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Serving Title Professionals throughout Florida

Skip Straus, President
Alexandra J. Overhoff, Executive Director

Tallahassee Report

2016
Issue #2

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A Message from the President

Arnold "Skip" Straus, Jr. | Enterprise Title, Inc.



Message from the President

Two weeks ago, we sent out a letter to about 4,000 title and settlement agents in the State, with an update on State and Federal Business (posted elsewhere on our website), so you know what is going on from our perspective. Our Summer Board meeting will be held in two weeks. I want to hear from you now to bring your ideas to the Board.

1. FLTA has broad goals for the title industry: advocacy, education, and supporting membership. What does FLTA do well?
2. In what areas would you like to see FLTA improve?
3. For the past two Legislative Sessions, FLTA has advocated a change in the Estoppel process to eliminate payment in advance. Is this issue important enough to you that you would offer your personal support to the effort?
4. Each year the Nominating Committee seeks to nominate Directors who represent the agents, insurers (underwriters), and statewide diversity. The Board is considering changes to the Bylaws, in part to reduce the size of the Board, and align the Board more like the American Land Title Association (ALTA). Under the proposal, the incoming President would select Board candidates from across the State, maintaining the agent-underwriter balance. The goal is to provide a wider pool of qualified Board candidates for the incoming President. Past President Pat Hancock and

her committee have set forth proposed revisions. More information will be distributed. We seek your comments.

5. What are your current and future plans regarding Best Practices?
6. FLTA has a Code of Ethics, last revised in 1987, to be updated this year. Do you think buyers, sellers, real estate agents or lenders care if you are a member of an Association which subscribes to a Code of Ethics?
7. Paragraph 9 of the FAR-BAR Contract directs that either the Seller or the Buyer pays all closing costs (except the Miami-Dade-Broward provision). We have been asking the FAR-BAR committee for years to amend paragraph 9 so that the closing agent can charge reasonable closing fees to both sides. The attorneys and the real estate members of the FAR BAR Contract Sub-committee disagree and suggest that in a buyer-pay county, the seller should not pay a closing fee. Under F.S. 627.7711, the title agent may charge for the “closing service fees.” Opinions?

Please send responses to me at sstraus@strauseisler.com. I will not use your name in Board discussions, if you ask for anonymity.

Thanks,
Skip Straus

FHBA Member Awarded Woman of the Year by the Association for Women Lawyers

Congratulations to FHBA member Shelley Stewart who has been awarded Woman of the Year by the Volusia/Flagler Association for Women Lawyers!

Volusia Flagler Association for Women Lawyers “VFAWL” is a chapter of the Florida Association for Women Lawyers “FAWL”. FAWL was formed on June 30, 1951, by women lawyers from primarily the Miami area. A Constitution and bylaws were adopted on June 7, 1952. In 1980, the membership voted to amend the bylaws to provide for local chapters of the association.

VFAWL was formed on March 21, 1995, with its mission being to promote the advancement of women in the legal profession, expand the leadership role of its members in the community at large, further the common interest of its members and to encourage camaraderie among its members and other professional women in Volusia and Flagler Counties.





RACE TO RECORD? FLORIDA'S RECORDING ACT

Suppose your title agency closes the sale of real property from Alton to Bud on Tuesday and records the deed on Thursday. After closing, you learn that another title company closed a sale of the same property from Alton to a different purchaser, Constance, on Monday and recorded on Wednesday. Bud and Constance were both bona fide purchasers for value and had no knowledge of the other's transaction. Who has superior title, Bud or Constance?

The answer depends on what type of recording statute Florida has. There are three types of recording statutes used in the United States: race, notice and

race-notice.

Race. In a race jurisdiction, whoever records first wins. These jurisdictions reward the person who races to the courthouse first, regardless of whether that person knew of the competing transaction. Constance would win in these jurisdictions.

Notice. In a notice jurisdiction, a subsequent purchaser without actual or record notice of the prior interest prevails. The theory is that the first purchaser was the one who had an opportunity to prevent the difficulty by recording promptly and, therefore, is the one who should suffer the loss. Bud would win in a notice jurisdiction.

