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Where's Susan? We used to be so close. Doing title forms for hours and hours. Together. It was really great. At least I was happy. Now I spend a lot of time alone. Susan is always with her clients. "Oh, let me take care of that for you, Brian." "Hey Lisa, let's meet for lunch." **AGENT TECHNOLOGY SOLUTIONS** LESS TIME ON PAPERWORK. MORE TIME FOR CUSTOMERS 00000 0



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RUNNING YOUR BUSINESS

Junk Faxes: Are You in

Compliance?

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Tired of Those Recording Rejections? You Can be Part of the Solution! by Ardis Schmitt

Will those important documents get recorded, or will they be rejected because a certain requirement was missed? How are you supposed to keep up with everything and avoid those miserable rejections? Find out how a four-letter word can help.

INSIDE ALTA
Today's Climate Demands
Internal Financial Controls
by Lorri Lee Ragan

Accounting and financial scandals are not just limited to the corporate world, they have hit the title world as well. ALTA has a program to help you create sound financial controls and train your employees to avoid potential problems.

SPECIAL FEATURE
A Special Tribute to
Michael F. Wille

ALTA and the title industry lost a leader and visionary on September 22, 2006. Michael F. Wille was flying home from the Nebraska Land Title Association when his plane crashed. His contributions to the industry and his passion for life will long be remembered.

COVER STORY
Greg Kosin: Up to the Challenge by Ellen Schweppe

Gregory M. Kosin, president of Greater Illinois
Title Company in Chicago, was installed as ALTA
president this past October during ALTA's Annual
Convention. Get a glimpse of Greg's career in the title industry and his hopes for his year as president.

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CONGRATULATIONS COURSE 2 GRADUATES!

Steve Allison Stuart Anderson Joann Anthony Sharon Bartkowski Nicole Baumann Cathy Beard Kristy Bertels Bernadette Bledsoe Misty Burke Christopher Kyle Cain Shirley Chaffin Janet Cicalo Melanie Cochran Linda Crane Kathy Dacus Cara Dedmon Susan DeLawyer LaVerne Dempsey Betsy DeYoung Rob Erickson **Dolores Everhart** Lynsie Feinberg

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's Course 2 is an online, self-study course covering 15 industry topics, including chapters on land descriptions, subdivisions, encumbrances, UCC, water rights, endorsements, forms of commitments and policies, bankruptcy, claims, and reinsurance.

For further information about LTI's Online Courses, please visit the ALTA Web site: www.alta.org; click on Land Title Institute; and then Correspondence Courses.

Questions? Contact Patricia Berman at pat_berman@alta.org or 800-787-2582 x 215.

calendar

ALTA EVENTS

November 11 - 12

| Small Agents & Abstracters Forum Marriott Cincinnati Airport Cincinnati, OH

March 6 - 7

Federal Conference
The Willard
Intercontinental
Washington, DC

April 22 – April 26 Tech Forum
Hyattt Regency
Denver
Denver, CO

October 10-14

ALTA Annual
Convention
Chicago Hilton &
Towers,
Chicago, IL

STATE CONVENTIONS

November 15-17

Florida

December 6-8

Louisiana



ALTA 2007 Federal Conference

MARCH 6 - 7

The Willard Intercontinental Hotel Washington, DC

TitleNews

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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.

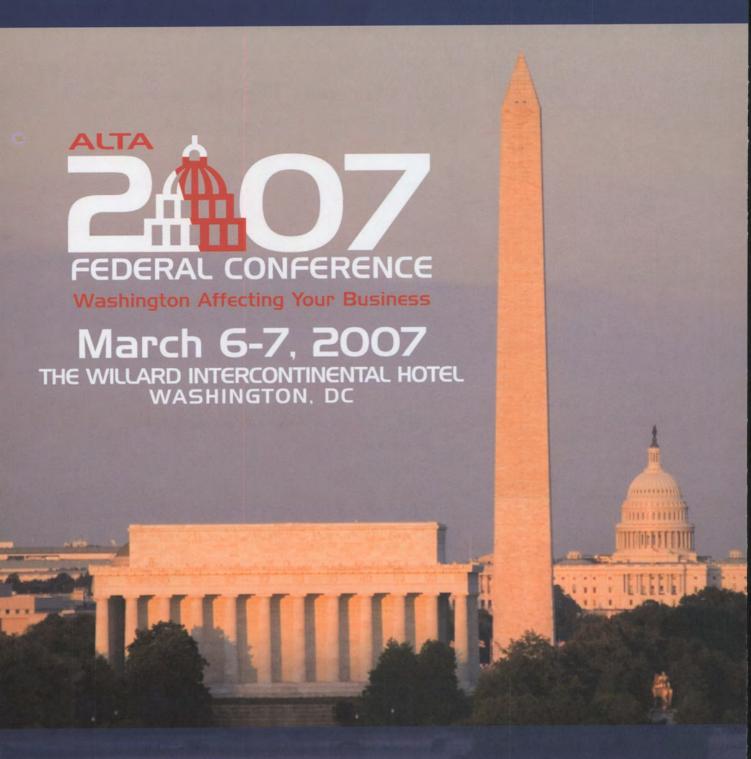
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point of view

Can You Hear It?

he tragic news of the death of Mike Wille sent shock waves throughout ALTA just days before the annual convention, which was to be the inauguration of his presidential year.

Mike had been a tireless servant for many years. His ALTA leadership and involvement encompassed virtually all areas of the association, but it was no secret that his most ardent passion was directed towards the Agents Section and the Title Industry Political Action Committee (TIPAC).

Whether he was raising money for TIPAC or exhorting the agent community, Mike was constantly reminding us that ours is a noble industry, that each of us has a responsibility to participate, and that we should transform challenges into opportunities.

A plane crash claimed Mike's life...but not his voice. His voice still rings clear. His words are still fresh. His passion for the title industry still inspires us. His call to action still challenges us.

We have a choice to make.

Do we honor a fallen leader just with words and a moment of silence, or do we pick up the mantle of involvement, commitment, and leadership that marked his service?

Greg Kosin has chosen the latter. President Kosin will lead with a heavy heart... but he will lead. Will you follow? Better yet, will you help carry the load of leadership?

Our industry can ill afford to lose a leader like Mike Wille, but neither can we stand still in Mike's memory. He would not have it! He loved this industry and this association. He would be extraordinarily proud of Greg's willingness and ability to lead and would expect nothing less than our redoubled efforts at this critical time.

Even though we mourn the passing of a leader such as Mike Wille, it doesn't mean his voice has been silenced.

Can you hear it?



Discover Solutions to Mile High Challenges

HYATT REGENCY DENVER APRIL 22-24 DENVER, COLORADO

news

GOVERNMENT

Be On the Lookout...

