LookingNorth

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BUILDING THE TITLE COMPANY OF THE FUTURE

North American Title and industry innovator **States Title** join forces to streamline title work and ease common pain points

ALSO INSIDE ...

NATIC®
NORTH AMERICAN TITLE INSURANCE COMPANY
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It's been a transformative few months here at NATIC. In January, we joined forces with States Title Inc., a Silicon Valley-based "insuretech" startup. States Title acquired NATIC, as well as the majority of the retail business of our affiliated title agent, North American Title Company (NATC), from our former parent company, homebuilder Lennar.

The acquisition brought many changes to the North American Title Group (NATG) family of companies. NATC's builder business and a portion of its retail business remained with Lennar and operate as CalAtlantic Title. We wish our colleagues the very best and look forward to continuing to provide them with our stellar underwriting services. We are also pleased to continue our long, fruitful relationship with Lennar, as it assumes a substantial minority ownership stake in our new venture.

Those are the facts and details behind our recent news, but they hardly tell the whole story. There is so much more we're excited about regarding the shared vision we have with States Title to, as we say in our cover story, build "the title company of the future." Consider this story your official introduction to States Title, which uses predictive analytics to underwrite title insurance. By marrying that innovation with NATIC's significant industry experience, we are now working every day to streamline and enhance the homebuying process.

We're also looking to find ways to ease agent pain points and operational challenges, as you will see from our cover story. We recently invited a dozen of NATIC agents to our headquarters in Miami for our first-ever "Tech Roundtable," seeking their input as we lay the groundwork for streamlining agent processes and helping them grow their businesses.

I was genuinely impressed with the honest exchange of ideas. It is truly priceless when you can get feedback directly from your most important constituent, your customers – in this case, our agents.

Much more to come in the months ahead. For now, we hope you enjoy this edition of our flagship publication. ■

EMILIO FERNANDEZ, ESQ.
President

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BUILDING THE TITLE COMPANY OF THE FUTURE

North American Title and industry innovator States Title join forces to streamline title work and ease common pain points

| **By Amy Tankersley**

With the FBI estimating that wire fraud costs victims more than $12 billion a year (and climbing), **Pat Carney,** chief technology officer for Foundation Title & Escrow Services LLC, a NATIC independent agent in Franklin, Tennessee, envisions a "complete" wire fraud prevention tool: One that addresses the various, complex components of cyber fraud, from identity validation to malware deterrents to ease of use for consumers.

David Silcott, vice president of title operations for Vantage Point Title Inc., would like to see a scheduling system that will make it easier for his Clearwater, Florida-based agency to quickly locate notaries to do weekend and holiday signings, easing a tedious process for his staff.

NATIC agents across the country are clamoring for innovative solutions to their common title pain points and operational challenges, and the answer arrived Jan. 7, when North American Title Group (NATG), formerly a wholly owned subsidiary of Lennar, joined forces with States Title Inc., a Silicon Valley-based "insuretech" startup.

States Title, which is developing predictive analytics methods to underwrite the title on a property nearly instantaneously, acquired NATG's underwriter, North American Title Insurance Company (NATIC), as well as the majority of the retail business of NATG's national title agency, North American Title Company (NATC).

"By partnering with North American Title, we accelerate our shared vision to build the title company of the future," said **Max Simkoff**, States Title's founder and CEO. "Buying a home, and refinancing that home, are among the most important financial decisions in a person's life. We believe that the experience of doing so should be fast, simple, safe and affordable. Title and settlement are critical to every real estate transaction. Modern technology and powerful

NATIC and its new parent company, States Title, hosted a dozen independent title agents March 13 in Miami to discuss how they can partner to build "the title company of the future."

analytics will supplement and enhance our associates' ability to deliver outstanding service to every single one of our customers."

"Technology is going to drive the title agency of the future and enhance the customer experience," said **Michael Holden**, NATIC's vice president and strategic agency manager. "Our ability to deliver needed technology is going to drive our business forward."

With that focus in mind, States Title and NATIC recently invited a dozen of NATIC's independent agents to participate in a forward-thinking, ad-hoc technology discussion. The agents met March 13 in Miami, where NATIC's corporate headquarters sit, for the first-ever "Tech Roundtable," an exclusive opportunity for the agents to meet with leaders from States Title and NATIC, and discuss how best to build "the title company of the future" – together.

"We have always been the underwriter that listens to our agents and delivers what they are actually asking for, rather than what we think they need," said NATIC President **Emilio Fernandez**. "Now with the backing of States Title and their emphasis on technology, I want to make sure that we don't simply dictate our technology innovations, but rather, work collaboratively with our agents to identify the exact innovations that are going to have the biggest impact in streamlining and growing their business."

A meeting of the minds

Conversations about title industry innovation began with a casual dinner at a local Cuban restaurant, then continued the next day in a more structured discussion setting.

Judd Hoffman, States Title's chief transformation officer, said talks were open, transparent and informative.