Race-Notice. In a race-notice jurisdiction, a subsequent purchaser without notice of the prior interest would prevail if his or her deed was recorded first. Constance would win in a race-notice jurisdiction. Although Bud had no notice of the prior sale at the time he closed, his deed was not recorded until after Carmen's.

So, what kind of jurisdiction is Florida? Florida is a notice state. Section 695.01, Florida Statutes, states that "[n]o conveyance, transfer, or mortgage of real property, or of any interest therein, shall be good and effectual in law or equity against creditors or subsequent purchasers for a valuable consideration and without notice, unless the same be recorded according to law." Since Bud had no actual or record notice of the prior closing when he bought the property, he has superior title. Whew! Unfortunately, however, a deed from Constance or a quiet title suit against her will probably be necessary to clear Bud's title.

Don't miss FLTA's next webinar, Wednesday, July 6th Mastering 1031 Exchange Issues!

This webinar will be presented by Scott Saunders with Asset Preservation, Inc.
Register now for this webinar on Wednesday, July 6th at 11:00 a.m.

Click [HERE](#) to register today!

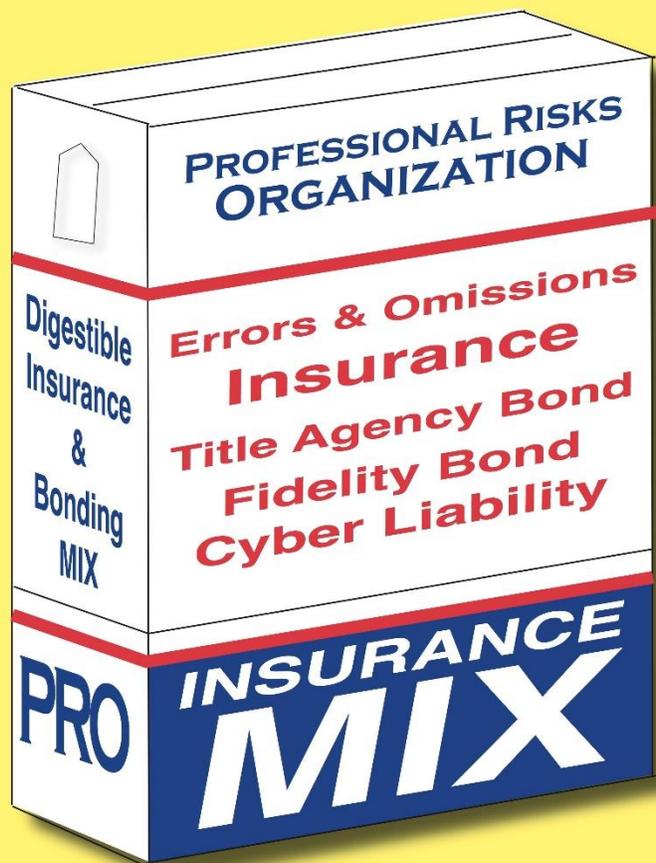
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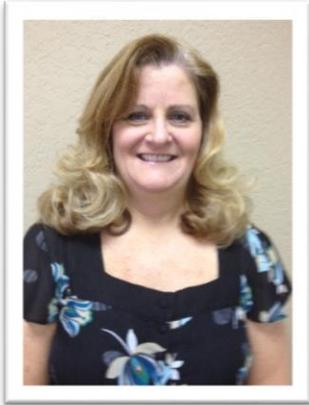
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I'm happy to report the CLT Institute, for 2016, had a total of 19 applicants. Of those applications, we had 11 Closer applicants and 8 Searcher applicants. The exams took place on Saturday, June 11, 2016. The grading board will set a date, in the very near future, to grade the exams.

We hope to award all applicants with the designation at the convention in November. If you are eligible to sit for either exam and missed the deadline this year, 2017 will be here before we know it. The exams are typically given in June of each year. So, if you are interested, it's never too early to begin studying. The qualifications needed to sit for exams and the outlines are posted on the [Certified Land Title Institute page of the FLTA](#). You could get a head start on next year and not have the stress of trying to retain a lot in a short amount of time. The study materials are listed on the website and can be purchased from the FLTA office. Purchasing the study materials now, rather than later, would help insure there are enough to go around.