At the Government Affairs Committee meeting during the ALTA Annual Convention last month, the issue of mortgage impairment and companies offering similar products was discussed extensively. ALTA would like your help in monitoring what is happening on this issue in your state. If you become aware of any company offering a mortgage impairment product, or something similar, please contact Ed Miller, ALTA's chief counsel and vice president of public

policy with the information. The Government Affairs Committee would like to be vigilant in getting these products dismissed in each state and is making good

progress educating state departments of insurance about their risk to lenders and consumers. However, as in a garden, it seems that just as you get rid of one weed, another one pops up. Please help us keep track of what is happening in your markets so we can address the products as they come to our attention.

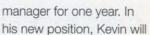
ALTA Hires Education Manager

Kevin Russell has been hired as education man-

ager for ALTA. Kevin comes to ALTA from Transportation Intermediaries Association where he was education

manager for one year. In

work with the Land Title Institute on the online Correspondence Courses. Title Triumph Board Game, and other educational offerinas.





Tech Forum Announces Call for Presentations

Calling all extroverts and potential speakers. The ALTA Technology Committee has identified four tracks for Tech Forum 2007's Professional Development Sessions. These tracks are based on the life cycle of a title order and provide an opportunity for presenters to propose high-quality Professional Development Sessions that are grounded in the true day-to-day title business and, ideally, will resonate with all title professionals:

- · Getting the Order: What can you do to get the order right, quick, and easily? How can you improve the ordering experience for customers, partners. and staff?
- Processing the Order: How can you improve the speed and efficiency of processing tasks that impact turnaround time?

- · Escrow and Closing: What new ideas will help title professionals improve the closing preparation, communication, and execution processes?
- Post-closing: What new strategies will help you and your staff effectively put the final touches on recording, satisfactions, storage, and policy production tasks? The deadline for submissions is December 1, 2006, and you will receive a confirmation that your proposal has been received by that date. The Technology Committee will review submissions during December and complete the final selection process in early January. You will know the final status of your proposal by mid-January, 2007. If you have questions or concerns contact Kelly_romeo@alta. org or 800-787-2582.

news

State Associations Contribute to Public Awareness Program

ALTA thanks three land title associations for their contributions to the Public Awareness Program.



Without the support of members and state associations, the Public Awareness Program could not exist and continue to be successful.

Special thanks to the Minnesota Land Title Association for its donation of \$5,400 to the Program. The Wyoming Land Title Association has donated \$3,500. And the Indiana Land Title Association has donated \$1,200 to the Program.

TIPAC Contributes



A Senator Ben Nelson (D-NE) accepts a TIPAC donation from ALTA member Mardy McCullough at a September 30 fundraiser in Lincoln, Nebraska. Nelson is former NE Insurance Commissioner, former NE Governor and now NE Senator on the Commerce Committee.

New Board of Governors Installed



The 2006-2007 ALTA Board of Governors was installed during ALTA's Annual Convention, October 14, in San Francisco. They are (from left to right):

Theodore C. Rogers,

The Security Title Guarantee Corp. of Baltimore, Baltimore, MD; Christopher Abbinante, Fidelity National Financial, Inc., Chicago, IL; Mark E. Winter, Stewart Title Guaranty Company, Washington, DC; Rande K. Yeager, Old Republic National Title Insurance Company, Minneapolis, MN; Diane Evans, Land Title Guarantee Co., Castle Rock, CO;

Gregory M. Kosin,

Greater Illinois Title Company Chicago, IL; Anne L. Anastasi, CLTP, Genesis Abstract, Inc., Hatboro, PA; Gary L. Kermott, First American Title Insurance Company, Santa Ana, CA; Michael B. Pryor, Lenders Title Company, Little Rock, AR; Jack Rattikin III, Rattikin Title Agency, Forth Worth, TX; Theodore L. Chandler, LandAmerica Financial Group, Inc., Richmond, VA

Mark Your Calendars

The ALTA 2007 Federal Conference is scheduled for March 6-7 at the Willard Intercontinental in Washington, DC. Mark your calendar to stay a bit later on Wednesday,

March 7 for a special luncheon on the hill with invited members of Congress. Look for registration information on ALTA's Web site soon.

Losing Customers?

How Can You Keep Customers Happy?

Increase Capability. Implementing new and flexible technology is one way to increase the capability of your business. In a service-oriented industry, offering new functionality and making it easier to do business with your company sets you apart from the competition and keeps your customers coming back for more.

How Can You Improve Customer Service?

Increase Efficiency. Critical steps to increasing efficiency are to revisit and optimize your business processes, and implement technology that can execute those processes as efficiently as possible. The result is a business that can consistently deliver quality and accuracy and keep its customers happy.

How Can You Find Out More Information?

Contact RamQuest. We have created one of the most powerful software solutions for the Land Title Industry with the direct intent of helping you increase revenue, profitability and capability. Our fully integrated Land Title Closing, Escrow Accounting, Imaging, and Digital Marketplace software solutions continue to set new standards for what title companies should expect from their software partner.

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Greg Kosin: Up to the Challenge

Gregory M. Kosin, president of Greater Illinois Title Company in Chicago, was installed as ALTA president this past October during ALTA's Annual Convention. Get a sneak peek at Greg's career and life in the title industry and his hopes for this next year.

In his first job Greg Kosin honed his customer service skills by taking on the most unpleasant clients and figuring out how to make them happy. "I liked the challenge of trying to turn things around," he said.

Now president of Greater Illinois Title Co. in Chicago, Kosin credits the customer service expertise he gained early in his career with helping him and partner Chuck Papp grow a start-up into the largest title agency in Illinois and one of the largest in the country. As the new president of the American Land Title Association, he wants to bring that customer service mind-set to the association's membership development efforts. >>

by Ellen Schweppe



To Kosin that means thinking of ALTA members as customers, too. "What can we do for members to provide them with exceptional customer service? We need to give them a compelling reason to join or maintain their membership in ALTA," he said.

Just as he learned to do in his first job and does with his company's customers today, Kosin wants to help ALTA figure out what makes members happy. "We need to make ALTA an organization that truly serves its members with the things that they want," he said.

night, he was offered a management position. He decided to put aside his plans for a legal career and commit to the title insurance business.

When the company was sold in 1984, Kosin and some of his colleagues found the new owners' more formal management style uncomfortable. They missed the collegial atmosphere of the old company. They decided it was time to strike out on their own.

"We were 30 years old and figured if we fell flat on our face; we still had time to recover our careers," Kosin said.



▲ Greg addresses the ALTA Federal Conference attendees.

Growing a Business

Although it wasn't his original plan, Kosin has spent his entire 30-year career in title insurance, going straight from the University of Illinois to his cousin's Chicago firm. "I graduated on Saturday and started in the title business on Monday morning," he said. Kosin's dream was to become an attorney, so he found the job of examining title documents and learning about the real estate transfer process interesting. While working full time during the day and attending law school classes at

On April 1, 1985, Kosin, Papp, and three other partners launched Greater Illinois Title Co. with two offices and nine employees. They figured on about 50 orders a month, but the first month they got almost 350. By the end of the first year they had six offices.

