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- Note: PowerPoint and audio for the October “**Spooky Claims 2009**” webinar is now available at www.stewarttexas.com
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CHANGES IN THE TITLE & REAL ESTATE INDUSTRIES

AND HOW THE STEWART TITLE REORGANIZATION HAS STRENGTHENED THE COMPANY

Stewart Title Guaranty Company

John Rothermel

Sr VP, SW States Regional Underwriting
Counsel, Associate Senior Underwriter

It Has Been a Rough Ride

- In the past 2 years, the underwriting community has seen the reserves that it spent years, if not decades, amassing cut in half.
- Losses continue to increase just like in every recession
 - Less income and same or more claims increases loss ratio
 - Near 10% in 2009?

Current Situation

- Rev	#emp	total cash	value	market cap
- STG 1.54B	6300	127M	370M	200M
- FAM 5.45B	31400	1.22B	2.81B	3.18B
- FNT 5.45B	13700	592M	592M	3025B

Current Situation Gross Premiums national

- STG Premiums 2% down Claims 24% up
- FAM Premiums 12% down Claims 23% up
- FNT Premiums 12% up Claims 24% up

Texas Still a Major Market

- National Premiums: 2008

- Total: \$10 billion
- TX: \$1.23 billion
- CA: \$1.39 billion
- FL: \$918 million
- ND: \$6.77 million

Rate Hearing Issues

- Mr. Lovoy would have the Court adopt an expense ratio of 85.6%. Lovoy Direct, p. 18.
- However, as demonstrated by the expense data for the last 19 years, the expense ratio has never been that low. Miller Direct, Ex. MJM-2; Miller Oral Testimony, Tr. Vol. II, pp. 81-82. By contrast, the historic data proves that Mr. Miller's expense ratio calculation is correct. Miller Oral Testimony, Tr. Vol. II, pp. 82-83. Indeed, the last time the premium volume declined by 30% below the 2007 premium volume level was in 2001-2002; during those years, the expense ratio was approximately 100% - almost identical to Mr. Miller's expense ratio calculation of 102.7%. Miller Direct, Ex. MJM-2; Miller Oral Testimony, Tr. Vol. II, pp. 81-83; Miller Direct, p. 10. For OPIC to suggest that the expense ratio would drop to an all-time low this year of 85.6%, during the worst economic recession in 80 years, is an OPIC-derived fantasy intended to artificially depress rates.
 - Source FNT closing brief

Rate Hearing Issues

- Many of the arguments asserted by OPIC and TDI are utterly inconsistent. For example, OPIC and TDI argue that the industry's experts used too many years of historical data in calculating the expense ratio and too few years of data in calculating the cost of capital. In effect, OPIC and TDI have argued, without any regard to the need to maintain any consistency, that the industry both has used too much and too little data in calculating its rate indications.
- Thus, not only are these data-related arguments of OPIC and TDI without merit, they reveal the lengths to which OPIC and TDI have gone in an effort to artificially depress the rate indication.
- FNT closing brief p7

Rate Hearing Issues

- OPIC then asserts, once again in pure conclusory fashion, "there is no justification for deviating from the profit provision that has allowed the industry to prosper over much of the last decade." OPIC's Closing Arguments, p. 10. Such a statement stands in stark contrast to the testimony of the real estate and economic experts in these proceedings and even common sense.
- It is undeniable that we are experiencing the worst economic decline in 80 years and that the Industry is not insulated from the effects of the same. To assert that a profit provision that may have been reasonable when the economy was at an all-time high is also appropriate when it is at an all-time low is simply illogical.
- FNT closing brief p.12

Rate Hearing Issues TLTA Briefs

1. TLTA proposes a loss factor of 7.38% based on the analysis of policy-year losses. (TLTA Exhibit 7; see p. 169 and Exhibit NRL-7, Sheet 12).
2. OPIC proposes a loss factor of 4% based on calendar-year losses. (OPIC Exhibit 1; see p. 23).
3. The policy-year loss ratio is the most appropriate method for projecting the expected loss costs for the title insurance industry.

Rate Case Issues TLTA Briefs

14. OPIC proposes to disallow 10% of title insurance industry expenses to adjust for "reverse competition." (OPIC Exhibit 1; see Exhibit OPIC-1 Revised, p. 28).
15. OPIC cites Commissioner's Orders 05-0535 and 08-0872 as partial justification for its proposed expense disallowance (OPIC Exhibit 1; see p. 8).
16. TLTA calculates that the amounts of inappropriate expenses cited in these orders amounted to less than 0.01% of Texas title premium and less than 0.004% of Texas title premium, respectively. (TLTA Exhibit 8; see p. 11).
17. OPIC also cites an ongoing investigation of allegedly improper marketing practices by one title company. (OPIC Exhibit 1; see pp. 8-9).
18. TLTA calculates that the amounts of alleged inappropriate expenses related to the practices referenced in Finding of Fact 17 above amounted to 0.05% of Texas title premium. (TLTA Exhibit 8; see p. 12).

Rate Case Issues TLTA Briefs

23. TLTA projects the premium per policy of \$1,181 based on ten-year average for the premium per policy adjusted to current rates and real estate values. (TLTA Exhibit 7; see pp. 166 and 171 and Exhibit NRL-7, Sheets 9 and 14).

24. TLTA's projection of \$1,181 is an appropriate projection of the premium per policy.

25. TLTA projects a number of policies of 742,684. The TLTA projection takes into account the 39% decline in revenue between 2007 and 2009, a decline in building permits, and a decline in refinancing activity. (Transcript Vol. I, p. 255) (TLTA Exhibit 7; see p. 164 and Exhibit NRL-7, Sheet 7).

26. TDI projects the number of policies at 16% below the 2007 level. (TDI Exhibit B; see p. 18).

27. TDI's projection relies entirely on data for residential properties. (TDI Exhibit B; see MC-3).

28. TLTA projects the number of policies as 42.5% below the 2007 level. (TLTA Exhibit 7; see p. 164 and Exhibit NRL-7, Sheet 7).