I would like to reiterate - those with the designations are viewed highly in the industry - as the exams cover quite a bit of the daily issues in our title insurance world. If you are eligible, I strongly encourage you and/or your employee(s) to think about taking the exam. There is time to think about it, as the application process will not be until spring of 2017. Think how great it would be to market your agency as having a majority (or 100%!) who are certified as a closer and/or searcher by the CLT Institute!

Here's hoping you have a wonderful summer and hope to see you at the convention in November.

Click [HERE](#) to order The Basic Title Insurance Handbook with the Booth Supplement Chapters.

The Florida Land Title Association's 2016 Annual Convention Wednesday, November 9th through Friday, November 11th



Make your reservations now at the beautiful
World Golf Village Renaissance Resort
St. Augustine
800-468-3571 ask for the FLTA room block



Registration will open soon, keep a look out!

Join your friends in St. Augustine!!!

Please contact alex@flta.org to learn about convention sponsorship opportunities.



As the title industry continues to experience a disturbing increase in wire fraud, identity theft, and email scams, taking proactive preventative measures to protect ourselves is the only logical first step in minimizing our exposure to these evolving criminal schemes. Cutting-edge cybersecurity practices are a key focus for the Florida Agency Network (FAN). In addition to employing policies and technology to safeguard our customers' assets and information, FAN has implemented a [Fraud Notification Procedure](#) to report suspected fraud schemes and attacks, and to document the results in an effort to help the company and our industry recognize and avoid similar issues in the future. "We have a responsibility to our customers as well as our industry," said Andrea Somers, Compliance Officer for FAN. "It's not only about having

all of the proper controls in place to keep the 'bad guys' out, it's also about letting everyone know who they are, what methods and tactics they are employing, and most importantly, ensuring they are caught." The notification process includes maintaining a documented file, and prompt law involvement as soon as a possible scam is detected: alerting FBI local offices, FBI Internet Crimes Unit, Federal Trade Commission, banks and underwriters.

ABOUT FLORIDA AGENCY NETWORK

The FLORIDA AGENCY NETWORK (FAN) is made up of a network of title agencies that have formed a strategic alliance to provide shared back office services, pooled resources, and greater geographic coverage throughout the State of Florida. Resources of FAN include multiple on-staff attorneys, access to private title plant and ancillary services, IT Company, centralized processes & post-closing, agency administration, compliance management and financial oversight. Powered by multiple national underwriters, FAN offers residential, commercial, builder, lender and investor services, experienced escrow staff, personalized customer service, offices throughout the State of Florida, and much more. For more information, please visit <http://www.FLagency.net>.

Agent Section Lobby Fund

The Florida Land Title Association is unique in retaining a political consulting firm in Tallahassee specifically to advise and represent the Agents Section. The cost of these professionals is paid from voluntary contributions to the Agent Section Lobby Fund. Please donate to support your industry by mailing a check to:

**FLTA
249 East Virginia Street
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FLTA IS THE VOICE OF TITLE INSURANCE IN FLORIDA, AND YOU ARE FLTA.

THANK YOU FOR BEING A MEMBER!!!!

Agents' Section Chair

Gibbs Wilson | ALPHA-OMEGA TITLE



"Sizzling Summer for Title Insurance Agencies"

The expression "make hay while the sun shines" aptly applies this summer for Florida title insurance agents. 2015 was a record year for many title agents and underwriters. 2016 is expected to be even better.

When closings heat up this summer, remember to double down in serving your team mates and your clients with excellence. When we are under pressure, it is easy to get snippy with fellow staff members and also with clients. Show appreciation to those on your team and look for ways to help one another. Also remember that the clients really are the ones who stroke our pay checks. Try to serve them the way they wish to be served. It's easier to keep a client than gain a new one. Always express gratitude to those who keep us in business!

One of my objectives as Agent Section Chair of FLTA is to encourage title insurance agents to work with other agents to enhance one another's agencies. The collective wisdom and experience of Florida title insurance agents is incredible. Please engage with us for the betterment of our industry and plan to join us in St. Augustine this November for a robust convention.

Have a great and profitable summer. Turn up the heat for sizzling results.



