack to manipulate Medidata's email system. It found that the fraudster's alteration of the "From" field in the spoofed emails changed the "Data elements or program logic of" Medidata's computer system. In the court's view, this was akin to hacking and within the coverage of the policy. Additionally, the Second Circuit found that the spoofed email was the direct or proximate cause to the loss. It explained, "[i]t is clear to us that the spoofing attack was the proximate cause of Medidata's losses. The chain of events was initiated by the spoofed emails and unfolded rapidly following their receipt. While it is true that the Medidata employees themselves had to take action to effectuate

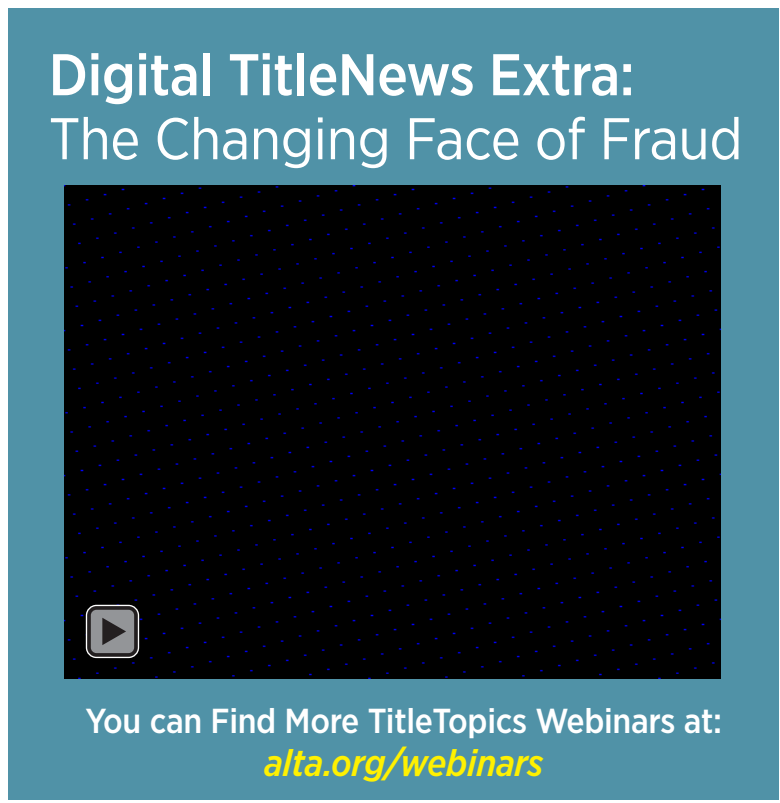
the transfer, we do not see their actions as sufficient to sever the causal relationship between the spoofing attack and the losses incurred."

Apache v. Great American


In sharp contrast to the cases above is the Fifth Circuit, applying Texas law in *Apache Corp. v. Great American Ins. Co., 662 F. App'x 252 (5th Cir. 2016)*. In this case, Apache wired \$7 million in invoice payments to a fraudulent bank account based on a spoofed email address for a vendor, Petrofac. The false invoices were preceded by a spoofed phone call from the fraudster and confirmed with a fraudulent email appearing to be on Petrofac letterhead. The wire instructions were confirmed by Apache employees who called the phony telephone number in the email.

The Fifth Circuit reversed a lower court and denied coverage stating that the loss did not result directly from the use of any computer as required under the policy. The court explained that while it was part of the scheme, the email was incidental to the wire transfer. The rationale was that the transfer of funds was made only because the employees "failed to investigate accurately" the false instructions. ■

STEVE GOTTHEIM is senior counsel for ALTA. He can be reached at sgottheim@alta.org.



Digital TitleNews Extra:
The Changing Face of Fraud



You can Find More TitleTopics Webinars at:
alta.org/webinars

Is Everyone on the Hook for Wire Fraud?

White Paper Analyzing Recent Court Ruling Says Yes

A WHITE PAPER RELEASED

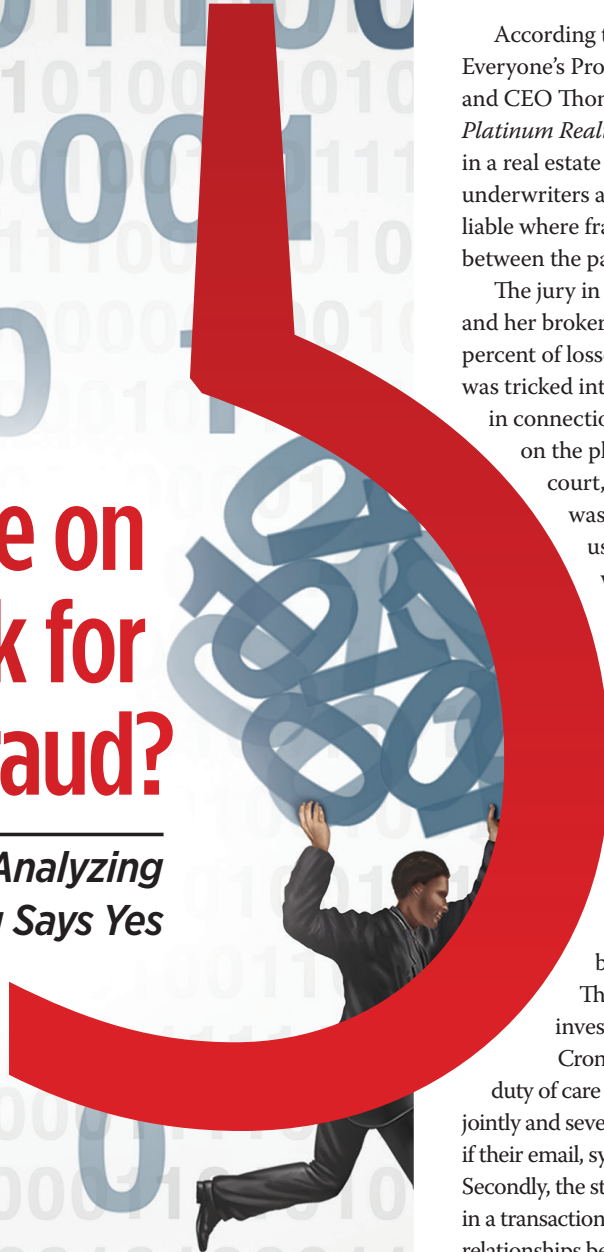
by identity management company CertifiD analyzed a recent court ruling that heightened the standard of care owed by transaction participants to prevent wire fraud losses.

According to the white paper “Wire Fraud Is Everyone’s Problem” written by CertifiD founder and CEO Thomas Cronkright II, the ruling in *Bain v. Platinum Realty LLC et al.* means that anyone involved in a real estate transaction—including title agents, underwriters and mortgage lenders—may be held liable where fraud occurs, regardless of the relationship between the parties.