29. As of the second quarter of 2009, Texas title revenues were already 39% below the 2007 level. (Transcript Vol. I, pp. 61 and 255).

Rate Case Issues TLTA Briefs

Rate Indication

57. Based upon the appropriate loss ratio of 7.38%, the appropriate expense ratio of 91.6%, and the appropriate profit allowance of 12.76%, the appropriate rate increase is 13.3%. (TLTA Exhibit 7; see p. 171 and Exhibit NRL-7, Sheet 14. TLTA Exhibit 9; see p. 8).

Rate Case Issues OPIC

The biennial title rate hearing is never a typical administrative proceeding and this year's version is no exception. The economy stinks, housing prices are crumbling, people are hurting, and the title industry believes it is entitled to a profit provision 50% greater than the one it recommended just a year ago. The title industry attempts to bolster this argument by projecting a decline in consumer demand for its product. Meanwhile, Texans continue to pay some of the highest rates in the nation for this type of insurance. For years these excessive rates have allowed the title industry to provide event tickets, vacations, travel, gifts, and meals to producers of Texas title insurance business. It is not reasonable or appropriate to continue to subsidize the title industry's good times on the backs of Texas consumers.

Rate Case Issues OPIC

The Insurance Code requires that the rate fixed by the Commissioner be reasonable to the public and nonconfiscatory to the industry.¹ The existence of reverse competition in the Texas title insurance market has caused unnecessary expenses to be dumped into the rate base creating rates that are both excessive and unreasonable.² In this proceeding the industry has admitted to providing event tickets, travel, gifts, and meals to producers of title insurance business.³ As Mr. Lovoy explained, these inducements are just a portion of the unnecessary expenses added to the rate base each year because of reverse competition.⁴ It cannot be reasonable to subsidize these activities on the backs of Texas consumers struggling through this period of economic uncertainty. For these reasons, OPIC respectfully requests that the current rate for title insurance be reduced by 9.6% to eliminate these expenses from the rate base, and ensure that the rate paid by consumers is reasonable.

Rate Case Issues OPIC

OPIC has provided quantifiable evidence to illustrate the effects of reverse competition on the rate base. Fidelity has admitted to providing 7.7 million dollars in event tickets, travel, overnight accommodations, and meals to producers of Texas title insurance business.²¹ Stewart provided 2.4 million dollars in similar items to producers of Texas title insurance business.²² And, according to TDI records a single title agent spent 3.7 million dollars taking producers to Scotland, the Bahamas, Cabo, and various other places around the globe.²³ Title agents affiliated

Other Attacks on the Industry

- Eaton's book on title insurance
 - Apologetic for the socialization of title insurance
 - Touts the Iowa model of title insurance
 - State owned and run title insurance company
 - Even though NAIC reports show more than \$7 million in "regular" title insurance premiums in Iowa
 - Someone still wants the normal product
 - And the savings are eaten up by attorney fees (who are almost the only "agents").

Other Attacks on the Industry

- Politicians are jumping on the socialization idea
 - HARRISBURG - Attorney General Tom Corbett today called for sweeping changes in the way title insurance is handled in Pennsylvania, along with the rejection of a recent rate increase request filed with the Pennsylvania Insurance Department and a substantial reduction in future rates.
 - Corbett said his office has filed formal objections with the Insurance Department, recommending the rejection of a February rate increase request by title insurance companies. He also called for a full hearing to review the rate structure for title insurance and identify ways that those rates can be reduced to reasonable levels.
 - "Title insurance is a half-a-billion dollar per year industry in Pennsylvania, funded by every consumer who buys a home or refinances a mortgage, with only a small portion of that amount being used to pay claims and the vast majority being used to pay commissions," Corbett said. "Given the current national economic crisis, any rate increase by the industry is totally unjustified and insulting to consumers."
 - Corbett noted that Pennsylvania consumers paid nearly \$585 million in title insurance premiums last year, but the majority of that money - nearly 85%, or \$497 million - was paid as commissions to insurance companies, brokers and agents.

Other Attacks on the Industry

- "He was the very picture of power and authority as he stood at the dais, his unruffled, silvery hair shining in the TV lights. Behind him, on dark-blue drapes, hung an oval plaque with his name, Tom Corbett, and seal of his office as Pennsylvania attorney general.
- In announcing a lode of criminal charges yesterday against former House Speaker John M. Perzel and other Republicans, Corbett said he did not want to even discuss his political ambitions.
- **"I'm not here to talk about the governor's race,"** he said." Philadelphia Inquirer online 11-13-2009
- Of course he is a candidate for PA governor!

Other Attacks on the Industry

- From ALTA:
- November 07, 2009 10:33 AM Eastern Time
- **New York Legislative Bill Overlooks Necessary Business Costs in Public-Option for Land Title Insurance Proposal**
- Legislators fail to account for the preventive work done by the land title industry to protect consumers' interests in property
- WASHINGTON--(BUSINESS WIRE)--The American Land Title Association contended that hasty efforts in New York to create a government-run title insurer and displace the private sector in the real estate closing process would not produce the results asserted by proponents. Land title agents in New York go through labor-intensive steps to ensure homebuyers have "good title" before a land title insurance policy is written. The cost of these preventative steps are left unaccounted for in the proposal, potentially leaving New Yorkers "holding the bag" when the assumed revenue is not realized.
- "Stable land title agents and insurers understand the volatility of the real estate market, planning for a business cycle that includes years of revenue loss, such as the industry has experienced in this current recession," stated Kurt Pfothbauer, CEO of the American Land Title Association. "It is dangerous for a state government to look to a highly cyclical industry to fund critical infrastructure needs such as roads and bridges. What will the state do when their state-run title insurer needs money from the state instead of providing funding for key projects?"
- Assemblyman Richard Brodsky and Sen. Eric Adams proposal will have serious consequences for New York's economy. Any discussion of reforming New York's land title insurance system must be based on knowledge of the costs involved for the state. Unfortunately, the legislators' proposal is based on assumptions: primarily that the land title insurance system is similar to property and casualty insurance instead of understanding that the business provides a preventive, assurance product. Through the industry's hard work, the United States enjoys the fastest closings in the world, which ultimately saves consumers tens of billions of dollars annually in additional interest costs because long rate locks are not needed on mortgage commitments.