Protect Your Title Agency from Email Scams

Technology! It's a wonderful thing! It makes our practices more efficient and makes communication so much more convenient. Technology has also opened a great new world for criminals looking for quick, easy and safe ways to steal large amounts of money. Criminals can now sit in their living rooms with their laptop computers and steal hundreds of thousands of dollars without leaving their homes. They remain anonymous, never have to show their faces, and are very difficult for law enforcement authorities to trace. While we enjoy the benefits of technology, we must learn how technology can be used for evil and take the necessary steps to avoid allowing the criminals to make victims of our clients and ourselves.

Fake Cashier's Check

This scam has been active for several years. Every few months or so, a different area of Florida is hit with the most recent version of the scam. Real estate agents are contacted by way of email by the fraudster who indicates he is interested in purchasing property in their area. Sometimes the fraudster goes through the exercise of asking for information on available homes and pretending to pick one. Sometimes he already has a house in mind. The fraudster selects the property and asks the real estate agent to let him know the name of a title agent recommended to close the transaction. The fraudster then sends a cashier's check to the title agent for the full amount of the purchase price and asks the title agent to let him know when it has been deposited into the escrow account. Soon after the title agent deposits the check, the fraudster has some kind of emergency, and needs all or most of the money back. He asks that it be wired back and provides wiring instructions. If the title agent wires the funds, she will soon find that the cashier's check was fake, the wire is not able to be recalled, and the escrow account is very short.

To avoid being a victim of the Fake Cashier's Check scam, be very careful about accepting cashier's checks. Many title agents no longer accept checks, and require all incoming funds be wired. If you decide to accept a cashier's check, let the parties know that you must wait until the cashier's check has cleared and you have "collected" funds. It can take several weeks for a cashier's check to clear and you should not disburse until it does. If you are concerned about the legitimacy of a cashier's check, you can ask your bank to verify it is real, or you can contact the making bank on your own. Don't use an address or phone number printed on the check. Find the bank's contact information on your own through the internet or otherwise.

Any time someone sends you money you are not expecting, or sends more money than needed for the current stage in the transaction, be suspicious. If the money was sent in the form of a cashier's check, be extra suspicious and extra careful before disbursing or refunding any of the funds.

Hacked Wiring Instructions

So you are not accepting cashier's checks any longer to avoid the fake cashier's check scam. You are only accepting and sending funds by wire. Are you safe from the fraudsters? Absolutely not!

Those folks sitting in their living rooms with their laptops have become very good at hacking. They are able to hack into and monitor someone else's email account to see all of the emails that come and go. They can impersonate someone in the transaction by creating an email that looks as if it comes from one of the parties.

Hackers have targeted the email accounts of real estate professionals, title agencies, and even consumers. They find the details of an upcoming real estate transaction. They are able to obtain the names of the parties, the closing date, and the

amount of the transaction. They can get access to the important and private documents that are attached to those emails. They can learn the writing style of the parties to better impersonate them at the appropriate time. When the time is right, the hackers create and send wiring instructions, or intercept and change wiring instructions that have been sent by one of the parties. They have been known to impersonate the title agent instructing the lender to send the funds to the hacker's own account, or the seller asking the title agent to wire the settlement proceeds to the hacker's account. Hundreds of thousands of dollars can be handed to a criminal in a millisecond, and the wiring party may not know for days.

How do you avoid falling prey to this scam? It is a scary one because the invalidity of the hacker's email is so hard to detect. Instead of trying to learn every clue to indicate whether an email is from the party it purports to be from, or from a hacker, it is better to institute a procedure change for every transaction. At the very beginning of your transaction, obtain valid phone numbers, preferably cell phone numbers, from every person involved in the transaction – the buyer, the seller, the real estate agent, the lender. Provide your phone number to all of the parties as well. Let everyone know that because of the danger of wiring or other disbursement instructions being hacked and altered, no one should rely on emailed instructions having to do with money until they have verified the accuracy and validity of those instructions verbally over the phone or in person. When calling to verify, you should not only ask, "Did you just send me your wiring instructions?", but also read the instructions to the sending party and ask them to verify that the instructions you received are exactly the same as the instructions they sent. Do not disburse until you are able to reach the sending party by phone or in person. The suggestion to get a cell phone number rather than a land line number is important. The hackers often send the bogus instructions at a time they have determined the party they are impersonating will be out of the office or otherwise unavailable. They know this because they are able to read all of that person's emails, and may also have access to their calendar.