"I really liked the dinner the night before, as the information was free-flowing," said Hoffman, who oversees the company's business model and performance. "Then it was great to hear the agents share in more detail what their pain points are."

Hoffman kicked off the roundtable by calling it "as much an opportunity for us to learn about you as you will learn about us." Considering himself a "change agent," Hoffman said that while working for nearly a decade at another underwriter, he felt eager to seek out ways to innovate in an industry that is steeped in tradition, but sometimes slow to embrace change.

"In the last few years, I have seen this industry change more dramatically and quickly than in years past," Hoffman said. "We're 130 years old, and we do a lot of things because someone who came before us said this is how things are done. Looking around this room, I see more than 500 years of title industry experience. We really think now is the time for the title industry to change. We are excited to have you, and are very appreciative of your thoughts and feedback."

Andy Mahdavi, States Title's chief data science officer, shared some insights into the data science and predictive analytics being explored by the company.

"We are not interested in offshoring title processes or just automation," said Mahdavi, who has more than 15 years of experience bringing large datasets and scientific rigor to insurance companies, credit card lenders and the particle physics and astrophysics industries. "We are interested in machine learning, which is very different from automation.

"Land transactions are complicated, and if you want to automate some of it, a human being can write 10 rules – that's automation," Mahdavi explained. "But if you need 2 million rules, no human can do that in a reasonable amount of time – that's machine learning. It's a bit like watching a baby start to walk and talk. You get to know their habits and patterns, and can begin to predict their behavior. We want to be able to predict the probability of title issues like liens and judgments that tend to hold up transactions. We do this by studying property data."

Beau Pili, escrow officer for Oasis Title LLC in Sandy City, Utah, said the Tech Roundtable furthered his understanding of why the partnership between States Title and NATIC was created.

"NATIC has the deep understanding of the industry, while States Title can add the technology touch," Pili said. "I'm excited to be partnered with both."

Laying the foundation for the future

Claudio D'Ugard, technology director for NATIC and NATC, shared that in the first few months following the acquisition, the companies' focus on technology and innovation have already created many opportunities to upgrade internal and external systems, "structuring ourselves to be more nimble and enabling us to deliver quick wins for our clients."

"We have learned a lot from the way our agents interact with their vendors, for example," D'Ugard said. "This has led to discussions on how to implement improved functions such as obtaining rate quotes, policy delivery and remittance, as well as enhanced search capabilities. Ultimately, what I would like to see happen is that we address a lot of the pain points that exist between our various systems, rather than focus on key moments in the transaction."

The agents also shared their wish lists for other areas of development, including a system-agnostic way to perform e-closings and e-notarizations, more powerful tools to combat cyber fraud and solutions that automate functions such as PATRIOT Act searches, managing incoming orders and researching property taxes.

Andy Mahdavi and Judd Hoffman, two members of States Title's executive team, welcome NATIC agents to the first-ever "Tech Roundtable," an exclusive invitation to share their technology wish lists with the newly combined, innovation-driven company.

"The experience was exceptional," Holden said. "We had agents from all parts of the country – north, south, east and west – and of all sizes, from large, multistate to small, single-state agents. Everyone was engaged and really helped discuss the title company of the future."

The Tech Roundtable participants plan to meet quarterly to continue these discussions.

"This discussion is the type of meeting I always wanted to have as a title agent, because you don't get many invitations like this from underwriters," Hoffman said. "We very much want to solve problems for our agents and remove a lot of the friction in the real estate transaction. We want to understand their needs; that is our differentiator. We're relying on their feedback and experiences to help us figure out 'the next big thing' in our industry."

"I'm on board 100 percent," said **Gene Bringas**, vice president and title operations manager for Western Resources Title in Orange, California. "Technology is the future, and I am glad to be an integral part of the advancement of the title industry." ■

Amy Tankersley is manager of education and research at NATIC. She can be reached at ***atankersley@natic.com****.*

TITLE AGENTS:
NOW'S THE TIME TO BE AS 'E' AS YOU CAN BE

| By Vicki DiPasquale

"The e-mortgage is coming," has been a constant refrain from the mortgage industry over the past two-plus decades, often with little evidence to support the assertion. Although history is often a good indicator of what's to come, growing investor acceptance of electronically executed mortgage transactions – among other changes – has moved the mortgage industry significantly closer to fully realizing an entirely digital process.

What's more, there are significant benefits on both the lender and title agent sides of the transaction to taking a hybrid digital mortgage approach. For the forward-thinking, service-focused title agent, now is the time to encourage and support lenders' efforts to execute mortgage closings as digitally as possible.

While e-mortgage and e-closing technology has significantly improved over the past few years, the biggest problem currently facing the e-mortgage movement is the lack of adoption. Right now, only 20 percent of mortgages qualify to be executed using a fully digital process. However, the remaining 80 percent can be executed digitally to some degree, and executing that 80 percent using a hybrid e-closing process saves lenders roughly $155 per loan.