The jury in the Bain case found a real estate agent and her broker jointly and severally liable for 85 percent of losses incurred by a buyer when the buyer was tricked into wiring funds to a fraudulent account in connection with a real estate transaction. Based on the pleadings and motions filed with the court, the real estate agent’s email account was compromised by cyber fraudsters who used the account access to send fraudulent wiring instructions to the buyer. The buyer trusted the wiring instructions because they were sent directly from the agent’s email account and contained information relevant to the upcoming real estate closing. The jury found the agent and her broker liable for negligent misrepresentation and ordered both of them to pay \$167,129.27. Importantly, there was no direct tie between the buyer and the agent or the broker, as the agent and broker in this case, represented the seller. The buyer was an experienced real estate investor who was unrepresented.

Cronkright said the case appears to expand the duty of care in two ways. First, participants may be held jointly and severally liable for losses due to cybercrime if their email, systems or information is compromised. Secondly, the standard of care may expand to all parties in a transaction regardless of direct contract or fiduciary relationships between them.

“The moral of the story appears to be that, no matter your role in the real estate transaction, you have a duty to take reasonable steps against cyber fraud,” Cronkright said. “Title companies, loan officers, attorneys or financial institutions ... this ruling sends a strong signal that we’re all responsible to guard against cybercrime and wire fraud.” ■



"The auditors are here. Are we ready?"



Being out of compliance can disrupt operations and end careers. Rely on experts to help you stay current on compliance requirements and prepare you for that moment when the auditors arrive.

We have the knowledge, experience and resources to prepare you. We've been doing this for 40 years and have serviced over \$31 trillion in transaction dollars.

We are the premier trust accounting service. You can relax. We'll get you ready.



TrustLink™
You're ready.

TrustLink.Support@firstam.com
800.767.7833
www.trustlinkservices.com

10 THINGS TO

When Purchasing a Crime

IF YOUR TITLE OR SETTLEMENT COMPANY has decided to obtain a cyber-crime policy, here are 10 questions to help guide you through the process and find the right policy based on your company's needs and vulnerabilities.

1 What type of cybercrime is my company most vulnerable to?

Evaluating where you believe you're most likely vulnerable will help to understand the coverage(s) you truly need. Cyber fraud/social engineering, data breach, extortion and network intrusion are the most common exposures to consider for coverage.

2 Who should carry cyber liability coverage?

If your company handles any personally identifiable information for your customers or employees, you should have a cyber liability policy. Also, if you provide financial transactions, your company should have a cyber liability policy in place.

3 What are my coverage options? What does a policy cover?

Contemplating the type of exposures you are most vulnerable to is where you need to start your evaluation. You then need to decide what coverage options are most critical to your business. Is it cyber deception or email fraud? Is it public relations to manage your reputation should a breach occur? Is it the cost of notifying clients? Regulatory fines? Investigations? Determining what is important will help you have a discussion with an insurance professional to figure out the right coverage.

4 Third-party Coverage: Does the policy provide coverage for companies used by you?

Most companies use third-party providers/vendors to manage or store data or to perform business functions. If you experience a breach or cybercrime

as a result of a third party are you covered or does the third-party vendor have coverage in place that will also protect you?

5 Third-party coverage for social engineering/cyber deception coverage: Does my policy provide coverage?

For the title industry, this is the most vulnerable exposure. You'll want to have a discussion with your insurance professional to ensure the policy you are purchasing or currently have provides this coverage. Third-party exposure in this realm involves cases when a hacker causes someone in a real estate transaction to wire funds to a fraudulent account. This action may not have been a result of any wrongdoing on your part, but you are brought into a claim because of the services you provided in the transaction. You must ensure the language in the policy defines social engineering or cybercrime/cyber deception AND provides third-party coverage.

6 If my policy provides coverage for social engineering/cyber deception is there an authentication clause or "call back" clause?

More carriers are providing social engineering coverage for their policies to be relevant and time sensitive. However, many are adding the further requirement that you must confirm that contact was made to authenticate the validity of an email regarding wiring instructions. This authentication must be made by telephone call and via email. If such contact isn't made, a claim for coverage would be denied. It's important to know about this type of requirement before purchasing a policy.

ASK

Policy



7 Is my coverage retroactive?

Coverage usually initiates after an attack has already occurred, and many policies don't cover any expenses prior to this date. That means, if you've already lost thousands of dollars from a denial of service attack before reporting it to your insurance company, you won't be able to obtain coverage for those losses. If you're concerned about undiscovered cyber incidents that may have occurred in the past, be sure to negotiate an appropriate retroactive date with your policy provider. This is especially helpful if coverage is only triggered after claims are made. Most carriers can provide full prior acts coverage from the inception date of the policy.

8 Does the policy include credit and identity theft monitoring?

Fraud through identity theft is a common occurrence for companies. Check to see if this is included in your policy and exactly who will be covered by it.

9 What crimes are potentially not covered?

Once you have had an opportunity to review coverages and policies with your insurance agent, consider not only the crimes the policy will cover, but what potentially isn't covered. Discuss these risks with your internal cybersecurity team to ensure you've made the best decision.

10 Doesn't my professional liability or E&O policy include cyber coverage?

Many companies believe that cyber liability risks are already covered by professional liability insurance. While your policy may provide some coverage for cyber liability risks, there are often huge gaps or grey areas. Also, if you have a breach or hack and need to make a claim against your professional liability policy—it could affect your premium and continued insurability. The best option is to secure a standalone cyber-liability policy. ■



Title Industry Assurance Company

Title Industry Assurance Company (TIAC) began insuring ALTA members in 1988. TIAC is the only E&O insurer recommended by all major title insurers, including Fidelity National, First American, Old Republic, Stewart Title, and regional underwriters like Security Title Guarantee of Baltimore and Agents National Title Insurance Company.

Four years ago responding to the increase in the frequency and severity of cyber breaches, viruses, hacks and numerous other cyber threats, TIAC's underwriting manager, Capital Professional Insurance Managers (CPIM), introduced a cyber/privacy risk insurance program for title professionals.

For more information or to receive a quote, send an email to info@tiacrrg.com, visit tiacrrg.com or call 800-628-5136 or 301-986-6801.

Florida Loan Closer Convicted for Borrower's Loan Fraud

*Decision is a Must-read for
Escrow Departments and
Title Industry Attorneys*

By Bushnell Nielsen



A LOAN CLOSER HAS BEEN CONVICTED on felony charges for failing to inform a lender that the seller paid the buyer's down payment for the purchase of a condo unit. The seller was the government's lead witness at trial (*United States v. Granitur*, ___ F.Supp.3d ___, 2018 WL 3820686 (S.D.Fla. 2018) (permanent citation not yet available).

George Heaton owned the Vero Beach Hotel and Spa, a condominium in Florida. Heaton sold units by offering to pay buyers' down payments for them and giving other cash rebates from closing.