Other Attacks on the Title Industry

- ALTA® News
- ALTA Responds to Article Ignoring Title Agents' Efforts to Clear Title
- November 9, 2009
- Ken Harney's recent article, "Putting the good faith back in closing," hits the mark on every point but one; namely, the value of the work performed by title agents prior to closing to ensure that a free and clear title is transferred to its rightful owner. It is a labor intensive search of the public property, tax, and judicial records by skilled title examiners that provides homebuyers and lenders the security they need to purchase and transfer real estate. Without this important work, fraudsters and fear of the unknown would quickly undermine the most efficient property transfer system in the world.

Forged documents (one of the most common title problems found) in addition to falsified documents, invalid deeds, and incorrect property descriptions are just some of the title issues that must be examined in the course of a title search. Title risks include recording mistakes, deed indexing errors, unpaid mechanics' liens, judgment liens, income tax or property tax liens, undisclosed easements, claims by missing heirs, and claims by ex-spouses. The careful research required to eliminate these risks is performed by a local title agent, which is why agents retain the majority of the title insurance premium consumers pay at closing.

Further, it is the title insurance company's willingness to stand behind this work – even if the defect originated in faulty public records – that provides lenders the confidence to release funds once the title guarantee is in place. In other countries where there is not title insurance available lenders must wait until a transfer is actually recorded on the public record to release funds. This inevitably takes more time and drives up the overall cost of real estate.

While it is true that the word "commission" is frequently and misleadingly used to describe the important work of title agents, it makes their good work no less important.

Other Attacks on the Industry (CA)

- Debate over real estate 'Buyer's Choice' law
- Does California's AB 957 make a difference?
- BY ERIK PISOR, THURSDAY, NOVEMBER 12, 2009. [Inman News](#)
- Aimed at preventing banks from dictating the escrow and title services used in bank-owned (REO) property transactions, California's [Assembly Bill 957](#) was approved and immediately implemented last month.
- However, some real estate agents and brokers question the effectiveness of the bill, dubbed the Buyer's Choice Act.
- "I don't know if it's going to make a difference," said Ralph Gorgoglione, a real estate agent with John Aaroe Group Inc. of Sherman Oaks.

Other Attacks on the Industry (TX)

- Rule change makes it harder for homeowners to learn about mineral rights
- By Mike Lee Fort Worth Star-Telegram, Texas
Publication: Fort Worth Star-Telegram (Texas)
Date: [Thursday, October 1 2009](#)
- Oct. 1—Under a rule change approved by the Texas Department of Insurance, it will be harder for homeowners to know whether they own their mineral rights.
- It's still unclear, though, whether homeowners will get a discount on their title insurance for what critics say amounts to less coverage.
- The state insurance commissioner, Mike Geeslin, "wants to hear that issue in the future," said Deputy Insurance Commissioner Robert Carter, who oversees title insurance.
- The new rule, adopted Aug. 13, allows title insurance companies to take a "blanket exception" regarding their responsibility to determine whether a landowner owns the mineral rights for a piece of property. That relieves the companies from doing extra title searches and may protect them from legal action.
- A panel of judges held a hearing about title insurance rates last week and indicated that it will examine more written evidence and might make a decision by November, Carter said.

Other Attacks on the Industry (TX)

- Two lawsuits in Denton County say title companies owe money to about 24 landowners because they failed to discover that the owners only had title to half the mineral rights on their land.
- There have been no court rulings against title companies specifically over mineral rights, said Marilyn Lahr, the plaintiffs' lawyer. But, she said: "It's pretty straightforward. There are other cases addressing things left off the exclusions in a policy."
- When mineral rights became an issue, some title insurance companies started issuing blanket exceptions, which they said are common in East Texas and other areas that historically produce oil. Geeslin, the state insurance commissioner, was preparing to bar such exceptions last year, which would have forced title companies to begin checking mineral rights ownership.
- Instead, he accepted an industry proposal that allows consumers to buy title insurance that covers damage to the surface of their land.
- "This coverage provides much-needed, previously unavailable protection at a minimal cost," said Hutchins, the industry spokeswoman.
- But the surface coverage comes with an extra fee, and critics say it's not needed because surface owners are already protected by state law.
- Forcing title companies to insure minerals statewide would cause title insurance rates to skyrocket for all consumers and possibly even cause coverage to be unavailable in parts of Texas."
- Tedrah Hutchins,
• Spokeswoman for the Texas Land Title Association

Iowa Again!

- **By JOSEPH B. TREASTER**
Published: **July 6, 2005**
DES MOINES - When Rae Ann Dankovic bought a sprawling town house in the Des Moines suburb of Ankeny early in June, she paid \$624 for Iowa's equivalent of title insurance.

Iowa Again! p.2

- Title insurance, which is intended to provide protection against any disputes that may arise over ownership of property, is one of many required costs faced by home buyers. It is an expense that has come under increasing scrutiny as **regulators in California and Colorado** investigate whether buyers have been overcharged for the insurance.
Some of the biggest title insurers, the regulators say, were paying as much as half of the policy premium for referrals of customers, suggesting that title insurance might be overpriced in much of the country.
- **Note: never alleged or proven in Texas**

Iowa Again! p.3

- In Iowa, though, title insurance costs are often 20 to 30 percent lower, sometimes even more, than average nationwide. The state banned conventional title insurance in 1947 after the collapse of insurers in Sioux City, and it instead offers an equivalent called title guarantee.