In an environment where the cost to originate is rising while volume is declining, that kind of cost savings would be invaluable, yet some lenders are waiting to adopt any e-mortgage or e-closing processes until 100 percent of their loans can be completely executed digitally. One of the major reasons for this is resistance by title agent partners to make the switch to digital.

Of course, this resistance is perfectly understandable. Many digital closing solutions have a lender-centric focus, ignoring the very real problem on the title side of having to learn how to use all the different closing platforms lenders can choose to adopt. However, title agents can also greatly benefit from making each loan closing as "e"

as it can be by using the digital processes that title agents already employ.

For example, e-recording is one of the most widely available digital real estate processes in use today, covering more than 80 percent of the U.S. population. However, there are plenty of recording jurisdictions that have not adopted e-recording. In fact, according to the Property Records Industry Association (PRIA), only 1,915 of the 3,594 total U.S. recording jurisdictions offer e-recording, as of Dec. 31, 2018, but lack of total adoption hasn't prevented title agents from taking advantage of the increased efficiency and cost savings e-recording provides by electronically recording documents where and when they can.

That same attitude should be applied to the activity that immediately precedes document recording – the mortgage closing. Today's hybrid e-closings ultimately take advantage of two main digital processes: e-signatures and e-delivery. By allowing borrowers to review their closing documents and e-sign those that do not require notarization prior to the actual day of closing, lenders and title agents can dramatically decrease the length of the closing process and save all parties time and money.

However, the key to realizing these benefits is consistency in executing each closing as digitally as possible. Not only does consistency lead to increased comfort and efficiency with e-closings, but it also creates muscle memory for agents, thereby making the future transition to full e-closings on 100 percent of loans even easier.

Thus, title agents must become equal and enthusiastic partners in the push to make each mortgage closing as "e" as possible. Although full e-closings aren't yet possible, every loan can be executed digitally to an extent, and there are enough benefits to a hybrid digital mortgage strategy to make it worth the effort.

By working with lenders to determine which parts of the closing process can be taken digital, title agents can push for hybrid e-closings that work to make their jobs more efficient. Recognizing the benefits of converting to hybrid e-closings while waiting for full e-closings to become commonplace will not only lead to more efficient closings today, but also a better transition in the future. ■

Vicki DiPasquale currently serves as vice president of sales at Simplifile. Contact her at vdipasquale@simplifile.com.

AgentMarketplace provider:

simplifile

Through our AgentMarketplace Program, NATIC partners with industry service providers to offer our agents products and services that help them grow their businesses and comply with industry standards as well as state and federal laws and regulations. Companies listed may offer preferred pricing for NATIC agents, or may have product or service offerings unique to them. AgentMarketplace companies fall within one of the following service areas:

- **Best Practices: Companies to keep you compliant**
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Visit https://agentlink.natic.com/Tools-Resources/AgentMarketplace