"We were blessed with determination, and we were blessed with a strong market in 1985 and 1986," said Kosin.

Today, Greater Illinois Title has 16 offices and more than 150 employees

in the Chicago metropolitan area. It provides title insurance, construction and commercial escrow services, sale and refinance closing services, 1031 tax-deferred exchanges, land surveys, and real estate information. It is Chicago Title Insurance Co.'s largest title agent in Illinois and one of the largest in the country.

Kosin also has an ownership interest in H.B. Wilkinson Title Co., which operates ten offices serving northwestern Illinois and parts of Wisconsin and Iowa. He and partner Dan Mennenoh bought the company from Mennenoh's parents in 1996.

Customer Focus, Family Atmosphere

While Kosin is involved in the day-to-day management of Greater Illinois Title, his contribution at H.B. Wilkinson Title is in developing strategies for marketing and growing the company. For both companies, he believes, the key to success is the emphasis on meeting customers' needs, which he learned in his first job.

"We focus very strongly on customer service," he said. "We've developed a reputation of being able to come through for customers in a pinch."

Kosin's business strategy for Greater Illinois Title has been to develop a one-stop shopping model for customers by offering a range of real estate-related services, from title insurance to surveys to closings. "We want to be in the front of our customers' minds when it comes to any real estate transaction or information," he said.

He also has worked to create the family atmosphere that he valued in the early years at his cousin's company. He means that not only in the literal sense—his wife, Darlene, has been part of the company since the begin-



cover story

ning and several other employees are related to each other. He also strives to foster an atmosphere of camaraderie and closeness in which people can stop by his office any time to talk about business or personal issues.

war for you. And that's important. They come through for us, and I think that our closeness is part of the reason why."

Many employees who joined the company the first year are still there

had on their lives by providing them not only with a good job but also with the ability to buy a nice home and send their kids to good schools.

"I had never really thought about it before, but to me that is the greatest accomplishment, having a positive impact on people," Kosin said. "And not only on employees but also on customers, whether it's getting that tough deal closed or helping a young couple buy their first home and seeing the joy in their faces."

I came to the conclusion that this is something I need to do. It's a great challenge under tragic circumstances, but it's just the right thing to do.

"It all comes down to treating people well and treating them as people first, not necessarily as employees," he said. "When times get tough or when it gets really busy, these people go to today. At the firm's 20th anniversary party in 2005, Kosin was surprised when several employees made a point of telling him that they appreciated the positive impact the company has

Getting Involved in Issues

The title insurance industry's positive impact is not well understood by many outside the industry, Kosin believes, which has contributed to the regulatory and legislative scrutiny the industry is now undergoing.



"We have not always done a good job of communicating to the public and our customers the value of the products and services we provide," he said.

Some in the industry are reluctant to talk about claims, for example, because they may not want to reveal how title insurance fraud occurs for fear that others will try the same tactics.

As a result, Kosin said, "there's a perception that we pay little in claims. But when I make presentations to customers, I talk about claim situations and use them as an educational tool to demonstrate the value of our product."

Early on, Kosin, a political science major in college, determined that keeping abreast of industry issues meant getting involved in industry organizations, including ALTA.

"It became clear to me very quickly that laws and regulations can change and have a tremendous impact on your business, so I felt it necessary to become involved to keep in tune with changes, legislative and regulatory, at both the state and national level," he said.

His involvement in industry organizations also benefits his customers, Kosin believes. "It keeps us on our toes and provides a forum for new and fresh ideas. It helps us to become more efficient and responsive to customers and to provide them with the level of service and products they need."

A two-time president of the Illinois Land Title Association, Kosin has also served as a director of the Illinois Association of Mortgage Brokers, the Illinois Mortgage Bankers Association, the Society of Mortgage Professionals, and the Chicago Association of Realtors. As a member of the Title Insurance Advisory Task Force of the Illinois Department of Financial Institutions, Kosin helped draft the Illinois Title Insurance Act of 1990. As chairman of the ALTA Government Affairs Committee, he testified at a 2003 hearing of the U.S. House Committee on Small Business on the impact of changes in the Real Estate Settlement Procedures Act on the title insurance industry.

Moving ALTA Forward

Most recently, Kosin was chair of the ALTA Abstracters and Title Insurance Agents Section. He was asked to take over as the association's president after president-elect Mike Wille died in a plane crash shortly before he was scheduled to take office.

"I came to the conclusion that this is something I need to do. It's a great challenge under tragic circumstances, but it's just the right thing to do," Kosin said. "Mike was always someone you could count on. He would never say no. He had a passion for the industry, as many of us do. His involvement in ALTA was part of his life."

Unlike most ALTA presidents, Kosin has not had a year as president-elect to plan for his presidency, but he knows what he wants to focus on.

"First and foremost, I want to assist in the healing process and help move the organization forward," he said. "I think that's what Mike would want."

Among the industry issues Kosin anticipates spending time on during the year is reform of RESPA, which regulates how consumers buy and refinance homes. Last year the U.S. Department of Housing and Urban Development held a series of roundtable discussions on what reform should entail, and HUD was expected to release proposed regulations for comment after the November elections.

At the HUD roundtables, including one in Chicago that Kosin participated in, ALTA representatives outlined the principles the association believes should guide RESPA reform. They include giving market-based approaches an opportunity to work before imposing regulatory directives, allowing consumers the freedom to choose settlement service



▲ Greg Kosin testifies on RESPA before the House Committee on Small Business

providers, and recognizing the important role small businesses play in the real estate industry.

Another ongoing issue for ALTA is the focus of federal authorities and state regulators on the title insurance industry. At the request of the U.S. House Committee on Financial Services, the U.S. Government Accountability Office is conducting a study of the regulation and competitive nature of the industry.

city in the world"), and being with his family. It's evident that he's proud of his wife and three sons and values the time he gets to spend with them.

Darlene Kosin recently cut back to part-time hours at Greater Illinois Title, but before that she was the company's sales leader for 20 straight years. "She has a streak almost as good as Joe DiMaggio's 56-game hitting streak," Kosin said.

"My wife and I like to travel and to



▲ Greg and his wife Darlene, who was the company's leading sales leader for twenty straight years.

In congressional testimony, ALTA has affirmed the industry's desire to work more closely with the National Association of Insurance Commissioners, state insurance regulators, and federal authorities to achieve greater clarity on the rules governing the title industry and to ensure that those rules are enforced.

Family Time

When he's not focusing on business responsibilities, Kosin likes watching the Cubs play baseball, enjoying Chicago (which he calls "the greatest take long walks. Whether we're walking along the lake here or along the beach in Florida, we just enjoy being together and being physically active."

Son Mark, a senior at Loyola University, is planning a career in the film industry, while Steve, a freshman at the University of Missouri, is considering hotel and restaurant management. As for Joe, a high school sophomore, "all he's concerned with is getting his driver's license," Kosin chuckled.

When his sons were younger, Kosin coached their baseball and basketball teams. Now he enjoys attending sports events or playing a round of golf with them, often including his 84-year-old father in a three-generation match. "We have a very close-knit family," he said. "It has always been important to us."