Ms. Dankovic, 37, a lawyer who moved here from Columbus, Ohio, to work for a property casualty insurance company, would most likely have paid somewhere around \$784 for title insurance for a similar home elsewhere in the country, based on rates provided by the American Land Title Association, the industry trade group. Title insurers say there are many variables that make a direct comparison difficult. But the Iowa experience with title insurance underlines questions that have been raised about its cost in the wake of state regulatory investigations. Indeed, about a dozen other states, including New York, have now begun inquiries of their own.

Other Attacks on the Industry (MN)

- ALTA® News
- ALTA Addresses Minnesota Article Titled "Trouble With Title Insurance"
- August 3, 2009
- The American Land Title Association last week addressed a one-sided story in Minnesota produced by FOX affiliate KMSP-TV, titled "Trouble With Title Insurance." While the TV station claimed it was attempting to tell consumers that it's important they know what land they actually own and to shop around for title insurance, it also only highlighted one homeowner's false accusations that title insurance is an "expensive piece of junk."

ALTA responded by highlighting the benefits of an owner's policy and how a consumer should proceed if they feel there is a valid claim. In the future, we encouraged the TV station to contact the ALTA to provide valuable information regarding title insurance.

Here's the entire response ALTA sent the TV station:
Your online story titled "Trouble With Title Insurance," and associated video, unfairly characterizes title insurance as an "expensive piece of junk" that does not provide consumers any protection. While we typically can't comment on specific cases such as the one discussed in your article, this situation is pretty cut and dry and the article and video only shared one side of the story. The homeowners acquired the property in 1987. They believed that they owned more land than was actually the case, apparently due to location of the neighbor's fence well inside the neighbor's property. In reliance on this mistaken belief, the homeowners improved land that was not theirs with a shed and septic tank. This was all done after a title insurance policy was issued. When they learned these improvements encroached onto the neighbor's land, they submitted a notice of claim to First American Title Insurance Co. in August 2007. The underwriter investigated and denied the claim since the disputed land was outside the insured land, as described in the policy. The homeowners wanted First American to finance an adverse possession claim against the neighbor, but the company declined to do so. There is no title insurance product that would give the coverage sought by the homeowners under the facts of this case.

Other Attacks on the Industry (MN) p2

- In general, title insurance policies are unique to each transaction and coverage is not the same across the board. If a consumer purchased a homeowners title insurance policy at the time of closing and feels there is a valid claim, we encourage consumers to promptly notify the title insurance company whose name appears on his title policy. The title policy includes instructions for contacting the title insurer, usually at the end of the "Conditions and Stipulations" section within the policy. When giving notice of a potential claim to the title insurer, homeowners should include the property address, a brief statement of the question or matter that is of concern, copies of any claims documents received, and a copy of the owner's policy (if available). The handling of a claim depends upon terms of the insurance contract, state laws, complexity of the claim and sufficiency of the docs to prove the claim. Remember, the broad coverage of title insurance includes protection against frivolous claims, or "clouds" on title that may not present an immediate problem. So it's best consumers to contact the title insurer promptly, as soon as they have any question or concern about their legal rights with insured land.

Title insurance, just like any other line of insurance, can include exceptions to what is covered. We encourage all consumers to learn what protections their policy provides. Consumers can learn more about title insurance, the different types of policies and the closing process at www.homeclosing101.com.

Other than getting the facts twisted, the story does provide good advice about availability of the owners policy - which many buyers do not purchase in some parts of the country - and the importance of knowing that there are different levels of coverage - with standard coverage being the least expensive and comprehensive, and the ALTA Homeowners product being the best (without an expensive survey).

The article does correctly suggest that homebuyers should shop around for title insurance. Many consumers rely on their real estate agent or lender for a recommendation for a title company since they are in a position to know which companies provide good service. However, consumers are not required to use the title company they recommend. ALTA encourages consumers to shop for title insurance by calling title companies in their area to ask for a rate quote. Consumers also can learn how to shop for title insurance at www.homeclosing101.com.

In the future, we encourage you and the TV station's other reporters to contact the American Land Title Association to provide valuable information regarding title insurance.

Surely there can't be any more issues like these!

Oh, but there are ...

RESPA

- Due to take effect on January 1, the amended regulatory requirements of the Real Estate Settlement Procedures Act (RESPA) are intended to improve the disclosures borrowers receive when applying for a mortgage.
- HUD announced Friday that the staff of its Mortgagee Review Board (MRB) has been urged to exercise restraint in enforcing the new RESPA requirements during the first four months of 2010.
- This restraint is to be used in considering an action against Federal Housing Administration (FHA) approved lenders who have demonstrated they are making a "good faith" effort to comply with RESPA's requirements. HUD has also asked other federal and relevant state agencies to exercise the same 120-day restraint in enforcement for non-FHA originators and settlement service providers who have shown they are making an effort to abide by RESPA's new rules.

RESPA p.2

- The determinant of whether a mortgagee has made a "good faith" effort will be made by MRB staff, who will consider whether the company has relied on the new RESPA rule and other written guidance issued by the HUD. The extent to which the mortgagee has made sufficient investment and commitment in technology, training, and quality control designed to comply with the new rule will also be evaluated while making this determination.
- Shaun Donovan, HUD secretary, said, "We will work with those who are making an honest effort to work with us as we implement these important new consumer protections. While we will not delay implementation of RESPA's new requirements, we are sensitive to the concerns of the industry as it integrates these new rules into their day-to-day business practices."
- Under HUD's new regulations, lenders and mortgage brokers will be required to provide consumers with a Good Faith Estimate (GFE), clearly disclosing key loan terms and closing costs. Additionally, agents will be required to give borrowers a new HUD-1 Settlement Statement, which will clearly compare consumers' final and estimated costs. These documents be required starting January 1. While the new RESPA rule became effective on January 16, 2009, the mortgage industry was granted one year to incorporate these changes.
- HUD says it will continue to work with the mortgage industry to help mortgagees comply with the new RESPA rule.
- By improving the disclosures borrowers receive when applying for a mortgage, and by promoting comparison shopping, HUD believes its new RESPA regulation will save consumers an average of nearly \$700 in mortgage costs.
- *DS News.com by Brittany Dunn 11-13-09*