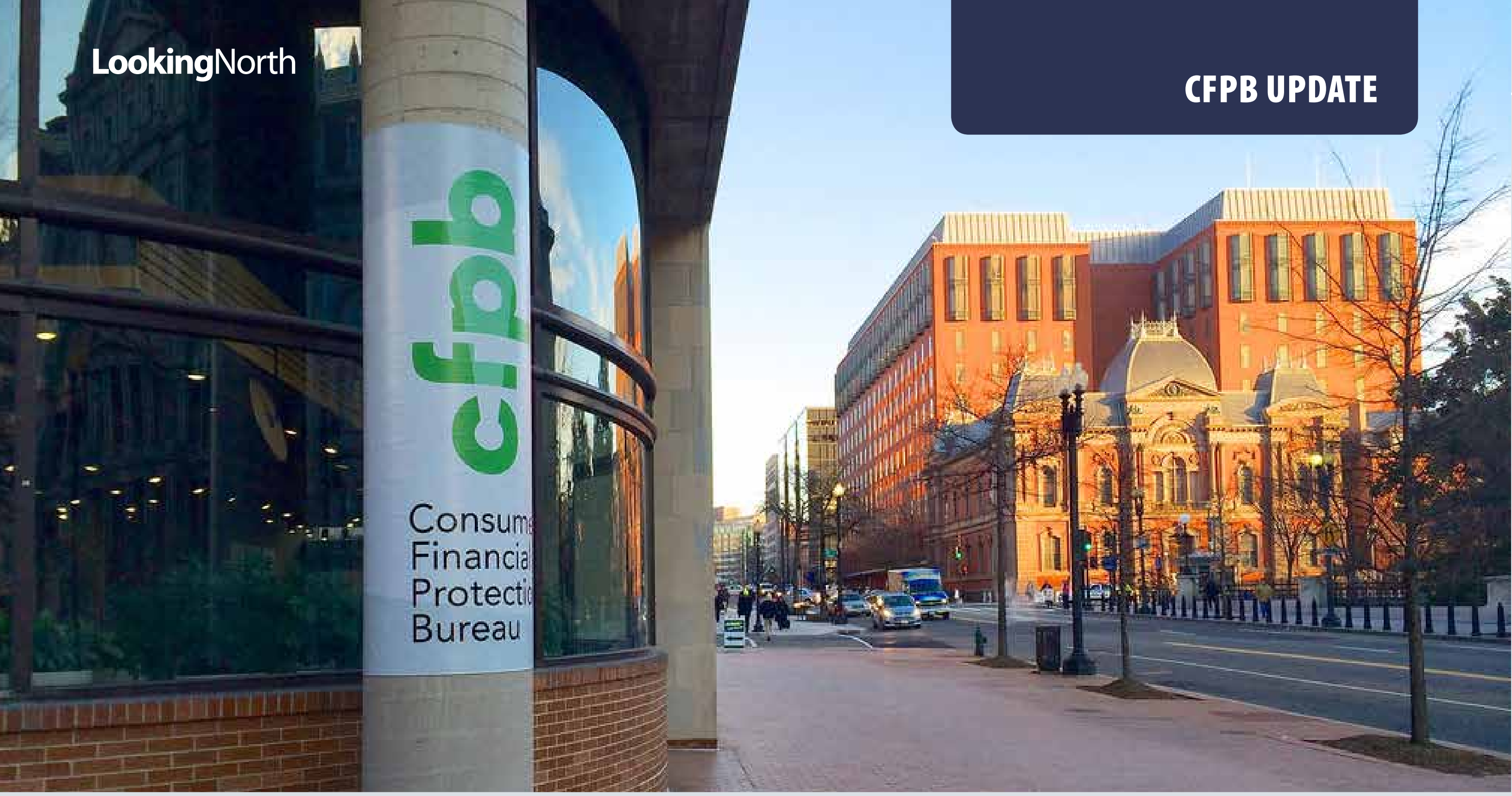
E-CLOSINGS BY THE NUMBERS

20%
OF MORTGAGES QUALIFY TO BE EXECUTED USING A FULLY DIGITAL PROCESS

90%
OF MORTGAGES CAN BE CLOSED USING A HYBRID E-CLOSING PROCESS, SAVING LENDERS ABOUT **$155** PER LOAN

1,915 OF **3,594**
TOTAL U.S. RECORDING JURISDICTIONS OFFER E-RECORDING, AS OF DEC. 31, 2018*

* Property Records Industry Association



CFPB STARTS 2019 WITH NEW SHERIFF

By Amy Tankersley

Newly appointed Consumer Financial Protection Bureau (CFPB) Director **Kathy Kraninger** has hit the ground running since assuming the helm of the consumer financial watchdog agency three months ago.

The U.S. Senate on Dec. 6 confirmed Kraninger's appointment by a 50-49 vote. Kraninger succeeds Acting Director **Mick Mulvaney**, who served as head of the bureau for a year. Mulvaney accepted the interim appointment from President **Donald Trump** at the end of 2017 when former CFPB Director **Richard Cordray** stepped down to unsuccessfully run for governor of Ohio. Trump appointed Kraninger in June 2018.

During her confirmation hearings last summer, Kraninger was supported by Republicans who praised her management experience at the White House Office of Management and Budget (OMB) as demonstration of her ability to protect Americans from predatory financial practices. Democrats, however, raised concerns that she lacked financial industry regulation experience.


Kathy Kraninger

Kraninger comes to the CFPB from the OMB, where she served as program associate director for general government. Previously, she served as Republican clerk for the Senate Appropriations Committee's Subcommittee on Homeland Security. She also served as advisor to the Department of Transportation's secretary for policy and assistant director of legislative affairs.

Kraninger will serve a five-year term.

FIRST ORDER OF BUSINESS: EXAMINE TRID

In one of her first actions as director, Kraninger in January sent a letter to **Sen. John Hoeven** (R-N.D.), indicating that the CFPB will examine how title insurance fees are disclosed under the TILA-RESPA Integrated Disclosure rule, or TRID. Kraninger's pledge to ensure that "consumers receive clear and accurate information regarding the cost of their real estate transactions" was a response to a letter that Hoeven and other senators sent in December, noting that the TRID rule does not allow title companies to disclose available discounts for loan policies on the Loan Estimate and Closing Disclosure forms. This results in the inaccurate disclosure of title premiums in about half of the states, as pointed out by the senators, as well as by the American Land Title Association in the last two years.

The CFPB, which is required by the Dodd-Frank Act to assess its significant rules and publish a report within five years of the rule's effective date, will examine whether TRID "has been effective in achieving its stated purposes and the purposes of the bureau," Kraninger said in her letter.

"I intend to carefully examine the issue you have raised," she stated.

CFPB ADJUSTS PENALTIES FOR INFLATION

Also in January, the CFPB raised the price of its fines to adjust for inflation, including penalties for violating the Real Estate Settlement Procedures Act (RESPA), among other laws and regulations. Federal agencies are required to adjust their civil penalties for inflation every year.