As Kosin looks ahead to his year as ALTA president, he acknowledges that the industry faces a number of challenges, from enhancing its role in the real estate process to adapting to new technologies to addressing public misperceptions, "but I've never been one to back down from a challenge." He hopes ALTA members will support him and the association by speaking up about the issues and concerns that are important to them.

"I run my business on an opendoor policy. My employees can walk in pretty much any time to talk," he said. "I want to extend that opendoor policy to every member of ALTA. There are a lot of talented people in our industry and many good ideas. And we need to hear them."

His open-door policy is part of his initiative to bring a customer-service focus to the association.

"Tell us what you need. Tell us what you're looking for. Give us your thoughts and ideas. I'm willing to sit down with anyone and talk about how we can make this a great industry."



Ellen Schweppe is president of Ellen Schweppe Company, LLC, an editorial services firm serving the financial services and other

industries. She can be reached at ellen@schweppecompany.com or (703) 435-5621.

Where's Susan?

We used to be so close.

Doing title forms for hours and hours.

Together.

It was really great. At least I was happy.

Now I spend a lot of time alone.

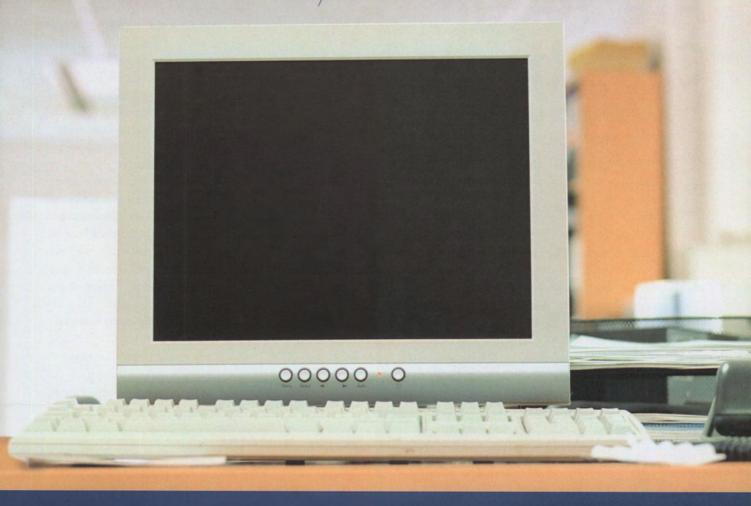
Susan is always with her clients.

"Oh, let me take care of that for you, Brian."

"Hey Lisa, let's meet for lunch."

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running your business

Junk Faxes: Are You in Compliance?

In 2005 Congress amended the so called, "Junkfax" Act preventing certain advertisements. In 2006 the FCC clarified the restrictions. Learn about the new changes to avoid being fined for sending "junk" faxes.

If you advertise your title insurance, escrow, or closing services by fax, are you aware that Congress amended the Act preventing certain advertisements by fax on July 9, 2005? Are you also aware that as of August 1, 2006, the Federal Communications Commission's rules allegedly clarifying the restrictions on advertisements by fax are in effect? If the answer to either or both of these questions is "no," you should pay particular attention to the information that follows.

Companies who have previously advertised incorrectly by fax have not only been dealt blows through class actions commenced by recipients of unwanted faxed advertisements but also through enforcement actions by attorneys general of several states. Indeed, some of the companies in

these actions have been forced out of business due to their improper use of faxed advertisements in marketing their goods or services.

The Federal Telephone Consumer Protection Act as Amended in 2005

In December 1991, Congress enacted the federal Telephone Consumer Protection Act of 1991, (TCPA), which, among other things, made it unlawful for "any person within the United States, or any person outside the United States if the recipient is within the United States if the recipient is within the United States . . . to use any telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine." In contrast to other TCPA prohibitions, Congress drafted the unsolicited fax transmission prohibition to apply both to personal and to

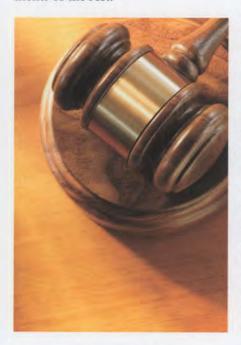
commercial recipients of unsolicited faxed advertisements.

The TCPA defined an "unsolicited advertisement" as "any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission." As originally drafted, the TCPA provided that a party accused of violating the TCPA by sending junk faxes only had one substantive defense - that the party had received prior consent to send faxes to the recipient. In the absence of specific evidence that the recipient had provided such prior consent, at least some courts held that a prior established business relationship between the sender and the recipient was insufficient to permit the faxing of ads. This holding, however, seemed to contradict a 1992 Federal Communications Commission (FCC or Commission) finding that a prior established business relationship with the recipient provided a sender with the necessary express permission to send faxed advertisements to the recipient.

To resolve this conflict between certain courts and the Commission, Congress amended the TCPA in 2005 to formally adopt the FCC's prior "established business relationship" exemption. These amendments became effective on July 9, 2005. Among other things, the TCPA was amended to prohibit the use of a fax machine, computer, or other device to send an unsolicited advertisement

to another fax machine unless three requirements were met:

(1) the unsolicited advertisement is from a sender with an established business relationship with the recipient; (2) the sender obtained the recipient's fax number either through: (a) the recipient voluntarily providing the fax number as part of the established business relationship or (b) a directory, an advertisement, or an Internet site in which the recipient voluntarily makes its fax number available for public distribution; and (3) the sender's unsolicited advertisement contains a "clear and conspicuous" notice satisfying the requirements of the Act.



A sender has an established business relationship with the recipient if the sender and the recipient have a prior or existing voluntary two-way communication with each other, with or without the exchange of any consideration. The communication has to have been part of the recipient's purchase or transaction with the sender, or on the basis of the recipient's inquiry or application regarding products or services provided by the sender. Moreover, the relationship cannot have been terminated by either party. Congress provided that the Commission could limit the duration of this established business relationship. The Commission, however, had to wait until at least October 9, 2005 before commencing a proceeding to decide whether to provide such a duration limitation.

Even if a sender has an established business relationship with the recipient and satisfies the other requirements of the Junk Fax Act, a sender is prohibited from sending the unsolicited advertisement if the recipient has previously informed the sender, as provided in the Act, not to send future unsolicited ads to the recipient's fax number.

An additional amendment to the TCPA is a requirement that a sender ensure that the unsolicited advertisement contain a clear and conspicuous notice located on the first page of the advertisement. The notice must state: (1) that a recipient can request that the sender of the advertisement no longer send any unsolicited advertisements to the recipient's fax machines, (2) the required contents of the opt-out request, and (3) that the sender's failure to comply with a proper opt-out request within any minimum time set by the Commission is unlawful. The notice must also provide a domestic telephone and fax number for the recipient to make an opt-out request and must provide a cost-free mechanism for a recipient to make an opt-out request. Each of the means to provide an opt-out request must permit the recipient to make an opt-out request at any time of any day of the week.