Stephen McKenzie bought two units at Vero Beach Hotel. Live Oak Title served as the closing agent. Eric Granitur was Live Oak's president. Granitur did not disclose to the lender that the seller had delivered the buyer's down payment to escrow.

The federal government brought three criminal charges against Granitur, one count of conspiracy to commit false statements in

violation of 18 U.S.C. § 371 and two counts of false statements in violation of 18 U.S.C. § 1014. The case went to trial, with Joseph A. Capone of the Federal Housing Finance Agency Office of Inspector General, in Washington, as prosecutor.

The government charged Granitur with being a coconspirator in the following acts, which it labeled as criminal:

a. not disclosing incentives in the purchase and sale agreements, the buyers' mortgage loan applications, the property appraisal reports, and the HUD-1 forms submitted to the financial



institutions that financed purchases of condominium units at the Vero Beach Hotel;

b. misrepresenting and causing to be misrepresented the amount of seller credits to buyers in purchase and sale agreements, loan applications, HUD-1 forms and other documents submitted to the financial institutions that financed purchases of condominium units at the Vero Beach Hotel;

c. misrepresenting and causing to be misrepresented the true sale price in purchase and sale agreements, loan applications, HUD-1 forms and other documents submitted to the financial institutions that financed purchases of condominium units at the Vero Beach Hotel;

d. deducting and causing to be deducted the amount of the buyers' cash-to-close and other incentives from the portion of the loan proceeds due to seller at closing;

e. falsely representing and causing to be represented the fact that buyers had paid cash deposits outside of closing;

f. providing and causing cash rebates to be provided to buyers after closing; and

g. causing an attorney at the law firm representing coconspirator George Heaton to draft documents that purported to characterize the incentives as lease back and equity sharing agreements.

Granitur did not prepare the purchase agreements, appraisals, loan applications or even the HUD-1s. What Granitur was accused of doing directly was failing to tell that it was Heaton rather than McKenzie who delivered the buyer's down payments.

The government called three witnesses at trial: the seller, Heaton, who paid the down payment for the buyer; McKenzie, who falsely stated in his loan application that he would be bringing the down payments to closing; and Kelly Levy, who apparently worked for Granitur and who may have closed at least one of the sales.

The jury convicted Granitur on all three counts. Perhaps the most wrenching part of the decision is the court's ruling that the trial court did not have to instruct the jury that not every seller payment directive is fraud or a crime, even when they asked that question from the jury deliberation room:

Defendant argues that the Court's decision not to include Defense Proposed Jury Instruction 13A unfairly prejudiced Defendant's trial rights.... Defendant proposed the Defense Proposed Instruction 13A which the Court did not include in its final instructions to the jury. Defense Proposed Instruction 13A read: "The Court specifically instructs you that although disbursement of loan proceeds not in accordance with the HUD-1 is improper, it is not itself illegal unless done as part of a scheme or conspiracy." ... During deliberations, the jury sent out a question asking: "From #603 on HUD Settlement Statement—is it okay for Live Oak to Disperse funds per directive of seller's atty's that are different from settlement statement or must the entire amount go to seller?" ... The Court responded that "[y]ou should rely upon your recollection of all of the evidence, including documents and witness testimony, presented during the trial and follow the law as the Court has instructed you." ... Defendant argues that "[t]he absence of that requested instruction failed to inform the jury as to whether differing loan disbursements constitute a crime. In fact and in law, it does not unless the disbursement is done as part of a scheme or conspiracy." ... Accordingly, Defendant states that he is entitled to a new trial because there is uncertainty as to whether the jury was actually misled.

The Government responds that "[t]he Court did not misdirect or mis-instruct the jury in any way. The Court gave the pattern instructions which thoroughly and accurately covered all of the elements of the charged crimes, in a very simple and

straightforward case.” ... The Government argues that the case on which Defendant relied for his proposed instruction, Gutierrez-Acanda, 628 Fed.Appx. at 646 n.2, was different factually and procedurally in that Gutierrez-Acanda involved a much more complicated conspiracy than the conspiracy at issue in the present case and that the instruction given in Gutierrez-Acanda was agreed-to and in response to a question sent out by the jury. ...

The Court properly instructed the jury on the law and, thus, rejects Defendant’s argument that it should have included Defense Proposed Instruction 13A. The jury instructions were taken from the Eleventh Circuit Pattern Jury Instructions and made clear the elements of the crimes with which Defendant was charged. Assuming that the jury followed the instructions, as the Court must, ... it is clear that the jury could not have convicted Defendant for simply dispersing loan proceeds not in accordance with the HUD-1s. Rather, by finding that the Government proved each element beyond a reasonable doubt, the jurors found that Defendant conspired to make false statements and made the false statements knowingly with intent to influence the actions of the banks.

The court also affirmed Granitur’s conviction on the count involving a closing that he did not attend, and that also was not attended by any of the witnesses. For her part, Ms. Levy testified

that she would never have conducted the closing with Heaton paying McKenzie’s down payment unless Granitur had approved it.

The decision does not say if the seller, borrower or Heaton’s attorney who prepared the HUD-1s were ever charged or prosecuted.

This decision is a must-read for all escrow department personnel and title industry attorneys. Everyone in the title industry should be told that a closer can be sent to prison for loan fraud orchestrated by a seller and perpetrated by a borrower. ■

BUSHNELL NIELSON is shareholder of the law firm Reinhart Boerner Van Deuren. He began practicing law in 1981 and for 16 years served as in-house counsel to two national title insurers. He is the author of the Title Insurance Law Newsletter and can be reached at bnielsen@reinhartlaw.com.

Get More Case Law

For analysis of more articles affecting the title insurance and settlement industry, purchase a subscription to Title Insurance Law Newsletter. For more information or go purchase a subscription, go to alta.org/titlelaw.



Are you looking for that competitive edge?

North American Title Insurance Company’s suite of business development tools and services gives agents an advantage in their markets. As a business partner, we offer our title agents exclusive access to:

- Content marketing and educational resources
- Cutting-edge business development tools
- An unparalleled one-hour underwriting response time guarantee
- A STAR Agent Network suite of marketing collateral
- Our AgentLink web portal
- Personalized service and transparency

Let us show you how a Simple move to a highly engaged underwriter can be a game-changer in your business. Contact us at 800.374.8475. Or visit www.natic.com/true_partner.



SIMPLE. DONE RIGHT.

www.natic.com



©2018 North American Title Group, LLC and its subsidiaries. All Rights Reserved. North American Title Group, LLC and its subsidiaries are not responsible for any errors or omissions, or for the results obtained from the use of this information. North American Title Group, LLC and NATIC and related designs and Simple. Done Right. are service marks or registered service marks of North American Title Group, LLC or its corporate parent. | NATIC17-10903 R 03.28.18



Scale mountains... *not business challenges.*

RamQuest's Closing Market.

Because pursuing business goals should never leave you at an impasse.