Under the bureau's updated guidelines, civil penalties will increase from $92 to $94 per violation; where a violation is proved intentional, the penalty will increase from $185 to $190 per violation. Finally, the cap for fines per violation was raised from $184,767 to $189,427.

So far under Kraninger's tenure, the CFPB has not announced any penalties involving the real estate, mortgage or settlement services industries. The seven actions announced since her confirmation alleged consumer financial violations by a bank, a federally chartered savings association, a national jewelry store chain, a high-interest credit broker to veterans, two payday lenders and a nonbank lender.

KRANINGER SETS THE TONE FOR CFPB'S PRIORITIES

In mid-February, the CFPB issued its Fall 2018 Semi-Annual Report to Congress under Kraninger's leadership. The report, mandated by the Dodd-Frank Act, was substantially shorter than those issued under Cordray's tenure. According to the report, the bureau received approximately 329,000 complaints during the 2018 fiscal year, a slight uptick since Cordray's departure. The report noted that "more than 30 percent of borrowers reported not comparison shopping for their mortgage, and more than 75 percent of borrowers reported applying for a mortgage with only one lender." As the bureau's research notes, the main reason for lack of shopping is that most consumers think that "prices are roughly the same" across lenders.

On March 7, Kraninger discussed the report at a hearing before the House Financial Services Committee. Republicans praised her for the actions she has taken so far, while Democrats expressed concerns that she will continue policies implemented under Mulvaney that aimed to roll back regulations and enforcement.

"Protection of consumers and the mission of this agency is at the heart of every decision that I will make, and certainly has been at the heart of every decision I have made so far," Kraninger testified. "It is certainly an objective of the bureau to understand and reduce regulatory burden, but it's also important how this impacts consumers."

Kraninger faced Congress a second time on March 12 at a hearing before the Senate Committee on Banking, Housing and Urban Affairs.

"Looking ahead, I will be setting priorities for the bureau, including setting the tone for how we will operate as an agency. I expect to emphasize stability, consistency and transparency as hallmarks as we mature the agency and institutionalize the many partnerships that are the key to our success."

ESCROW AGENT'S FIDUCIARY DUTIES QUESTIONED BY DEFRAUDED PLAINTIFF

By Jessica K. Hew

Is an escrow agent required to affirmatively investigate or know when there is a fraud being perpetrated by one party against another in a transaction? If so, is it the duty of the escrow agent to detect the fraud, and then prevent the transaction from closing? Can the escrow agent be held liable for failing to do so? These are the questions that a Salt Lake City, Utah, appellate court reviewed in *Robert Reed Pyper v. John Reil, et al., (Utah Court of Appeals, Case No. 20170503-CA)*. The court's decision, as well as other states' opinions on this matter, cast differing opinions as to the liability that escrow agents face when encountering potentially fraudulent transactions.

Business deal gone wrong

In 2012, plaintiff **Robert Reed Pyper** funded the acquisition of a company by pledging real property as collateral for a $445,000 loan. Defendant **John Reil**, a principal of Pyper's, co-signed the loan, although the two men never met. A second defendant, **Uriah Kennedy**, promised Pyper that in exchange for his pledge of collateral, he would pay Pyper $5,000 monthly until the loan was fully repaid, as well as an additional $250,000 after the loan's repayment.

At the closing, the title company – also acting as the escrow agent for the transaction – followed the lender's instructions and wired $400,000 to a specified account for Agro Chem Tech, an unrelated company. However, the principal amount of the loan was never repaid, and Pyper received neither the promised monthly payments nor the repayment bonus. Pyper filed suit against Reil and Kennedy, contending he was the victim of breach of contract, undue influence, civil conspiracy and securities fraud. Without challenging the loan itself, Pyper alleged the defendants invested the funds inappropriately in another company.

Court interprets the role of a fiduciary

Pyper also brought a negligence action against the title company, alleging that it should have recognized that a fraud was occurring. He asserted the title company owed him two specific duties: First, "to safeguard and preserve the loan proceeds and assure that those funds were transferred according to a lawful contract and for a lawful purpose," and secondly, "to protect" him "from entering into a verbal agreement for the delivery of the loan proceeds to a third party," when it "knew, or should have known," that he "was the victim of fraud or undue influence."

The title company moved for summary judgment, arguing that it did not owe Pyper a duty to protect him from fraud, and that its escrow agent was limited to following the escrow instructions – which it did. The trial court granted the title company's motion, holding that the escrow agent had a fiduciary role to disclose facts "that would reasonably indicate a fraud was occurring," but "recognizing a duty to disclose facts indicating fraud does not equate to a duty to halt a transaction where fraud is known or suspected." Under the facts, the court rejected Pyper's position that an escrow agent has a duty "to impose its informed judgment for a principal's or to perform the principal's due diligence," finding that, "an escrow agent 'is not required to prevent a suspicious transaction when the principal is equally aware of all the facts,' or 'to exercise independent judgment and decline to follow [closing and disbursement] instructions' that are

signed by the principal."