For the opt-out request to be proper, the recipient's request must satisfy certain statutory requirements. First, the opt-out request must specify the telephone number or numbers corresponding to the facsimile machines to which the request relates. Second, the request must be sent to the telephone number or facsimile number provided in the notice or by any other method determined by the Commission. Finally, the recipient making the request cannot subsequently provide express permission to the sender, in writing or otherwise, to send such advertisements to the recipient at the fax machine.

If an individual or entity violates the junk fax prohibition in the TCPA, the recipient of the unsolicited faxed advertisement can typically bring a private cause of action against the violator in an appropriate state court, not federal court. In contrast to many federal statutes, the TCPA does not grant jurisdiction to the federal courts for TCPA violations.

If a party is found liable for violating the TCPA's unsolicited fax prohibition, the recipient of the fax can recover actual monetary losses arising from the violation or \$500 for each violation, whichever is greater. These damages can be trebled if the TCPA violator willfully or knowingly violates the unsolicited fax prohibition.

Recent FCC Rules Clarifying Issues Raised by the TCPA Amendments

The amendments to the TCPA contained certain ambiguities that the FCC was authorized to clarify. First, there was the issue of whether there should be a time limit for the existence of an established business relationship. In other words, could a sender of a

running your business

fax claim it had an established business relationship with a recipient of a fax because the sender and recipient did business together years prior to sending a fax to the recipient? Second, was the issue of what makes a required opt-out notice on the advertisement clear and conspicuous. Third, was the concern over what type of cost-free mechanism a sender must offer to allow a recipient to opt-out of receiving any subsequent faxed advertisement without cost. Finally, there was ambiguity concerning how long a sender had to ensure that a recipient who opted out of receiving any additional faxed advertisements did not receive any additional faxed advertisements. Effective August 1 of 2006, regulations promulgated by the FCC

became effective to address these ambiguities in the TCPA amendments.

The Established Business Relationship

In addressing the issue of whether an established business relationship (EBR) between a sender and recipient ends after a certain period of time so a sender can no longer send unsolicited faxes to the recipient, the FCC was faced with several comments from interested parties arguing that the EBR should not have any time limit. In acknowledging the comments, the FCC chose not to limit the time period for an EBR. However, the FCC acknowledged that it would evaluate the EBR within one year of the effective date of its new regulations.

Methods of Obtaining Fax Numbers

Even if a sender and recipient have an EBR, the EBR does not justify a sender sending an unsolicited ad to a recipient. Rather, the sender must also obtain the fax number by either receiving the fax number directly from the recipient or from a directory, an advertisement, or an Internet site. If the sender receives the fax number from the recipient, the fax number can be received in writing, verbally, or through the recipient's Internet site. However, if the sender receives the fax number from a directory, an advertisement, or an Internet site (other than the recipient's Internet site), the sender must ensure that the recipient voluntarily agreed to make its fax number public. Ensuring that a recipient voluntarily agreed to make its fax

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number public requires the sender to take reasonable steps to verify that the recipient agreed to have its fax number listed. This would include the sender either calling or emailing the recipient and asking if it intended to disclose its fax number to the public. for a recipient to use a website address, email address, toll-free telephone number, or toll-free fax number to opt out of future faxed ads. A sender can also offer a local telephone number for opt-out requests provided that all recipients of the faxed ad are local and will not incur any long distance

It is imperative that a business deciding to advertise by fax be extremely cautious.

Clear and Conspicuous Opt-Out Notices

The FCC also clarified what a sender needs to do to ensure that the required opt-out notice on the first page of the unsolicited advertisement is clear and conspicuous. First, the FCC stated that the notice is clear and conspicuous if the notice is apparent to a reasonable consumer. Second, the notice must be separate and distinguishable from the advertisement and any other disclosures. The notice can be distinguished through the use of boldface, italics, a different font, or other styling. Third, the notice must appear at the top or bottom of the fax.

Cost-Free Opt-Out Mechanisms

The FCC also provided guidance on the type of cost-free opt-out mechanism that a sender has to offer a recipient. To provide a balance between the needs of consumers who may or may not have access to a computer and those of businesses who may not be able to afford a toll-free telephone number, the FCC's rules require that a sender of unsolicited faxed ads allow or other charges for calls made to the number.

Timing to Honor Opt-Out Requests

Finally, the FCC dealt with the issue of how long a sender has to comply with a recipient's request to opt out from receiving additional faxed ads. The FCC held that a sender must honor such an opt-out request within the shortest reasonable time from receiving such a request. However, the shortest reasonable time shall not exceed thirty days from the date that the recipient notifies the sender of the opt-out request.

A Matter of Life or Death for Your Business

Although the faxed advertisement legal waters may still be murky, it is imperative that a business deciding to advertise by fax be extremely cautious in complying with the TCPA and the FCC's new rules. If nothing else, a review of *The People of the State of California v. Fax.com, Inc., et al.*, a California federal court case from 2003, exemplifies the impor-

tance of a business complying with the TCPA and its associated rules. In 2003, the California Attorney General commenced an action against a fax broadcaster, Fax.com, Inc., and certain affiliated individuals for, among other things, violating the TCPA. The state of Indiana subsequently joined the suit in 2004. After more than two years of litigation, Fax.com ceased operations, and the parties entered into a Consent Judgment in July of 2006. In the Consent Judgment, Fax.com and its affiliated companies were found liable in the sum of \$30 million, and the individual defendants were found liable in the sum of \$20 million.

Would you like your company to be faced with a multimillion dollar judgment for failing to comply with the TCPA or its rules? More importantly, would you like to have a multimillion dollar judgment filed against you individually? If the answer to either or both of these questions is "no," which it most likely is, pay particular attention to the amended TCPA and its associated regulations, and keep clean records justifying your business's compliance with the legal requirements for sending faxed advertisements. Otherwise, you may find yourself in the same position as Fax. com - out of business.



Russell J. Kutell is partner in the Commercial Litigation Practice Group and Financial Industry Litigation Practice Area of Schotten-

stein Zox & Dunn Co., LPA in Columbus, OH. He represents lenders, title insurers and title agents in real estate disputes. He can be reached at 614-462-2252 or rkutell@szd.com.

technology corner

Tired of Those Recording Rejections?

You Can be Part of the Solution! It is the industry that binds us...it is the partnership that unites us. What would happen if we all worked together to address industry-related issues?

will those important documents get recorded, or will they be rejected because a certain requirement was missed? Was the recording fee calculated correctly? Have there been legislative changes? Why is it so hard to get documents recorded in a timely manner? So what's all this about privacy issues and redaction of information? How in the world are you supposed to keep up with everything and avoid those miserable rejections? PREP is the answer!

What is PREP?

PREP is the Property Records Education Partners, a designated work group of PRIA, the Property Records Industry Association.