Whether your goals are to grow your business, create efficiencies and realize cost savings or manage your operation better than ever, Closing Market's got you covered. Your big business goals are made easy with our expansive integration network that puts all the tools you need right at your fingertips. When it's time to move your (business) mountains, it's time for RamQuest's Closing Market.

See the many ways RamQuest's Closing Market helps you meet your goals at RamQuest.com/CM



RamQuest.com | 800.542.5503





7 TIPS

to Enhance Cybersecurity Awareness in Your Organization

Employees Often the Weakest Link

By Blaise Wabo

A recent study by the Ponemon Institute showed that the average size of a data breach increased 2.2 percent from 2017 with the average total cost of a data breach reaching \$3.8 million. It is now more important than ever to implement preventative measures to help mitigate the risk of cyberattacks and train employees on cybersecurity best practices.

The weakest link is often not the technology itself, but the users who can unknowingly cause a security incident through events such as opening a phishing email or allowing a visitor on-site without checking their access. Due to these risks, organizations must invest in their employees by teaching them how to prepare for, prevent and respond to these risks as they arise. Here are seven tips for enhancing and educating your employees on cybersecurity awareness.

1. Education From the Top Down

This is number one for a reason. Individuals in management may think that because they have an incredible IT security director at the helm, their duties regarding risk mitigation are fully out of their hands. However, ensuring that management and employees fully understand the potential cybersecurity risks innate to your organization is important in preventing attacks.

The development of policies and procedures on how to prevent data breaches is essential, and educating employees both new and old on these policies and procedures is critical. Because the cybersecurity landscape is constantly changing, regularly educating management and employees on updated cybersecurity policies and procedures is important in mitigating risk. In addition, your organization should inform employees about new scams or potential new risks as they arise—for example, new phishing scams or websites with potential vulnerabilities.

2. Social Engineering and Phishing Scams

Typically, there are a few details that can indicate that an email or website may not be legitimate. These include poor spelling and grammar, an unknown sender and unfamiliar URLs. Also, abnormal requests such as an unanticipated account verification can also indicate that an email is part of a phishing scam. Verify the source before deciding to click.

3. Change Your Passwords Periodically

Do you use the same password across all of your accounts and devices? In the event your account is compromised, utilizing the same password across platforms makes it likely that other accounts will be compromised. Additionally, not changing password defaults immediately is a serious vulnerability that can compromise your system, as they tend to be the same across all systems and accounts. This lack of oversight can put the security of a system at risk.

New rules for creating passwords were announced by the National Institute for Standards and Technology (NIST), which include having a password between 8-64 characters long, and using longer phrases that are easier to remember. Furthermore, many systems feature two-factor authentication. This will provide a secondary form of authentication outside of your typical password, which will strengthen your security.

4. Verify Sites

Before conducting any activity on a site, users need to make sure that the site is secure. You can check to see if the site is using a secure certificate and employing SSL (Secure Socket Layer) to secure your data in transit. This can often be done by looking at the address bar in your internet browser. Google Chrome users will see a little lock that will show whether a site is using SSL by displaying a green lock to the left of the web address. Look for the lock!

2018 Cost of Data Breach Study: By the Numbers

- Average total cost of a data breach: \$3.86 million
- Average cost per lost or stolen record: \$148
- Likelihood of a recurring material breach over the next two years: 27.9%
- Average cost savings with an incident response team: \$14 per record

Source: Ponemon Institute

5. Disable Automatic Wi-Fi and Bluetooth Connections

When you are in public, your phone and computer can automatically connect to unsecured WiFi or mobile hotspots. In addition, it might connect to other devices via Bluetooth. Be sure to disable this auto-connection feature on your phone to ensure you are safeguarding your personal information and to keep hackers at bay.

6. Always Secure Your Devices

Your device, whether it's your computer, tablet or phone, contains valuable, sensitive information. It's important to always lock your devices when you are away from them to prevent hackers from gaining access. Additionally, implementing two-factor authentication (as noted in tip three) will increase the security of your devices when you are away.

7. Be Conscientious About What You Are Sharing

This might be an obvious one, but people tend to share sensitive information without realizing it. A hacker can use information like your birthday, address, where you work, and even pictures of your family to compromise your account. Consequently, the more information a hacker has on you, the easier it is for them to steal your identity.

Making Sense of the Information Security Tips

Managing cyberrisk is a multi-faceted, organization-wide effort that requires implementation from the top levels down. With these seven information security tips in mind, you can protect your personal information and identity to help prevent a data breach from occurring in your organization.



BLAISE WABO is a managing consultant at A-LIGN, which focuses on performing SSAE 16, SOC 2 and ALTA Best Practices certifications in the title insurance and settlement industry. He can be reached at blaise.wabo@a-lign.com or 888-702-5446 x129

Mortgage App Fraud Spikes 12.4 Percent, CoreLogic Reports



The instances of mortgage application fraud are on the rise as buyers contend with rising home prices. According to CoreLogic’s Mortgage Application Fraud Risk Index, mortgage application fraud increased 12.4 percent year-over-year at the end of the second quarter.

The analysis found that during the second quarter of 2018, an estimated one in 109 applications, or 0.92 percent of all mortgage applications, contained indications of fraud, compared with the reported one in 122, or 0.82 percent in the second quarter of 2017. The CoreLogic Mortgage Fraud Report analyzes the collective level of loan application fraud risk experienced in the mortgage industry each quarter.

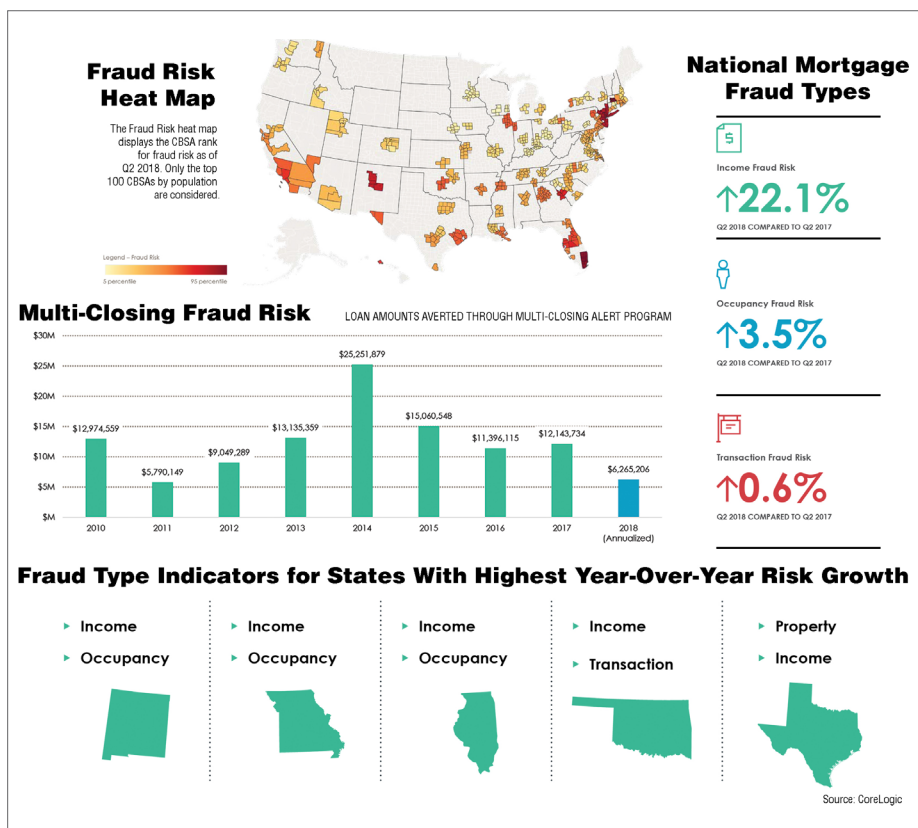
“This year’s trend continues to show an increase in mortgage fraud risk year over year,” said Bridget Berg, principal of Fraud Solutions Strategy for CoreLogic. “Because home prices are rising, and demand is strong, most mortgage fraud in this type of market is motivated by bona fide borrowers trying to qualify for a mortgage. Undisclosed real estate liabilities, credit repair, questionable down-payment sources and income falsification are the most likely misrepresentations.”