Pyper appealed, but the appellate court affirmed the trial court's decision to not extend the fiduciary duty of an escrow agent. In reviewing the negligence issue, the court recognized that Utah escrow agents have a fiduciary duty to both parties of a transaction requiring the escrow agent to "follow the escrow instructions," but that duty does not include the affirmative obligation to detect and halt a potentially fraudulent transaction that Pyper wanted recognized on appeal.

The court also rejected Pyper's argument that title industry standards impose an obligation to detect and prevent potential fraud independently from the parties to the transaction. Pyper's argument also failed based on its inability to reconcile whether the escrow agent's proposed duty to affirmatively prevent fraud is established, even where such a requirement would conflict with the instructions provided and signed by the involved parties.

Differing duties to disclose

However, other states have differing standards for their escrow agents' fiduciary duty to disclose. In one state, there may be no duty of disclosure unless specified by the agreement; there is no duty of disclosure unless the escrow agent has actual knowledge of clear evidence of fraud in at least two other states; there is a duty to disclose where there is evidence of fraud perceived by a reasonable escrow agent (although there is no requirement of investigation in at least another two states); and in at least another two states, "an escrow agent owes a duty to disclose all matters coming to the agent's notice or knowledge concerning the subject of the agency that are material for the principal to know for his protection or guidance."

The decision in Pyper is a good reminder that NATIC agents should always be aware of the laws of the jurisdiction(s) in which they are licensed, and to keep abreast of the changes in the law, whether by legislative and gubernatorial adoption, or by courts' interpretations of such adoptions. Other states have also reviewed this type of issue, so it is a dangerous area for escrow agents.

Agents should remain vigilant in exercising the responsibilities and requirements of the settlement and escrow instructions, as there are states that may require disclosure. When in doubt as to the law or the requirements of your disclosure duties as an escrow agent, seek the advice of your local underwriting counsel. You can reach your counsel by emailing ***NATICunderwriting@natic.com***. ■

Jessica K. Hew is NATIC's vice president and underwriting counsel and state agency manager for Florida.

MANUFACTURED AND MODULAR HOME TRANSACTIONS: YOUR TITLE INSURANCE ROAD MAP

By Leslie Johnson

As many areas of the country continue to grapple with an affordable housing shortage, manufactured and modular housing options are poised to make a comeback. Reasonable prices and upgraded finishes make these homes attractive options for many buyers. Information from the U.S. Census Bureau's Manufactured Housing Survey indicates that the number of new manufactured housing units shipped to buyers has steadily increased since the end of the Great Recession. Therefore, it is essential to understand when and how title insurance is available in a manufactured or modular home transaction.

Manufactured homes v. modular homes

Manufactured homes are more commonly referred to as mobile homes or trailers. These homes are built at a factory on a chassis with the intent that the homes be transported on their own wheels. Manufactured homes must conform to the federal Manufactured Home Construction and Safety Standards (commonly known as the "HUD Code"), which regulate their design, construction, strength, durability, transportability, fire resistance, energy efficiency and quality. Conversely, modular homes must conform to local, regional and/or state building codes, and are transported to the land and assembled onsite.

Modular homes are typically constructed on permanent foundations. Thus, they are generally sold, closed and insured as traditional, site-built homes.

Title insurance requirements

For a title insurance policy to cover a manufactured home, the home must first be considered part of the real property. Therefore, the home must be divested of its personal property character as a movable vehicle. This requires that the manufactured home be permanently affixed to the real property. The home must have all its wheels and axles removed, be connected to utilities and be placed on a permanent foundation. While the types of foundations available for manufactured homes vary greatly, concrete blocks, tie-down straps and steel stands are generally not considered permanent foundations for insuring purposes.

Some states may have statutes governing when or how a manufactured home is considered permanently affixed to the land, and full compliance with those statutes is necessary. There must also be evidence documenting that the home has, in fact, been permanently affixed, which can include dated pictures taken by a neutral third party, an affidavit and indemnity from the owner, a current survey with sufficient detail of the structure or even a lender's appraisal. If the transaction includes a loan, the insured mortgage or deed of trust should also include an explicit statement that the real property collateral includes a manufactured housing unit that is permanently affixed to the land.

In addition to permanently affixing the manufactured home, the same party must own the land as well as the home. Ownership of the manufactured home can be determined by reviewing the home's vehicle title and/or registration, or its bill or certificate of sale.

All outstanding personal property or motor vehicle taxes assessed must be paid. For ad-valorem taxes, the manufactured home must be taxed with the land as a single parcel of real property, just as a traditional site-built home. Any liens, security interests or other encumbrances shown on the vehicle title or registration or bill or certificate of sale must be cancelled and/or released. A Uniform Commercial Code (UCC) lien search must also be performed, and any applicable liens likewise released.