A couple of years ago, supported by surveys and studies, industry leaders began to recognize there was an urgent need to improve communication between sectors at the local level. Technological changes were making good communication between local sectors even more important. To address these concerns, an alliance was formed between the title industry (ALTA), escrow agents (AEA), and county recorders (IACREOT and NACRC). PREP was subsequently created and designated a work group under the Property Records Industry Association. PREP provides the structured forum for industry members to communicate and network through geographically centered local groups called PREP chapters.

What is PREP's Charge?

- To improve working relationships between industry partners at the local level
- To open and enhance lines of communication

- □ To create networking channels
- To expand educational opportunities

Why Do We Need PREP Chapters?

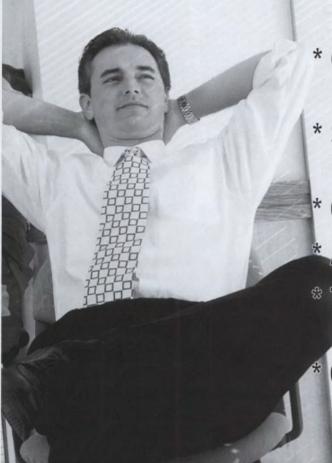
Title, escrow, financial services, and recording industries work for the public to consummate real estate transactions. Serving constructive notice through proper and timely recordation is paramount to a free and open society. In today's changing marketplace, industry stakeholders must work together to ensure quality representation for the homebuying public.



Who Should Participate?

All members of your local property records industry should be participating in a PREP chapter. When local industry participants have the opportunity to learn more about each sector's requirements and processes, each participant's work can be accomplished more efficiently and in a cost-effective manner. When industry members communicate on a face-to-face basis through a PREP chapter, information is shared, questions are asked, solutions are found to problems...and we all become partners in the process instead of adversaries.

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- * CUSTOMERS WHO NEVER LEAVE
- * A TEAM IN UNITY THAT WORKS TOGETHER
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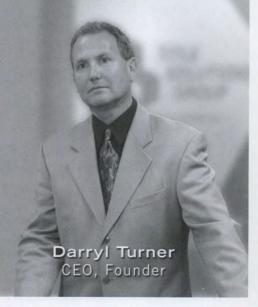
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Are Any Chapters in Operation Now?

Absolutely, and they are very successful! PREP chapters have been organized in many states, including California, Colorado, Florida, Iowa, Illinois, Minnesota, Tennessee, North Carolina, Oregon, Pennsylvania, Washington, and Texas. Many other states have PREP chapters "under construction." See the end of this article for some testimonials from PREP chapters.

How are PREP Chapters Organized?

PREP Operating Rules include the following provisions:

- Local PREP chapters are organized under the national PREP work, group structure.
- Each chapter determines its own meeting schedule and frequency, setting its own agendas.
- Each chapter elects cochairs, one from the private sector and one from the public.
- There are no membership dues, but chapters may charge fees to recover costs for expenses incurred, such as meals.
- A PREP chapter should include at least one PRIA member from the private sector and one from the public sector.
- PRIA will provide and maintain a Web page for each local PREP chapter.
- Chapters are to provide the PREP national coordinator with meeting agendas, minutes, and participant lists for posting on the Web site.

How do I Start a Chapter?

It's not hard! The PREP national coordinator will assist you in organizing a PREP chapter, and provide ongoing support. We understand the

Some Comments from PREP Chapter Participants

"The California PREP group has been busy! Attendance has exceeded expectations, and attendee feedback has been extremely positive. Of course we are all busy and there is never enough time, but in my view the many benefits of participation in PREP represent time well spent!"

Yianni Pantis, VP and Asst. General Counsel, First American Property Information & Services Group, CA PREP Cochair

"It seems we sometimes talk different languages. What's the solution? Through our PREP chapter we communicate. I can answer questions and provide information to our customers in a language they understand. That's what will keep our rejection rate down. Through our PREP chapter, we are finding the missing pieces to the puzzles that cause rejections."

Bonnie Rehder, Clay County MN Recorder and cochair of Red River Valley PREP chapter.

"We did it! We held the first meeting and it was well attended. We discussed our goals and objectives and even drafted a mission statement. The private sector representatives were very complimentary of the PREP concept...they could not thank me enough for making the effort to bring the public and private sectors together for dialogue!"

Suzanne Henderson, Tarrant County, TX Recorder - Texas PREP

"We've seen a significant drop in rejections since starting our PREP chapter!"
Kim LeGate, Deputy Register of Deeds, Davidson County TN –
Tennessee PREP

press of day-to-day business versus the enthusiasm for this new project, but we're here to help you. Getting the first meeting organized may seem like the tough part, but it's really just a matter of setting the place, date, and time...then sending out the invitations! Remember, all sectors of the industry are included. Samples of invitational letters and handouts for your meeting will be provided, as well as a PREP PowerPoint presentation. Speakers are also available.

So What are You Waiting For?

 Solve problems and improve local property records processes by participating in a local PREP chapter.

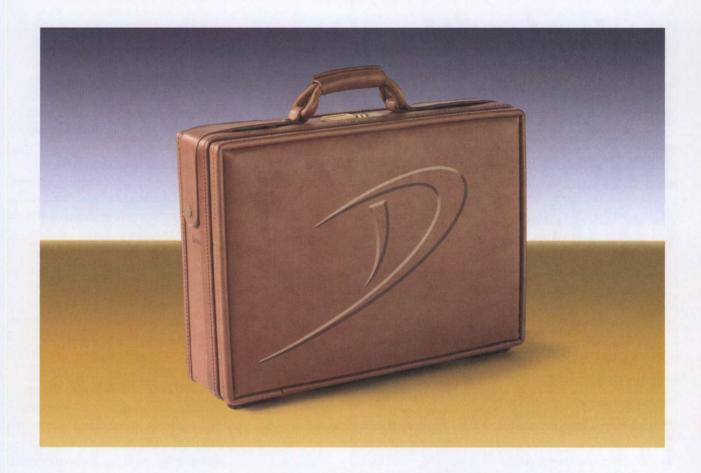
- Encourage other local industry partners to join in the PREP effort.
- If a PREP chapter has not been organized in your area, get one started!
- Visit the PREP Web pages at www. pria.us...see what's happening in PREP chapters throughout the nation.

Don't miss this opportunity to make a real difference...be part of the solution...be a PREP Star!



Ardis Schmitt is the national coordinator for PREP. She can be reached at schmitta@ pcisys.net or by phone at 719-550-1708.

Going Places.



Committed to national coverage. Our continued expansion into new markets across the country shows our determination to deliver a national title information system. With our growth comes the resolve to press farther and faster, providing single-seat technology to those key areas where more speed and efficiency are in demand.