Report Highlights:

- New York, New Jersey and Florida remain the top three states for mortgage application fraud risk, maintaining the same positions as last year.
- All the top 10 riskiest states showed increases in risk year over year.
- The conforming loans for home purchases segment shows the greatest

risk increase by loan type.

- Income fraud risk had the greatest increase year over year, followed by occupancy and transaction fraud. Property and undisclosed real estate debt showed declines in risk.



STRENGTH STABILITY FOCUS

With the rest of the industry consolidating rapidly, the AmTrust Title philosophy remains the same...

// COVERING EVERY ANGLE



AmTrust Title
An AmTrust Financial Company

AmTrustTitleGroup.com



ALTA: Plan to Reform GSEs Must Preserve Uniform Underwriting Standards

ANY PLAN TO REFORM THE U.S. HOUSING FINANCE SYSTEM MUST PRESERVE the uniform standards currently provided by the Freddie Mac and Fannie Mae, including title insurance, according to ALTA.

On Sept. 6, U.S. Rep. Jeb Hensarling (R-Texas) unveiled a reform plan that would repeal the charters of the government sponsored entities (GSEs). Hensarling planned to introduce the proposal in a bill titled “The Bipartisan Housing Finance Reform Act,” co-authored with Reps. John Delaney (D-Md.) and Jim Himes (D-Conn.).

“The financial crisis demonstrated that credit underwriting standards were taken for granted and compromised by a race to the bottom,” said ALTA President Cynthia Blair NTP. “Legal title underwriting standards cannot be compromised or allowed to erode. A federal role in the housing finance system prevents future decay of legal title underwriting standards and protects homeowners, lenders, investors and taxpayers from future losses.”

Hensarling’s proposal would allow qualified mortgages backed by a private credit enhancer with capital resources to access the explicit government securitization guarantee provided by Ginnie Mae. The congressman believes the plan preserves liquidity and the 30-year pre-payable fixed mortgage.

“While by no means perfect, we offer this proposal as a grand bargain on how to move past an increasingly dangerous status quo: codify an explicit government MBS guarantee into law, coupled with an accountable and effective affordability program in exchange for placing the taxpayer in a catastrophic loss position only diffusing the credit risk beyond two GSEs, and creating market competition,” Hensarling added.

According to Blair, the United States can tap the wealth locked in the ownership of property because of a system that allows people to use their property as collateral to obtain credit.

“In the transfer of real estate, trust is built around the services the title insurance and settlement services industry provides to the transaction,” she said. “There would not be a credit market if there was not trust, and there would be no credit market without the documentation of the transfer of property. Any reform plan should recognize the strength of our legal system, support a sound housing finance system and reasonable regulation, and protect consumers’ property rights. Our formal and reliable property records system serves as the bedrock of successful capitalism in the United States.”

Also last month, the House Financial Services Committee held a hearing focused on the 10-year anniversary of Fannie Mae and Freddie Mac entering conservatorship, and the lack of any legislative reform.

During the hearing, Edward J. DeMarco, former acting director of the Federal Housing Finance Agency, noted title insurance as one of several industries over which the GSEs have a broad ability to shape the market. In DeMarco’s words, “They have broad reach to all stakeholders whose functions are intended to actually manage and mitigate risk, whether that be a mortgage insurer, title insurer, an appraiser or a lender.”



How the Title Industry Can Help Puerto Rico Disaster Recovery

When hurricanes Irma and Maria swept across Puerto Rico last September, hundreds of thousands of homes were left damaged and destroyed. In the aftermath, many Puerto Ricans turned to FEMA disaster assistance grants to help them rebuild.

By early May, FEMA had received over 1.1 million registrations for disaster assistance. However, as many as 335,748 applicants were deemed ineligible, mostly because they could not provide the required documents to prove they have legal title to their homes.

For some hurricane victims, it is a matter of getting access to the necessary documents. The problem seems to be largely caused by a long-standing informal approach to acquiring and transferring land. Many residents either do not have the resources to record a deed of title or appreciate the importance of the process.

According to The New York Times, only 65 percent of properties on the island are registered with the government. Further, the Puerto Rican Association of Builders estimates that as much as “55 percent of the island’s infrastructure ... was informally built, including 700,000 houses and commercial buildings.”

This is where ALTA comes in. Several policy initiatives are underway to address this problem in Puerto Rico as well as in future disasters. As real estate professionals with expertise in the practice, maintenance and protection of public land records, ALTA members have a duty to be at the table to inform policymakers how to address these problems.

Policymakers have taken a number of steps to address the issue. At the federal level, FEMA in some cases has begun accepting signed self-declarations as evidence of ownership. Also, House and Senate Democrats have introduced the Housing Victims of Major Disasters Act (S.2996, H.R.5474) to address the issue by, in part,

expanding the types of documents that could be used by disaster victims to qualify for housing relief.

On the island, the Puerto Rico Department of Housing has outlined a \$25 million “Title Clearance Program” in its disaster recovery action plan. Separately, the broader Puerto Rican government has included the creation of a “database of housing and home ownership information” in its draft Economic and Disaster Recovery Plan. Since the hurricane, the government has also granted 62 property titles to homeowners who’d previously not held title to those properties. This is a policy approach Puerto Rico Gov. Ricardo Rosselló wants to expand to give “48,000 illegal settlers legal title to their land.”

ALTA’s Puerto Rico workgroup will review both the proposals put forward by the Puerto Rican government as well as the Major Disasters Act, leveraging ALTA members’ unique expertise to provide critical feedback.