Federal Consumer Protection Agency

- "By **DAMIAN PALETTA** Wall Street Journal Oct. 23, 2009
- WASHINGTON -- A key House panel voted Thursday to create a new federal agency to police financial products offered to U.S. consumers, advancing a key part of the White House's proposed overhaul of financial rules.
- The House Financial Services Committee voted 39 to 29 to create the Consumer Financial Protection Agency, which would have broad reach to examine and punish companies ranging from one-room payday loan stores to huge banks like Bank of America Corp.
- Associated Press
- Financial Services Committee Chairman Barney Frank and Rep. Maxine Waters in the Capitol on Thursday. The House panel passed part of the regulatory overhaul.
- Lawmakers made several significant changes to the White House's original proposal during a week of debate, particularly in response to lobbying from business groups. For example, they voted overwhelmingly to exempt automobile dealerships from any scrutiny by the new agency, a major win for dealerships that rake in high fees from auto financing. That change may not make it into the final version of the legislation.
- The agency would be charged with policing consumer financial products and practices, such as mortgages, credit cards, and overdraft fees, regardless of whether they are offered by banks, finance companies, or most any other type of firm. Democrats have argued that a lack of consumer protection helped fuel the financial crisis, pointing to the defaults on sub-prime mortgages that nearly toppled Wall Street."
- Fortunately, at this point title companies are exempt and no longer defined as being financial institutions. But beware, the state takeover advocated continue to beat their drums. So stay focused.

Financial Institution Reform p.1

- Nov. 16 ,2009 (Bloomberg) Commentary by Caroline Baum (*edited for this presentation*)
- -- Members of Congress are plumping their feathers, holding press conferences and congratulating themselves for a job well done.
- Not that they need an excuse. This time, though, they're celebrating the completion of a draft bill to overhaul the financial regulatory system.
- The **proposed legislation** from the House Financial Services Committee, under the leadership of Massachusetts Democrat **Barney Frank**, would create a council to monitor systemic risks.
- Council member 1: "Say, what do systemic risks look like?"
- Council member 2: "Dunno. We'll know it when we see it."
- The council would identify firms that are too big to fail and subject them to enhanced oversight. The legislation would establish a process to wind down troubled non-bank financial institutions in such a way as to minimize the burden on taxpayers.
- Over on the Senate side, **Chris Dodd's** Banking Committee unveiled 1,136 pages of **draft regulations**, including a proposal to strip the Federal Reserve and Federal Deposit Insurance Corp. of their regulatory authority and create a single supervisory agency, appointed by the president and a board.

Financial Institution Reform p.2

- Clipping Fed's Wings
- For its part, Congress is determined to minimize or eliminate the Fed's supervisory role by rearranging the deck chairs and installing a different set of regulators in a new regulatory agency.
- Lest anyone forget, **FDICIA**, or the Federal Deposit Insurance Corporation Improvement Act, was a tough new piece of banking legislation enacted in 1991 following the savings and loan crisis. Yet 17 years later the banking system was on the ropes.
- "Regulation doesn't work," says **Peter Wallison**, co- director of financial policy studies at the American Enterprise Institute in Washington. "And now they're proposing regulation that doesn't work for the entire financial industry," which will sustain large institutions and harm smaller ones.
- Both the House and Senate draft bills would curtail the Fed's lender-of-last-resort function, the purpose for which the central bank was created in 1913, well before it was handed a dual mandate of maximum sustainable growth and stable prices. The White House said Friday that the Fed needs to be involved in regulating systemically important institutions.

Financial Institution Reform p.3

- You have to hand it to the ethically challenged Dodd, he of the sweetheart mortgages from Countrywide. He possesses a unique ability to overlook the role he played, turning a blind eye to problems at Fannie Mae and Freddie Mac, two former government- sponsored enterprises that were placed in conservatorship last year.
- Dodd or Bernanke?
- Fannie and Freddie have cost the taxpayer \$112 billion so far to keep them afloat, with more to come as the government assumes losses from homeowners and lenders.
- Yet Dodd faced the cameras last week and said the Fed had been an "abysmal failure" at consumer protection and regulation.
- Yes, it was. So was Congress, which entrusted the GSEs to a weak regulator and made sure little was done about size and quality control.
- While bank regulation has been pared back over the last two decades, banking is still a highly regulated industry. It was regulators, not regulations, that failed. Now our bought-and- paid-for Congress, which oversees the regulators, is going to fashion a regulator in its own image and no doubt for its own purposes.
- The next crisis will be managed by committee, with Congress looking over its shoulder, not by the Fed. Won't you sleep better knowing that?
- (Caroline Baum, author of "Just What I Said," is a Bloomberg News columnist)

Will Housing Prices Fix Title Premium Declines?