Today's Climate Demands Internal Financial Controls

Accounting and financial scandals are not just limited to the corporate world, they have hit the title world as well. Creating sound financial controls and training your employees are key elements to avoiding problems.

ick up a newspaper these days and stories on accounting and financial scandals seem to dominate the pages. Large companies such as Enron, Arthur Andersen, and Fannie Mae have all been the subject of investigations for their accounting practices. But accounting and financial problems are not just problems in the corporate world, they have hit the title world as well. Over the past several years it seems that title industry publications have noted an increase in title company defalcations and other financial scams. Title managers need to ensure there are financial controls in place to avoid these types of problems and train employees to notice and report irregularities.

Federal Compliance & Title Companies

Instituting sound financial controls is not just good business practice; in some instances, it is the law. Congress reacted to the large corporate financial scandals by passing the Sarbanes-Oxley Act of 2002 to protect investors by improving the accuracy and reliability of corporate disclosures. The act creates some much needed structure around financial reporting and internal controls. The act only applies to corporations, not to sole proprietors. But how do you define a title company?

Section 404 of the act outlines the rigorous scrutiny that must be imposed on a company's financial operation both annually and quarterly. Two specific actions are required each and every year: 1) an internal review of all financial controls and 2) an audit on the effectiveness of those financial controls. Throughout the year, progress must be monitored on any changes made as a result of the annual audit findings. Section 404 also provides for the certifications that make the signers of financial statements accountable for the figures. Another section of the act requires the disclosure of the effectiveness of internal control systems so that weaknesses and deficiencies in financial reporting can be identified and corrected.

But these controls are for the corporate world, right? In May of this year a trio of Republican senators introduced a bill to overhaul a controversial portion of the Sarbanes-Oxley Act - Section 404 mentioned above. The bill proposes an exemption for companies with a market value of less than \$700 million from having to comply with the law. Surely most title companies will fall substantially under that limit; however financial professionals working for title companies would be wise to incorporate some of the recommendations in Sarbanes-Oxley on a voluntary basis. And even if your company is audited by your underwriter, you may want to have your own outside audit done by a CPA at least every three years to

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Professionals working for title companies would be wise to incorporate some of the recommendations in Sarbanes-Oxley on a voluntary basis.

have a broader scope of your operations.

Sarbanes-Oxley is becoming an accounting industry standard even though it is not required by law. ALTA's outside auditors are starting to hold us to similar standards, and as a nonprofit, the act does not apply to us. However, it just makes business sense to follow the guidelines outlined in Sarbanes-Oxley.

Establish Escrow Accounting Procedures

To help title company financial professionals set up a control system, the Land Title Institute has developed a self-study employee training CD and materials entitled, "Escrow Accounting Procedures for the Land Title Industry."

The employee training program comes with the following information:

- an educational CD-ROM, with self tests after each lesson;
- *a 67-page reference guide with checklists and a glossary;
- *ALTA's booklet published in 2000, "Supervision and Control Guidelines for Agencies and Approved Attorneys" and "Escrow Internal Control Guidelines for Title Insurance Companies, Agencies and Approved Attorneys."

In a 2003 *Title News* article on defalcations, deficient check control was mentioned as the top area of control breakdown in an office where defalcation occurred. This course examines the role and responsibilities of the escrow closer and presents a model system of good managerial practices designed to minimize risk in handling escrows. Viewers will learn:

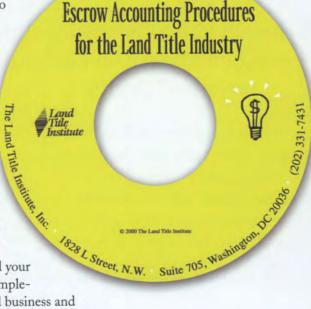
- how and why to segregate escrow duties
- how and why to reconcile accounts
- how and why to control procedures for receipts, disbursements, and escrow investments and
- how and why
 to protect your
 company, your
 employees, and your
 customers by implementing sound business and
 accounting practices.

The Escrow Accounting Procedures Employee Training Kit is available for purchase on ALTA's Web site, under the ALTA Store. Each kit is \$99 for members; \$149 for non-

members. If you have questions about the training kit or need advice on other training materials available to staff, contact Patricia Berman, director of education, at 800-787-2582 ext. 215 or at pat_berman@alta.org.

The Bottom Line

Implementing sound controls makes sense for your company, but also for the entire industry as well. As the ALTA Public Awareness Program tries to spread the message about the value that we bring to the closing process, the less consumers, regulators, and members of Congress read about defalcations in the newspapers, the better it will be for all of us.





Lorri Lee Ragan, APR, is ALTA's director of communications. She can be reached at 800-787-2582 ext. 218, or lorri_ragan@alta.org.



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In Memoriam Michael F. Wille

December 12, 1950 - September 22, 2006

LTA was devastated at the news that Michael F. Wille, long-time ALTA member, president-elect, board member, TIPAC cheerleader, friend, colleague, husband, and father passed away on September 22 while flying home from the Nebraska Land Title Association.

At the ALTA Board of Governors meeting during the Annual Convention this past October, the Board voted to posthumously elect Mike 2006 ALTA President. His name will be added to the president's plaque at ALTA headquarters. In addition the TIPAC Golf Tournament held during the convention has been renamed the Michael F. Wille TIPAC Tournament.

ALTA is putting together a memory book for Mike's family. If you have photos or comments you'd like to add, send them to the ALTA staff.

Mike will be remembered in counless other ways as well. Here's a brief look at his career.



▲ Mike used every opportunity to promote TIPAC and ask for donations.

Mike, an avid pilot, was excited to take over the reins, or controls as they say in pilot's language, and guide ALTA over the next year. He pursued every aspect of his life with passion, and it was evident to everyone who met him.

Mike was a REALTOR® in La Crosse, Wisconsin before getting into the title business. He was named Realtor of the Year by the La Crosse Area REALTORS® Association in 1992. In 1984 a mortgage broker he knew suggested that they approach the owner of La Crosse County Title Co., Tom Holstein (a past president of ALTA), to see if he wanted to sell. They got together with Tom Holstein's son, Bill, to approach Tom, but Tom declined to sell.

Tom Holstein changed his mind after becoming ill. By this time the mortgage broker had taken another job, so it was Bill Holstein and Mike, by then owners of The Title Company, who bought the assets of La Crosse Title. By 1989 Mike was president and sole owner of The Title Company.

Today The Title Company has six offices in western Wisconsin and more than 40 employees and is authorized to do business in Wisconsin, Minnesota, and Illinois. The firm focuses on residential services, with most of its orders in sales, refinancing and closing. It also does some commercial work, including one transaction involving 315 sites in 84 counties in three states.

Mike's involvement with ALTA was substantial. He has served on the ALTA Board of Governors, chaired the Abstracter and Title Insurance



↑ Mike chats with House Financial Services Committee Chairman, Mike Oxley (R-OH) at an ALTA Federal Conference.

Agents Section, and headed TIPAC, the Title Industry Political Action Committee. He was president of the Title Industry Assurance Company, or TIAC, a member-owned, ALTA-endorsed company that provides errors and omissions insurance.

He is a past president of the Wisconsin Land Title Association and was selected as Member of the Year in 2001.