ALTA Puerto Rico Workgroup

For more information, or if you would like to nominate someone to participate in ALTA’s Puerto Rico workgroup, contact Rob Robilliard, ALTA’s manager of government affairs, at rrobilliard@alta.org.

NTP PROFILE



Carol Kirby NTP

COMPANY: Title Financial Corporation

TITLE: Vice President of Operations

CITY/STATE: Billings, Mont.

DATE OF DESIGNATION: July 2013

INDUSTRY EXPERIENCE: 36 years

Networking With Other NTPs Helps Build Robust Contact List

Why did you become an NTP?

I became an NTP because it is a tool to set me apart from my competitors and highlight my experience and knowledge in the industry. I believe an industry designation furthers my professional profile among my customers and peers.

How does being an NTP advance your career?

Networking with the many title industry professionals I have met while working to attain the designation has given me a vast list of contacts in the industry. I can pick up the phone or send an email to any one of them and ask an industry question and get a knowledgeable opinion.

How did you get into the industry?

I started as the delivery person at American Title & Escrow in the Billings office 36 years ago and learned the business from the ground up. So many in our industry have followed a similar path.

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

I enjoy the nature of the business and that keeps me engaged in my career. I like the transactional process and working through title problems and coming up with a solution that works for the underwriter and the customer.

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

Learn it all! There are three paths in this industry, title insurance, escrow settlement and sales. Become knowledgeable in all three areas and then pursue the one you enjoy the most as your main career focus.

Who has been your professional mentor and why?

I have had many mentors over the years. Steve Streckall, the founding manager of American Title & Escrow, was a real stickler who taught me the importance of attention to every detail. The current president of the company, Ted Lovec NTP, has been a wonderful example of leadership and a great problem solver on difficult deals. The many underwriters I've worked with also have instructed me in risk analysis. ■

Earn Your NTP

The National Title Professional (NTP) designation recognizes land title professionals who demonstrate the knowledge, experience and dedication essential to the safe and efficient transfer of real property. Start earning your NTP designation at alta.org/ntp.



CRUSH THE COMPETITION THIS FALL

Our marketing services include:

- story arc creation & brand marketing * social media content & engagement
- blog, email & content marketing * website development
- communications strategy & marketing planning

WWW.BOWEDIGITAL.COM

ALTA Member Company Facilitates Sale of California Ghost Town

Inyo-Mono Title Company handled the closing of the \$1.4 million purchase of Cerro Gordo, a deserted mining town near Lone Pine, Calif. The transaction closed last month on Friday, July 13.

Cerro Gordo townsite was established in 1865 when silver was discovered in the area and contains nearly 30 patented mining claims situated on 300 acres in the Inyo Mountains.

In the late 1870s, a fire, along with falling lead and silver prices hit the town, “effectively ending this era of activity at Cerro Gordo,” according to the Cerro Gordo website. Minerals were still being mined in the area as late as 1938.

According to Tyler Core, vice president and assistant manager of Inyo-Mono Title, the company maintains records on every parcel of land in Inyo and Mono counties dating back to the early 1860s. Because of this, Inyo-Mono Title was integral in providing the title search and escrow services.

Following the closing, Inyo-Mono Title employees were treated to a private tour of Cerro Gordo Mine.



Robert Desmarais, caretaker of the Cerro Gordo Mine, gives a tour to several Inyo-Mono Title Company employees.

SafeChain Facilitates Sale of Foreclosures in Ohio via Blockchain

SafeChain announced it successfully facilitated the sale of 36 forfeiture properties via blockchain. The transactions were completed Sept. 4 in partnership with the auditor’s office in Franklin County, Ohio.

“Too often, government services are inefficient and out of touch with current technology, resulting in wasted tax dollars and a poor experience,” said Franklin County Auditor Clarence Mingo. “The constituents of Franklin County deserve better, which is why the auditor’s office has set a goal to move 100 percent of Franklin County’s property records to blockchain and begin testing the technology to decentralize all county records and systems to create a more streamlined, efficient and secure process for delivering these services to the local community.”

The recorded properties were sold at auction by the auditor’s office. After the deeds were awarded to the winning bidders, all relevant property information was transferred to blockchain and assigned a barcode. The barcode was then attached to the deed so that the property’s information can be accessed via blockchain.

“Starting with something as relatively straightforward as property transfers, blockchain creates a decentralized, near-perfect audit trail that can never be lost or stolen,” said Tony Franco, CEO of SafeChain. “Eliminating that risk opens the door to completely changing how properties are bought and sold in the U.S., and those changes will ultimately be to the consumer’s benefit, as well as the real estate industry’s as well.”

eCLOSING IS THE NEW NORMAL.

GET AHEAD OF THE CURVE.

In today's business, things are shifting rapidly to digital processes. Don't get left behind. Stewart is the industry's eClosing leader with the expertise and resources you can trust to help you deliver more timely and convenient transactions. When you partner with us you'll get the guidance necessary to help your business get ahead of the curve.

Get eClosing insights from watching Stewart's industry expert, Marvin Stone.

Visit stewart.com/alta2018 to watch his video.

The Stewart logo consists of the word "stewart" in a white, lowercase, sans-serif font, centered within a solid red square.

IRS Issues Proposed Regulations on Pass-through Business Deduction

The Internal Revenue Service (IRS) on Aug. 8 issued proposed regulations outlining which pass-through businesses will be eligible for the 20-percent deduction enacted as part of the Tax Cuts and Jobs Act (TCJA).

To the benefit of ALTA members, the IRS took a narrow reading of the law and will allow insurance agents and real estate professionals to qualify for the deduction.

The TCJA provided a new deduction for up to 20 percent of qualified business income (QBI). This is income derived by a sole proprietorship, partnership, S corporation or trust. This was meant to create parity with the new lower corporate tax rate. Under the TCJA, the top marginal tax rate on QBI that qualifies for the 20-percent deduction under the law is 29.6 percent.

To prevent potential abuse, the law excluded “specified service businesses” from eligibility for the deduction. These are business that are defined by 26 USC 1202(e)(3)(A), which includes “any trade or business involving the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any trade or business where the principal asset of such trade or business is the reputation or skill of 1 or more of its employees.”

Which businesses would constitute a “specialized service trade or business,” was a major focus of lobbying by ALTA and other financial services trade groups around implementation of the TCJA.

The proposal specifically defines



“financial services” and “brokerage services” to not include insurance and real estate professionals. This should be helpful for title agents that are not conducting the practice of law to qualify for the deduction.

Agents that obtain business income from a source that is excluded (like attorneys) can still qualify for a limited deduction if their taxable income is less than \$315,000 (for married taxpayers filing a joint return) or \$157,500 (for individuals).

The guidance also covers rules for aggregation and separation of business income to help take advantage of the deduction. ALTA will continue to analyze the proposal and will submit comments to Treasury and the IRS.