If at all possible, do not use public domain email service providers, such as yahoo.com or google.com for your real estate business. These are the easiest types of accounts for a hacker to get into. Many real estate sales professionals use these free accounts, and should be advised to set up a domain controlled by their own company rather than these free and easy to hack sites. Criminals go for easy targets, and just making your email a little harder to hack may send them looking for someone else to prey on.

Technology is a wonderful thing. But it increases our vulnerability to a new type of criminal. We must not only change our practices to utilize the new technologies for our benefit, but to decrease our chances of becoming victims to the new scams that pop up every day.

Title Industry of Florida - PC

FLTA would like to give a BIG thank you to those that have not only contributed a portion of their membership dues, but contributed even more this year!!

Chairmen's Club (\$1,000)

South Bay Title Ins. Agency

President's Club (\$500)

North American Title Co.

North American Title Ins. Co.

Gary Dechellis

Island Title & Escrow Agency

Ambassador's Club (\$250)

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Melissa Murphy

Southern Title

Gold Club (\$100)

Larry Deal

Silver Club (\$50)

1TRACT-Lee Swaffield

Barry Scholnik



Help your voice be heard in Tallahassee by donating today!



Welcome to Summer!!! Although it seems like everyone is busy with work (happy days are here again!) it's just the time to perfect your golf (and tennis) games.

Speaking of golf, while it is hot now, our thoughts turn to St. Augustine in November. Magical? Yes, the FLTA 2016 annual convention runs from November 9 through 11. This year's convention will again be full of quality, dynamic speakers discussing topics which help you help your bottom line. Listen and learn, be entertained, and earn up to 5 CE/CLE credit hours (including 1 hour of ethics credit). You'll have plenty of opportunities to mingle with your friends, and make new ones. Dance Fever is hot in North Florida in November, too, I hear. More information to come.

Our agenda is full, but you won't be stuck inside all day. Bring your golf gear! The convention site, World Golf Village, features fabulous golf courses, and we're bringing back the FLTA Golf Tournament!!!! Albatrosses all around! Practice early and often-long time FLTA member, Larry Galpern and Professional Risks Organization, is offering a new Cadillac to anyone who hits a hole in one! (Thanks, Larry!)

For those of you who do not hear the greens calling, ride the hotel trolley downtown to beautiful ocean-side St. Augustine and take a tour of "America's Oldest City" (scavenger tour, anyone?) or enjoy some light refreshments to fuel you until the evening's banquet and party. We haven't left you out, shoppers! The outlet mall is just minutes away. Even closer is the World Golf Village's IMAX theatre, playing new releases and maybe the newest ski adventure, to help bring in the holidays.

Unofficially, on the evening of Tuesday, November 8, a few people are gathering at Murry Bros. Caddyshack, the on-site restaurant co owned by Bill Murray, to celebrate our great nation's election process. All are welcome to join the fun!

Make your World Golf Village Renaissance Resort reservations NOW by calling 800-468-3571, and use code FLT. Due to great demand, (and selling the entire room block within 2 days) we've added more rooms to the room block, but don't wait!

Watch your email for convention and tournament registration, and information for sponsors and vendors.

OTHER FLTA NEWS:

In preparation for the 2017 Legislature (never too early!), we are working on proposed positions, legislation and regulations. We in Florida are truly blessed to have open communication with our legislators and regulators, and we need your voice. [Contact me](#) to learn how you can get involved in Agent Section and Government Affairs Committee. (Don't be shy about joining the Education, Membership or other Committees, either.)

Lastly, tell us how we're doing! FLTA exists to promote the interests of Florida's title insurance industry and the general public by, in part, providing advocacy, education and a networking forum for our members, industry partners, legislators and regulators. We are here for you, and you can help make FLTA better by telling us what you want. What do we do that works well? What can we do better? What else should we do? In regard to your business, what "keeps you up at night"?

For over one hundred years, FLTA's goal has been to be the repository of Florida title insurance professionals' experience, strength and hope. With your help, FLTA will be the voice of Florida's title insurance industry for the next hundred years, and beyond.

FLORIDA LAND TITLE ASSOCIATION
Promotion. Education. Advocacy.

Supporting the title and settlement services professional for over 100 years