Like many in the title industry, Mike shared his workday, home life and trips to industry events with his spouse. Marilyn Wille started working at La Crosse Title in 1971, and the two were dating at the time he invested in the company. They have four children in their early 20s and a granddaughter.

The Willes enjoyed holding political events in their home, where they



↑ Mike loved to talk to members of Congress to spread our messages. Here he talks to Representative Chris Cox (Chair of the Securities & Exchange Commission) at an ALTA Federal Conference.

display a collection of photographs, many autographed, of politicians and other notables they have met over the years. The photos include Presidents Bill Clinton and George W. Bush, cabinet secretaries, members of Congress and governors. Mike was an avid supporter of title issues both in Wisconsin and at the national level.

Mike made a tremendous contribution to the industry and ALTA, and his enthusiasm and easy smile will be greatly missed.



At the 2005 ALTA Annual Convention in New York, TIPAC sponsored former Chairman of the Democratic National Committee, Terry McAuliffe, as a Keynote Speaker.

Mover & Shakers

CALIFORNIA



First American Corporation, Santa Ana, has two announcements. **Sandra Bell** has joined the company in a newly created

position as vice president and chief marketing officer. Prior to joining First American, Bell worked as a partner at Ervin / Bell Marketing Communications in Irvine, CA. **Christopher Del Moral**-



Niles has been named treasurer and an officer of the corporation. Most recently, Niles served as senior vice president and

director of liability management for Union Bank.



Paul L. Hammann was named senior vice president of First American Title Insurance Company, Santa Ana. Hammann

joined First American in 1986 and most recently was vice president, underwriting director, and senior underwriting counsel at the home office.



Old Republic Title Company has several announcements. **Debra Dennington** has been appointed as senior vice president,

Yolo County manager. Dennington spent the last 14 years in various managerial positions for North State Title Company in Northern California. **Greg DeMartini** has been named senior vice president, San Francisco County manager. Most recently, he was county manager with a major underwriter in Contra Costa County.



Kari Leon has been appointed vice president, San Mateo County sales manager. Leon began with Old Republic in

2001, and most recently was branch manager at the company's Half Moon Bay location.



Cy Childs has been appointed to the position of senior vice president, director of information services for Old Republic

Title Information Concepts, Oakland. Childs has served 26 years in the field of business technology.



Bill Hobstetter has been elected to the position of executive vice president, regional manager of Old

Republic Title Holding Company, Inc., Oakland, CA. Prior to joining ORTHC, he served as a consultant to the business units for Old Republic.

DISTRICT OF COLUMBIA



Richard E. Galen has joined the Talon Group, a division of First American Title Insurance Company, as vice president and

special counsel. Galen brings 30 years of legal experience to his new position.

MINNESOTA

Rhonda Peare has joined LandAmerica Commercial Services, St. Paul, as escrow officer. Peare was previously with MMA Financial (Glaser Financial) for 18 years.

MISSOURI



Ted D. Disabato has joined First American Title Insurance-National Commercial Services, St. Louis, as an underwriting

counsel. Most recently he was employed with The Citigroup Private Bank in New York City.

PENNSYLVANIA



Frank McGovern has been appointed vice president and commercial title underwriter for the Philadelphia branch of Fi-

delity National Title Insurance Company. Prior to joining Fidelity, he worked at another major title underwriter.

TEXAS



Stanley Speer has been named director of policy services for Stewart Title Guaranty, Houston. Speer has ten years experience

in the title industry, having previously worked for an independent title agency and another underwriter.

WASHINGTON

Johnny Smith has been appointed to the position of vice president, sales manager of Old Republic Title & Escrow, Ltd., overseeing Snohomish and King Counties. Prior to joining Old Republic, Smith held managerial positions in the banking and mortgage industries.

WEST COAST



Sam Carlisi has been named executive vice president, regional manager for Old Republic Title Holding Company, Inc..

overseeing San Francisco, Nevada, and Washington. Carlisi started with Old Republic in 1969 and most recently served as senior vice president, San Francisco County manager.

Kudos

Arkansas LTA Presents Title Man of Year Award



Michael B. Pryor, president and CEO of Lenders Title Company, Little Rock, AR, was honored as the 2006 Title Man of

the Year by the Arkansas Land Title Association during its recent annual convention. Pryor was recognized for his loyal dedicated and untiring service to the land title industry in the state of Arkansas and to the Arkansas Land Title Association.

Three Leading Title Persons Earn Awards from PA LTA

At its 84th annual convention, the Pennsylvania Land Title Association presented top honors to three career professionals.



Anne L. Anastasi, CLTP, received the James. G. Schmidt Distinguished Service Award, given to an individual who has

made substantial, lasting contributions to the welfare of the land title industry

throughout his or her career. Anastasi was recognized for her tireless promotion of the interests of title professionals and for her leadership on a local and national level in raising awareness of the profession through public relations initiatives.



Deborah McClarigan, CLTP, received the Albert E. Pentecost Service Award, presented annually to the individual who

has made the greatest contribution to the Association during the previous year. McClarigan chaired the 2006 Convention Committee.



The first Marvin New Award was presented to William W. Rice III, in recognition of his service and dedication to the

mission and ideals of PLTA's educational arm, the Pennsylvania Land Title Institute.

CA Exec Earns Certified Mortgage Banker Designation

Christopher Gleiter, a director of corporate professional services for the First American Enterprise Technology Group, Santa Ana, has earned the prestigious Certified Mortgage Banker (CMB) designation from the Mortgage Bankers Association (MBA). In order to be eligible for the CMB designation, an individual must demonstrate superior knowledge, understanding, and competency in real estate finance, as well as a commitment to excellence and high ethical standards. Since 1973 more than 800 residential and commercial mortgage banking professionals have earned the CMB.

RamQuest Ranked 11 on Titan Fast 50

RamQuest Software, Inc., Plano, TX, has been ranked 11th on the 2006
Titan Fast 50, which recognizes the 50 fastest growing technology companies in the Dallas-Fort Worth area, based on percentage revenue growth over five years as well as percentage revenue growth over one year. This is the third year that RamQuest Software has been named to the prestigious list.

Five Execs Earn PLTA Designation

Five members of the Pennsylvania Land Title Association have been recognized as Associate and Certified Land Title Professionals, the highest marks of accomplishment available to members of PLTA.

Patti Connell, owner/manager, Land Transfer Company, Lancaster; Jon R. Effner, Esq., vice president and state counsel. Commonwealth Land Title Insurance Company, Philadelphia; Deborah McClarigan, senior agency representative for Lawyers Title/Land America in Lancaster; and Adrienne Verdone, Esq., vice president/eastern PA counsel for Commonwealth Land Title Insurance Company, Philadelphia, were all recognized as Certified Land Title Professionals (CLTPs). Frank McGovern, Esq., vice president and commercial title underwriter for Fidelity National Title Insurance Company, Philadelphia, was recognized as an Associate Land Title Professional (ALTP).

New Members

Active Member

ALABAMA

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