- More often than not, builders say, post-crash buyers of new homes want smaller and simpler. The average new single-family house peaked at 2,507 square feet in 2007 and has since slipped to 2,392 square feet, according to Census Bureau data.
- Average prices are sliding, too, by 16% -- to \$269,200 -- between the first quarter of 2007 and the third quarter of this year, the Census Bureau reports. Wieland has been hit worse than most. The company's average sales price has already dropped \$153,000, to \$497,000, or about 24%. And company executives expect that a year from now, 85% of its homes will go for less than \$430,000.
- That has forced Wieland to design a new range of compact homes and reconsider everything that goes into them. Replacing tiled tubs with fiberglass units can slice \$4,000 off of the house price. Skipping the fireplace can slash an additional \$3,500. In its place, Wieland is trying out a media wall -- essentially a place to hang a big television, surrounded by shelves.
- Last year, Paula Bishop, one of the company's architects, designed the 4,700-square-foot Arden, a 107-foot-long, five-bedroom, three-stairway showcase planned for a lot near Suwanee, Ga. The laundry room was 10-by-7, the mudroom 12-by-8. Including the bedroom, bathroom and his-and-hers walk-in closets, the master suite stretched almost 40 feet. Above the garage was a guest suite with its own kitchen and rec room. A covered breezeway stood off the vaulted breakfast room.
- Wieland never built the Arden.
- "The price point has dropped in the neighborhood," Ms. Bishop explained.
- So the company told her to squeeze 900 square feet and \$60,000 out of the original \$650,000 design.
- MICHAEL M. PHILLIPS WSJ 11-13-09 edited from full article for this presentation

Will Housing Prices Fix Title Premium Declines?

- **Texas Metropolitan Statistical Areas**
- Only one Texas metro area, McAllen-Edinburg-Mission, experienced a positive employment growth rate from September 2008 to September 2009. Twenty-five metro areas experienced net job losses (Table 4).
- The annual employment growth rate for the Austin-Round Rock metro area from September 2008 to September 2009 was -0.7 percent. The metro area ranked third in employment growth rate (Table 4 and Figure 14).
- The Dallas-Plano-Irving metro area's annual employment growth rate from September 2008 to September 2009 was -2.6 percent, ranking the area 17th in employment growth rate (Table 4 and Figure 15).

How Has Stewart Coped? p.3

- One major change outside of Texas is dropping over 3000 (nearly 1/3rd) of non or under performing agents. Many of these agents were very small, took up a lot of service time and had too many claims.
- Dropping these agents allows Agency Services Managers more time to deal with good agents.

How Has Stewart Coped? p.4

- Underwriting support has changed. Instead of underwriters reporting to a regional manager, all underwriters now come under the Stewart Legal Services umbrella (John Killea, General Counsel).
- Local underwriters are divided into regions with Texas, NM, OK, Ark and LA in the SW Region under the SW Regional Underwriter.

How Has Stewart Coped? p.5

- We continue to achieve gains in productivity, cost reductions and improved accuracy in our regional production centers which perform title searches, examinations and commitments for multiple offices. By leveraging economies of scale while utilizing local experts in search and examination, we are already achieving reduced costs per order, and anticipate measurable reductions in future claims arising from search and exam errors.
- Our back-office shared-services initiatives remain on target and continue to generate expense reductions in 2009 in the areas of human resources, finance and accounting, procurement and information technology through reduced salary and overhead costs and leverage of buying power. We anticipate additional savings once we substantially complete implementation of our enterprise systems in late 2010.

How Has Stewart Coped? p.6

- Losses before taxes and non-controlling interests decreased \$52.6 million to \$72.0 million from \$124.7 million for the nine months ended September 30, 2009 and 2008, respectively. For the most recent two quarters, our quarterly pretax operating results improved significantly compared to the same quarters in the prior year. Extensive, ongoing expense reduction efforts undertaken since 2008 have made our core operations profitable. Our reported pretax losses are primarily a result of the negative impacts of reserve strengthening charges attributable to prior policy years and large title losses, which also relate to prior policy years, in both the second and third quarters of 2009. The third quarter of 2009 includes an additional \$12.5 million of title loss reserve strengthening expenses relating to prior policy years and an \$8.6 million reserve for large title losses. Adjusting for these items, our provisions for title losses for the third quarter of 2009 were 8.0% of title revenues compared with 7.0% for the same period of 2008. In the previous 30 years, total reserve strengthening adjustments have aggregated only \$71.2 million (all of which has occurred within the current downturn in the real estate market) out of \$1.5 billion in total loss provision reserves. In addition, during the third quarter we revised our title loss accrual rate for the year-to-date 2009 period, resulting in a \$3.8 million catch-up adjustment to title losses.

How Has Stewart Coped? p.7

- Title loss reserves
- Our most critical accounting estimate is providing for title loss reserves. Our liability for estimated title losses as of September 30, 2009 comprises both known claims (\$157.4 million) and our estimate of claims that may be reported in the future (\$341.9 million). The amount of the reserve represents the aggregate future payments (net of recoveries) that we expect to incur on policy and escrow losses and in costs to settle claims.
- Provisions for title losses, as a percentage of title operating revenues, were 12.3% and 9.3% for the nine months ended September 30, 2009 and 2008, respectively. Actual loss payment experience, including the impact of large losses, is the primary reason for increases or decreases in our loss provision. A change of 100 basis points in this percentage, a reasonably likely scenario based on our historical loss experience, would have increased or decreased our provision for title losses and pretax loss approximately \$11.5 million for the nine months ended September 30, 2009.
- Our method for recording the reserves for title losses on both an interim and annual basis begins with the calculation of our current loss provision rate, which is applied to our current premiums resulting in a title loss expense for the period. This loss provision rate is set to provide for losses on current year policies and is determined using moving average ratios of recent actual policy loss payment experience (net of recoveries) to premium revenues.