California Approves State’s ‘First Insurtech’ Title Insurer

The California Department of Insurance on Aug. 21 approved the license for

States Title. The department said the Silicon Valley-based startup is the first insurtech title insurer licensed and domiciled in the state.

States Title Insurance Company of California, according to the release, uses data-driven technology to predict the risk and severity of a title defect on a property, aiming to deliver title insurance more efficiently and at lower costs.

“We are incredibly pleased to be doing business in the state of California,” said States Title CEO Max Simkoff. “We look forward to bringing much-needed innovation and efficiency to the title insurance industry, as well as top-notch service to our customers.”

RamQuest Gives Back to Teachers

As part of an ongoing initiative aimed at supporting local charities and other nonprofit organizations, RamQuest Inc. and its employees provided back-to-school support for Plano Independent

School District teachers. The RamQuest Gives Back program provided more than 1,500 school items and volunteer time to Plano ISD's CORE Store.

RamQuest employees collected 1,060 school-supply items ranging from backpacks to notebooks over the span of a month. RamQuest matched high-demand items, in addition to purchasing additional school supplies.

Qualia Adds Notary Service to Software Platform

Qualia announced the release of "Notary by Qualia," a new platform feature that provides title and escrow agents with notary services from its nationwide network of verified professional notaries. Qualia's title, escrow and closing software platform offers notary services built into its product as a native feature, streamlining the workflow and avoiding risk of lost paperwork.

The Notary by Qualia features include a network of verified notaries across the country, automated scheduling and document retrieval and payments, and tools for notaries such as built-in street maps and a view of home closing locations with directions.

Tridster Launches Title Fee Comparison Tool in Virginia

Tridster expanded its online comparison service for title insurance and settlement services in Virginia. The company, which is backed by One Zero Capital, also offers its comparison tool in Pennsylvania.

Equity National Title Launches Transaction Management Application
Equity National Title has launched a

transaction management application that allows all parties to monitor the status of a real estate transaction in real time.

Equity National Title partnered with Salem, Massachusetts-based Easy Mortgage Apps in the design and production of the app. The app will allow users to place orders, generate quotes, and receive and share status updates. According to the company, it can also determine whether an electronic closing is permissible and, if so, in what form. All functions are available to the user 24/7 and any authorized user with internet access can access the information. Users can also upload documents (such as missing identification; buyer authorizations and the like) and see scheduled closings, including the location (and map directions) and parties expected to attend. The app also sets forth the process in a series of timelines, including important dates and milestones, as well as current status. The app is available for Apple devices.

"The industry has talked for decades about an easier way for Realtors, loan officers and borrowers to know where the transaction stands without having to call the title company," said James K. O'Donnell, president of Equity National Title. "It has historically been one of the chokepoints of the transaction. With the Equity National Title app, authorized users simply have to log in—at any time of the day—to see exactly where their deals are. No voice mails. No waiting. No miscommunication."

Recent Integrations

■ **SoftPro** has integrated its 360 business exchange platform with **SafeChain's** fraud prevention software for title professionals. SafeWire by SafeChain provides banking-grade

security to title agents including those who use the nation's leading title and closing software, SoftPro.

- **North American Title Insurance Co.** has integrated with **Qualia's** title, escrow and closing software platform and named technology provider to its AgentMarketplace program. Through this integration, title companies and law firms can issue NATIC policies, generate closing protection letters and calculate rates within Qualia.
- **PropLogix** has integrated with **DoubleTime's** closing software. DoubleTime is a product of Attorneys' Title Fund Services (the Fund). The integration enables DoubleTime clients to order PropLogix's municipal lien searches, association estoppels, surveys and payoff tracking from within its closing software.
- **Notarize** has integrated with **ResWare** to help simplify the documentation process for agencies that accept remote online notarization, the companies announced in a release. The integration will supplement existing organizational workflows with technology that expedites and enhances document collection and execution.
- **Adeptive Software** integrated its title and escrow production solution ResWare with **CertifiD's** technology platform. CertifiD allows its customers to confirm seller wire instructions and for buyers to securely receive wire instructions, covering both sides of the transaction. With the ResWare integration, customers can leverage CertifiD to confirm the validity of bank account details. Results are received directly into the ResWare file, saving valuable processing time and guaranteeing every wire transaction up to \$1 million.

Ernst Offers White-labeled Version of Smart Query

Ernst Publishing announced it will provide its Smart Query fee calculator to title and settlement companies on a white-labeled basis. The new offering will allow settlement agents to place self-branded calculators on their websites and quote their own title premiums and settlement fees with guaranteed accuracy to any lender who requests it.

“By making our technology available to title and settlement companies, we are giving them the power to offer customized fee calculations right on their websites with their own fees and branding while backed by the power of Ernst,” said Gregory E. Teal, president and chief executive officer of Ernst Publishing. “It provides an easy way for our partners to build their title businesses.”



NEWS TO SHARE?

If you have information you'd like us to consider for TiTLE News, send company announcements to communications@alta.org.

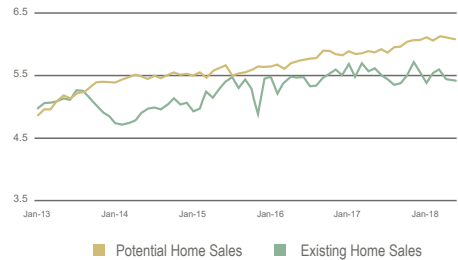
Housing Market Potential

Existing and Potential Home Sales* (in Millions, Seasonally Adjusted Annualized Rate)

5.38 SAAR
Existing Home Sales

6.06 SAAR
Potential Home Sales

-12.6%
Market Performance Gap



*Potential home sales measures what a healthy market level of home sales should be based on the economic, demographic and housing market environments.

National Consumer House-Buying Power

How much home one can afford to buy given the average income and the prevailing mortgage rate

June 2018

\$354,116

House-Buying Power

-5.00%

Year-Over-Year

Where House-Buying Power is Strongest

Top States and Cities


States

- Maryland: **\$496,100**
- New Jersey: **\$462,722**
- Hawaii: **\$460,798**
- Connecticut: **\$457,698**
- Massachusetts: **\$446,019**

Cities

- San Jose, CA: **\$666,646**
- Washington, DC: **\$606,787**
- San Francisco, CA: **\$587,401**
- Boston, MA: **\$514,900**
- Seattle, WA: **\$491,527**

Source: Mark Fleming, Chief Economist at First American Financial Corporation



Innovative Title Data and Automation

YOUR FUTURE BEGINS NOW

DataTrace® defines the modern data-driven reality of the title industry. Our steadfast commitment is to accelerate your title business beyond where it is today through title data, innovative automation, and title production solutions.

With over 545 title plants nationwide, and the most comprehensive database of real estate, tax and recorded property data and documents, DataTrace helps you advance your title business beyond where it is today.