Finally, there must be a demonstrated intent that the manufactured home be treated as real property, not a vehicle or personal property. The mechanics of demonstrating such intent are highly state-specific. Generally, however, the process requires surrendering or retiring the vehicle title or filing a similar declaration with the appropriate state agency.

In Texas, for example, once the manufactured home has been permanently affixed, the insured owner must obtain a Statement of Ownership from the Texas Department of Housing and Community Affairs in which the owner elects to treat the home as real property and record the statement in the county records.

While these requirements are not onerous on their face, the reality is that most manufactured homes could not meet them. According to the U.S. Census Bureau's Manufactured Housing Survey data for new manufactured homes sold and shipped in 2017, approximately 75 percent of the homes are titled as personal property and only 19% are on a permanent foundation. As a result, a transaction where a manufactured home is intended to be insured as part of the real property may take significantly more time and work to close.

Exceptions and endorsements

On the other hand, if the parties agree that the manufactured home does not qualify as part of the real property and will not be part of the title insurance transaction, then a specific exception must be taken in the policy. The exception may be worded as follows: *"The land described in this policy shall not be deemed to include any manufactured housing unit located on the subject property."*

If there is an insured loan, the loan amount must not include any funds for the value of the manufactured home.

If the manufactured home is an insurable part of the transaction, then the American Land Title Association (ALTA) 7 series endorsements may be available. These endorsements insure against damages occurring where the manufactured home is not located on or considered part of the insured real property, the owner of the manufactured home is not the owner of the real property, a lien has attached to the manufactured home as personal property and the insured lien is not enforceable against the land or it cannot be foreclosed (for loan policies only).

Final notes

Be vigilant for any restrictions, covenants, building codes, etc., that prohibit improvements that are not constructed onsite. Such restrictions may read as follows: *"No residence, house, dwelling or other building, or any part of any other building, shall ever be moved from outside of the subdivision onto any lot within the subdivision."*

This type of restriction easily prohibits mobile homes, but what about modular homes that are assembled on a permanent foundation onsite? Always consult NATIC underwriting counsel with any questions concerning the insurability of a manufactured or modular home transaction. ■

Leslie Johnson is NATIC's vice president and regional underwriting counsel for Louisiana and Texas.

YOUR UNDERWRITING COUNSEL

Leslie Johnson provides underwriting guidance to Louisiana, Texas agents

Bringing more than a decade of legal practice and litigation to NATIC, **Leslie Johnson** enjoys assisting agents in Louisiana and Texas in resolving issues to get transactions successfully to the closing table. Prior to joining NATIC, Leslie represented local, regional and national clients in complex commercial and business cases, including real estate, financial services, banking and lending disputes. This broad experience has given her the skills and insight to more effectively identify – and ultimately, avoid – issues that could become problems or claims in the future.

A graduate of Texas A&M University and Tulane University Law School, Leslie was selected to participate in the 2016 Texas Land Title Association's Alex H. Halff Leadership Academy. She was also recognized as a Texas Rising Star in 2016 and 2017. She has presented at the Texas Land Title Institute and the Texas Association of Bank Counsel, and authored a chapter in the Texas Foreclosure Manual.

AGENTS FEND OFF FRAUD SCAMS

Illegal reconveyances, identity theft, sham entities – NATIC agents have been busy detecting all types of fraud at the closing table, and we have rewarded them for their diligence.

NATIC's CloseWatch Reward program recognizes our agents and affiliates for their proactive prevention of fraud and forgery. CloseWatch Reward recipients receive a $500 cash award, certificate and mentions in company newsletters and educational materials. Nomination forms are available on our AgentLink website under the Tools & Resources tab.

Here is a sampling of recent recipients of our CloseWatch Reward.

CALIFORNIA TITLE AGENT HALTS HELOC FRAUD ATTEMPT

A California title agent recently spotted an attempted fraudulent reconveyance. Noting that a second trust deed was reconveyed on the property just two years earlier, the agent also saw that the entity executing the reconveyance was not the trustee of record, and that there was no record of any substitution of trustee. The agent's vigilance, which prevented a nearly $800,000 loss, earned him a $500 CloseWatch Reward and certificate.

CALIFORNIA TITLE EXAMINER UNTANGLES COMPLEX ENTITY SCAM

A California title examiner recently unraveled a complex fraud attempt by multiple limited liability companies (LLCs). Over the course of a decade, as many as 20 different LLCs conveyed and clouded title to a property until one of the principals became a lender on a recent trust deed. This individual then recorded a default judgment and conveyed title to other LLCs. The examiner alerted NATIC to these numerous red flags, and we declined to insure the transaction – preventing a nearly $1-million loss in the process. The examiner received a $500 CloseWatch Reward in recognition of his diligent search work.