How has Stewart coped? p.8

- **Employee costs.** Our employee costs and certain other operating expenses are sensitive to inflation. Employee costs for the combined business segments decreased \$75.9 million, or 17.3%, to \$362.1 million for the nine months ended September 30, 2009 from \$438.0 million for the nine months ended September 30, 2008. We reduced our employee count company-wide by approximately 160 during the first nine months of 2009 and approximately 2,350 since the beginning of 2008. This decrease in employee count is the primary reason for the decline in employee costs

How Has Stewart Coped? p.9

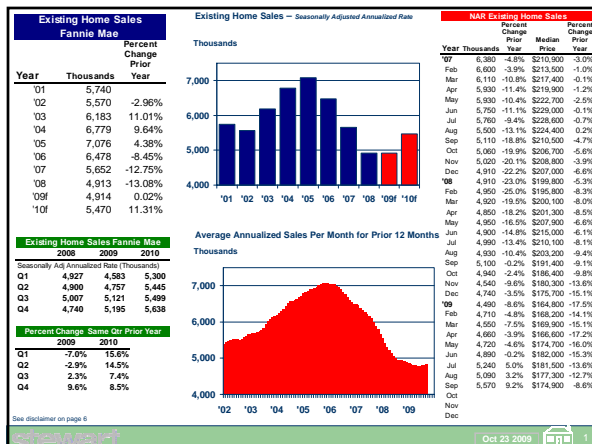
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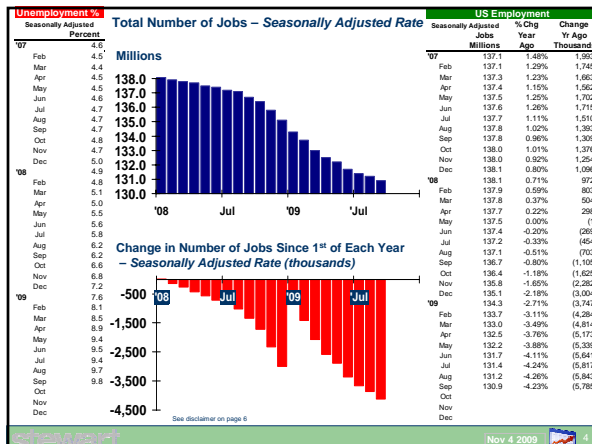
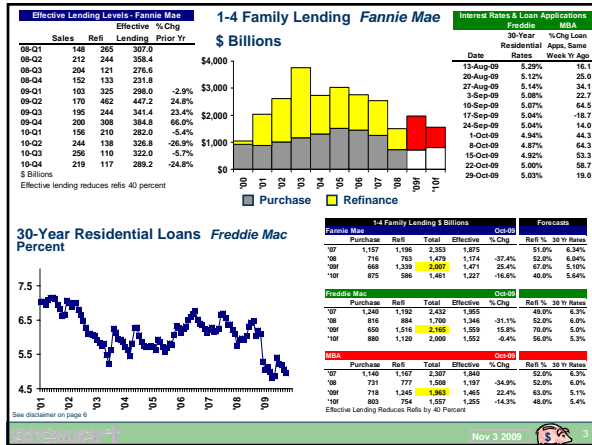
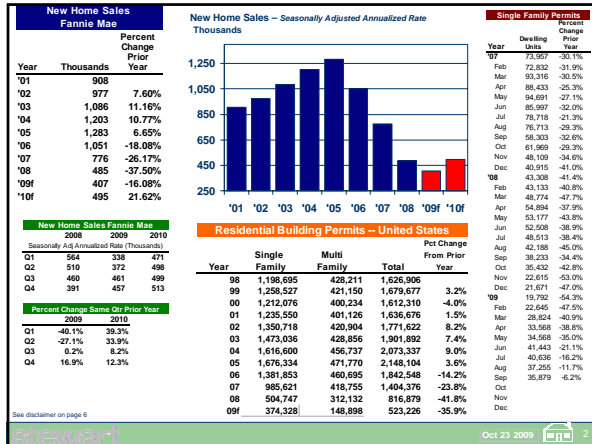
- Our liquidity and capital resources reflect our ability to generate cash flow to meet our obligations to our shareholders, customers (payments to satisfy claims on title policies), vendors, employees, lenders and others. As of September 30, 2009, our cash and investments, including amounts reserved pursuant to statutory requirements, totaled \$609.5 million.

- This and the preceding 4 slides are excerpted from 10-31-09 SEC filing 10-Q.

How Has Stewart Coped? p.10

- The View From Houston





**New Underwriting Agreements Signed
April 1, 2009 – July 31, 2009**

• Central States	76
• Florida	16
• Northeastern States	59
• Southeastern States	11
• Western States	5
Total	167

**Cancelled Underwriting Agreements
April 1, 2009 – July 31, 2009**

• Central States	241
• Florida	88
• Northeastern States	228
• Southeastern States	44
• Western States	14
Total	615

**Summary – New & Cancelled Underwriting
Agreements
April 1, 2009 – July 31, 2009**

- Projected annual net premium revenue to STGC from the 167 agencies added during the period is \$4,996,300 or \$29,918 average per agency;
- Net premium revenue received by STGC during the last 12 months from the 615 agencies cancelled during the period was \$3,820,992 or \$6,213 average per agency;
- Policy Losses in the last 12 months on the 615 agencies cancelled was \$4,488,037 for a 117% Policy Loss Ratio.

Understand and Maximize the Agent – Underwriter Relationship

Agents challenged by consolidation of underwriters: How agents can and should react

- Agents should react by making sure they have an underwriter they can rely on.
- There are five main things any agent should look for in an underwriter:
- First – A solid Financial Statement. In these times lenders and sophisticated buyers are looking to make sure the title policy they are buying is backed by a company that will be around if they should have a claim and have the ability to pay that claim.
- Second – an underwriter who is committed to supporting independent agents in the long term.
- Third – an underwriter whose core business is title insurance.
- Fourth – an underwriter with a long term track record in the industry
- Fifth – an underwriter who will support you with sound underwriting expertise and be your business partner for regulatory issues, marketing support, industry information.
- Agents need to think hard about what underwriter is going to be the best partner for them in the long run.
- Which underwriter partner will help me to grow my business with a consultative approach?
- Which underwriter partner has the financial strength to weather an economic downturn?
- Many agents are signing up with multiple underwriters as a hedge against either their existing underwriter going away or their existing underwriter canceling their agency.
- Consider reducing the related underwriters to a smaller number and picking up another underwriter. Some agents actually find themselves in search of a new underwriter because of policy changes with existing underwriters who are acquired.