DataTraceTitle.com/NowALTA
800.221.2056

DataTrace®

Knight Barry Title Expands Footprint in Wisconsin

Wisconsin-based Knight Barry Title Group recently acquired River Title Company, which was previously owned by Michael Vogel and Susan Vogel Flynn.

The acquisition gives Knight Barry Title its first office in Rock County, Wis.

“Expanding into Rock County with the help of an already trusted name allows Knight Barry Title to reach more customers so they can experience our expert service and innovative tool,” said Craig Haskins, Knight Barry Title Group’s chief operating officer. “We are a proud Wisconsin company and are prepared to serve even more of our great state. Our plan of continued growth this year shows that we are committed to providing more Knight Barry Title services all over the Midwest and across the country. If you’re looking to partner with a title company with a record of growth, service and innovation, we hope to hear from you soon.”

Vogel Flynn will help the Knight Barry Title team with the transition before retiring. River Title’s employees will become part of the Knight Barry Title team.

Knight Barry Title now operates 57 office locations in Wisconsin, Minnesota and the upper peninsula of Michigan. This latest acquisition is the growing company’s second expansion so far in 2018. The first, announced in January, gave Knight Barry Title several new offices in Southeast Minnesota.

Ohio-based Heartland BankCorp to Purchase Title Agency

Heartland BancCorp, parent company of Heartland Bank, announced Sept. 4 that it entered into an agreement to purchase TransCounty Title Agency.

With approximately \$2 million in gross revenue, TransCounty provides commercial and residential title services along with searches and escrow services. The title agency has three branch locations and two additional closing locations in Central Ohio.

“Risk mitigation, smooth closings and well-informed clients create value in real estate transactions for all involved,” said Scott McComb, chairman, president and CEO of Heartland BancCorp. “TransCounty has a stellar reputation in the

marketplace and will enhance our delivery going forward. Creating non-interest income in our related businesses is a significant part of our strategic plan, and this partnership will make for a good return for our shareholders.”

Heartland BancCorp is a registered Ohio bank holding company and the parent of Heartland Bank, which operates 15 full-service banking offices. Heartland Bank was founded in 1911. In May 2018, Heartland was ranked No. 37 on the American Bankers’ list of Top 200 publicly traded community banks and thrifts based on three-year average return on equity.

North American Title Opens New Office in Indiana

North American Title Co. (NATC) is expanding its footprint in Indiana with a new office in Marion. The office, which opened its doors on Aug. 1, marks the fifth office the company has opened in Indiana since 2015.

“The exemplary service offered by our very talented staff continues to fuel our growth throughout the state,” said Laura Ormsby, NATC operations manager. “Our goal is to become one of the top five title insurance agents in the state of Indiana within the next 10 years, and we’re excited to make Marion a part of that story.”

Title Alliance Expands Into New Mexico

Title Alliance Ltd announced its newest partnership with RE/MAX SELECT. This partnership gives Title Alliance its first location in New Mexico.

“We are excited to partner with RE/MAX SELECT to open our first location in New Mexico,” said Lindsay Smith, director of sales and marketing for Title Alliance. “I’m confident this partnership will be an exceptional closing experience to their clients as they are introduced to the T.A. Way. When entering a new state, it’s always important to assure cultural alignment with our new partners and to establish early on trust and commitment. Both Jessica and Seth have proven to be the right partners and we are confident that together we will grow exponentially.”

atclose

www.atclose.com

visionet



Title Closings Made *Simpler*

Close Faster
Reduce Turn Time

Manage Vendors
Reward Performance

Improve Margins
Leverage Automation



Headquarters

4 Cedarbrook Drive,
Bldg. B Cranbury, NJ 08512

☎ 609 452 0700
☎ 609 655 5232

Processing Center

183 Industry Drive
Pittsburgh, PA 15275

☎ 412 927 0226
☎ 609 655 5232

visionet

✉ sales@visionetsystems.com

🌐 www.visionetsystems.com

A Wonderful Trip Around the Sun

IT'S NOT OFTEN YOU GET TO TRAVEL to several different states *AND* testify before Congress. Over the past year as president of ALTA, those were some of the fantastic opportunities I was fortunate to experience.

It was truly a delight to hear and learn from the title professionals I met at the Oklahoma, California, Texas, Pacific Northwest, and Southeast state land title associations. I will travel to my final state events in November in Florida, and the rescheduled (due to Hurricane Florence) North Carolina convention in January 2019.

Sandwiched in between the state conventions was my opportunity to testify during a congressional hearing on ways to improve the CFPB. The opportunity to represent the industry may be one of the highlights of my professional career. It was an honor to tell members of Congress that we deserve a consumer regulator that helps remove the gray when it comes to compliance.

As of this writing, ALTA was on the cusp of setting a membership record for the ninth consecutive year. The growth of ALTA is directly related to the success of our members and the growing sense of unity throughout the industry. We pride ourselves on listening to our members and developing products and resources that help them succeed in an evolving market.

One of these items is the development of the new ALTA Marketplace, which is an interactive, easy-to-use online tool that helps members find and research vendors and service providers to help them with their daily business practices. Over the past year, I've also been impressed with the way the industry has embraced ALTA's Our Values initiative. I've talked about the need for having a mindset that we are a customer service industry that happens to be involved in title insurance. When put into action, strong core values can increase productivity, help guide decision making, boost employee morale and drive profits. I'm proud to have been part of a group that helped build the framework for future operational and financial success.

As an example of industry health, second-quarter profits for the industry were the second-highest Q2 results since 2002. I'm confident that as the mortgage market contracts, we will be better positioned to weather the storm due to a stronger culture. ALTA also is strong due to the culture and team that Michelle Korsmo developed at the association. While Michelle has moved on, staff leadership is knowledgeable, experienced and dedicated to delivering the same service our members have come to expect over the past decade. A search committee is in place and the process to find a new CEO is underway. If you have questions or comments, send us an email at CEOsearch@alta.org.

At the ALTA Board level, the association remains in great hands with Cynthia Blair NTP set to serve as your next president. As an attorney agent, Cynthia knows your business, understands the industry's challenges and sees where we should be going to ensure future success. I'll be proud to serve on her Board as past president!

As Jimmy Buffet said in his song "Trip Around the Sun," "Just enjoy this ride." It was my honor to serve this wonderful industry. I certainly enjoyed my time as your president. I trust you all will continue to *lead, protect and deliver* over the next year and beyond!



STEVEN G. DAY NTP
ALTA president

FNTG is for you.

FNTG is the partner you want by your side, not only because we're the best today, but because we are committed to doing what it takes to be the best for our agents for years to come. We take pride in providing our agent and attorney partners with all the relationships, tools, and resources they need to thrive.



With you...for what's next

NationalAgency.FNF.com



**Be the apple
of their eye**

or maybe not

**Give Your Lenders Better Service
By Confirming Your Company
In The National ALTA Registry**



ALTA.ORG/REGISTRY