FLORIDA TITLE AGENT SOLVES THE MYSTERY OF THE ABSENTEE SELLERS

For a recent closing of a $300,000 Florida home, neither of the two sellers in the transaction appeared at the closing, and the associated file was missing any photo identification, signatures and wire instructions. However, the sellers' attorney and listing agent pushed for an expedited closing and funds disbursement, and requested to add fees to the closing disclosure without corresponding invoices. Noting all of these red flags, the title agent requested photo identification and other information. When she received these materials, the names on the IDs differed from those in the file, and the seller's attorney's Florida Bar license turned up as inactive. The agent alerted the mortgage lender, which terminated the transaction. The agent received a $500 CloseWatch Reward for shutting down the scam.

CALIFORNIA TITLE AGENT SPOTS ARM'S LENGTH VIOLATIONS IN SUSPICIOUS REFI

A watchful California title agent was immediately suspicious of a recent refinance transaction. Upon reviewing the chain of title, he discovered that in 2010 the spouse of the current owner sold the property in a short sale. In an unusual 2016 transaction, the spouse reacquired title through a gift deed and was now seeking to refinance the property. In detecting this fraud attempt and preventing a potential $600,000 loss, the agent was honored with a CloseWatch Reward. ■

Shonna Cardello, founder and president of White Rose Settlement Services Inc., a NATIC independent agent in York, Pennsylvania, was recently installed as the 2019 president of the York Builders Association. Shonna will provide leadership to the association's 400 members, focusing on addressing the lack of workers in skilled trades.

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Adam Cotler has been promoted to vice president, director of audit and compliance services for NATIC, servicing both our North American Title Company affiliate and NATIC's independent agents. Along with Adam's promotion, NATIC's Quality Assurance and Compliance Department has been renamed Audit and Compliance Services, and he will lead the team's efforts to assist agents with running healthier, more efficient businesses.

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Leigh Curry, our vice president and Midwest regional underwriting counsel, spoke on a panel in February hosted by Greater Illinois Title Company. Joined by industry colleague Linda Grahovec from Fidelity National Title Group, Leigh spoke about ongoing legal proceedings involving the Illinois Department of Financial and Professional Regulation and the Cook County Recorder's Office, as well as a new Title Act bill that the Illinois Land Title Association has introduced.

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Jessica Hew has been appointed vice president, underwriting counsel and state agency manager in Florida. In this hybrid role, Jessica has become part of Florida's underwriting counsel team, bringing commercial and real estate law practice experience to her work with NATIC agents. A member of the Florida Bar for more than 25 years, Jessica commands a broad base of legal knowledge gained through her litigation practice, her work as general counsel and her experience with transactional and compliance matters. She was recently selected by her peers for inclusion in the April 2019 business edition of *The Best Lawyers in America* in the practice area of real estate law.

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Michele Ponce has been named agency relationship manager in South Florida, serving as a resource for agents and onboarding them to the NATIC team. Michele was most recently a marketing representative and business consultant with North American Title Company, where she worked closely to develop business relationships with south Florida real estate agents and lenders.

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Danielle Kaiser, Midwest regional underwriting counsel and forms counsel, is serving as the 2019 chair of the American Land Title Association's Title Action Network (TAN). TAN is a grassroots organization that promotes the value of the land title insurance industry and sends members free action alerts for relevant state and federal issues.

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Pamalla Lanaux has been named agency relationship manager for NATIC, serving the technology and processes needs of our agents nationally. Pamalla has more than 25 years of experience in the title industry, and she most recently served as a trainer at RamQuest. ■

NATIC HITS THE ROAD FOR 2019 THE FUTURE IS NOW REGIONAL SEMINAR SERIES

NATIC recently kicked off its live CE/CLE seminar series, 2019 The Future Is Now: Emerging Technologies and Compliance Trends. The regional series, which began on Feb. 19 in Dublin, Ohio, and continued on March 7 in Nashville, offered agents and attorneys educational instruction on topics including cyber fraud, e-notarization and e-closings, blockchain technology, RESPA and more. The series wrapped up April 3 in McLean, Virginia. ■

EVENTS AT A GLANCE

May 1-2
Illinois Land Title Association
2019 Spring Ahead Into Your Designation
Holiday Inn & Suites
East Peoria, IL
www.illinoislandtitle.org

May 6-8
American Land Title Association
ALTA Advocacy Summit
Washington, D.C.
www.alta.org

May 21
NATIC
Foreclosure Sales in the Chain of Title
CE webinar for TX agents
www.natic.com

June 2-4
Pennsylvania Land Title Association
Annual Convention
The Hotel Hershey
Hershey, PA
www.plta.org

June 9-11
New Jersey Land Title Association
NJLTA Annual Convention
The Otesaga Resort Hotel
Cooperstown, NY
www.njlta.org

June 10-12
Texas Land Title Association
Annual Conference & Business Meeting
Lost Pines, TX
www.tlta.org

June 18
NATIC
Lessons on Liens and Limitations
CE webinar for TX agents
www.natic.com

June 20-22
American Escrow Association
38th Annual Business Meeting & Education Conference
Long Beach, CA
www.a-e-a.org

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