Understand and Maximize the Agent – Underwriter Relationship p.2

Challenges for agents where underwriters are setting minimum remittances

- No question, the last two years have been a challenge for many agents just to survive. All agents have needed to adjust to their expenses to remain profitable or to minimize losses. Underwriters have been similarly impacted and likewise needed to reduce staff and operating costs. With staff reductions, underwriters have needed to reduce their agency networks, so as to properly support and monitor their agents. The remittance from an agent is an important element in deciding if the underwriter/agent relationship is a mutually profitable one. Agents need to foster one or more relationships with underwriters they believe best support them now and will continue to be a "good partner" in the future. This may require an agent to write with one or maybe two underwriters, while in the past they may have had several.
- In a situation where an agent is struggling to maintain a mutually profitable relationship with even just one underwriter, the agent may have to alter its split to meet the minimum remittance required by an underwriter. Agents should not expect that an underwriter can maintain a relationship where the underwriter cannot reasonably expect the relationship to be profitable, particularly since every agency relationship is a point of potential exposure to the underwriter.
- We must be very frank about our need to address profitability with all agents. The cost to effectively support an agent continues to increase as our process becomes more complex due to constantly changing state and federal regulation. Keeping agents current with training and education as well as increased oversight to reduce our exposure to claims and litigation is all more costly than in the past. Our ability to support smaller agents or agents whose primary business is not selling title insurance is limited.
- This is the new reality in the marketplace. Annual expenses of underwriter per agent must be met and minimums are necessary. Small agents are finding regional underwriters that meet their needs in many cases. If a minimum is missed, but the agent has good controls and good management in place then underwriter likely will not cancel.

Understand and Maximize the Agent – Underwriter Relationship p.3

Challenge between agents and underwriters for national deals: How can an agent compete on a local level as they lose business to national deals?

- This is a particularly difficult area for independent agents. There is no question that more and more multi-state and larger commercial transactions are being placed directly with the major underwriters. This does not mean that agents should not continue to fight for these deals with their local contacts, but if the agents cannot bring the business in, they need to try and capitalize on what they can bring to the deal – local title expertise. This may in some instances mean taking a lower split on the policy recognizing the underwriter has marketing expenses related to the deal. In some instances, it may mean only getting an abstracting fee. But even in those cases where an agent can only get paid for title evidence production, having the title, and being involved in the deal, may result in a policy on a later sale or refinance.
- This really is a major point of concern for agents. National Business Units of all underwriters are openly competing against the agents for local and national business. Successful underwriters will find strategies to minimize this competition in the future.
- National producers want to leverage their size/volume in order to negotiate the lowest price possible for service from vendors. They also want one point of contact with the vendor so that they do not have to spend time/effort determining where to send an order and they want one point of contact to address service issues, as well. An agent's best approach is to provide the best service at an affordable cost.

Understand and Maximize the Agent – Underwriter Relationship p.7

What services should you be asking your underwriter to provide?

- Sound, consistent and responsive answers to underwriting questions.
- To keep them advised as to changes in regulatory matters, licensing, etc.
- Marketing advice – trends in the market, sound market techniques, etc.
- Training, seminars, continuing education credits, webinars, searchable underwriting manuals and bulletins, etc.
- Things that help the agent to operate more efficiently and close deals – not sports tickets, etc.
- A good, efficient web based closing software that allows for electronic policy reporting, ease of ICL requests and seamless search order and retrieval.
- Escrow reconciliation services
- A platform that provides some way to generate revenue from transactions outside an agent's home state
- Agency Representatives that want to help me grow my business
- Co-branded marketing items and support
- Convenient CE/CLE training alternatives
- Efficient and accurate title information services
- Effective claims handling
- Consultation on ways to become more efficient and profitable.
- Training and information that keep the agent up to date with regulatory changes and requirements.
- Sharing ideas, marketing strategies, vendor relationships and discounts, past experiences....all the things that good business partners rely upon each other for to be successful.

Understand and Maximize the Agent – Underwriter Relationship p.8

Are agents losing relevance in the industry?

- Absolutely not. Independent agents prove time and time again that being in the local community with local knowledge of the records and market are necessary to a successful title operation.
- Quality agents, those that operate professionally, adhere to rules and regulations, self audit, focus on the needs of the client and prevent rather than create claims are gaining relevancy daily.
- Absolutely not. Is small business becoming obsolete in America? Give me a hard working entrepreneur against a large corporation any day. The importance of local personal relationships and local knowledge and expertise, to me, mean there is and will be a place for independent agents in title insurance.

Understand and Maximize the Agent – Underwriter Relationship p.9

Many agents are gone and many new agents in market: Share your crystal ball

- Fewer agents, better run, highly automated, tighter controls internal and external, but profitable independent agents and underwriters are in the future.
- Agents continue to make money, but not a lot; Underwriters get back to profitability, barely; and claims slowly subside.
- The future is difficult to predict but I know where we came from. If we are determined to establish rules, procedures and a new culture that always adheres to what we know is right, then we will emerge stronger and the service we offer will have even more value than in the past.

Freehold Licensing

- Despite legislation passed in 2007 intended to outlaw transfer fees in most residential transactions, a major pushing is underway to encourage developers to impose transfer fees on their unsold lots.
- The current iteration of this program imposes a transfer fee of 1% payable by every purchase of the property for the next 99 years. The fee is payable partially (no minimum) to a charity and the rest to the developer and the transfer company.

Freehold Licensing p.2

- Marketing is aggressive and much can be found on the internet.
- Bulletins are coming out from underwriters that require that such restrictions be removed with no payment from the escrow before a policy can be issued.
- Look for an STG bulletin on this point in the next 2 weeks.

That's all folks.

- Just a few of the amazing things that we have done for our offices and agents in 2009.



THANK YOU!

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- Attorneys email bar card number to Ken Wrider for CLE credit
- Next Texas TIPS Online December 19, 2009, "Thick or Thin (Title Plants, That Is)" by John Rothermel
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