

**Welcome to MBA Education®
LIVE Online Workshop**

***Title Insurance: Residential and
Commercial***

part of the Commercial insurance LIVE Online Series

We will begin at 2:00 p.m. EST

Please chat among each other before we start.

Thank you for your participation!

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*Title Insurance: Commercial
and Residential*

Faculty:

Bernard (“Bernie”) M. Brown, President, CPCU,
Insurance Advisors LLC

Joseph L. Petrelli, ACAS, ASA, MAAA, FCA, President
and founder of Demotech, Inc.

Sharon M. Romano, CPCU, AIAF, CCP, ARC, Vice
President and co-founder of Demotech, Inc.

Daniel D. Mennenoh, President, H.B. Wilkinson Title
Company



Bernie Brown is President of Insurance Advisors LLC, Stamford, CT., America's leading provider of insurance consulting and outsourcing services to the commercial real estate finance industry.



Daniel D. Mennenoh was named president of H. B. Wilkinson Title Company, Inc. in 1996. In 2006, Mennenoh was elected to the Board of Directors for the Title Industry Assurance Company and currently serves as its President and Board Chairman. He is President-Elect of the American Land Title Association.



Sharon Romano, CPCU, AIAF, CCP, ARC, Vice President of Demotech, Inc., a financial analysis company based in Columbus, OH. Her involvement in title insurance dates back to 1992 when Demotech became the first company to promulgate title underwriter Financial Stability Ratings®.



Joe Petrelli, ACAS, ASA, MAAA, FCA, is President and founder of Demotech, Inc., a financial analysis company based in Columbus, OH. Demotech has published *Demotech Performance of Title Insurance Companies* for nearly fifteen years.

INSURANCE ADVISORS LLC – SERVICES

(est. 1996)

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Objective: help explain and better understand the title insurance process and industry.

- Title Insurance industry financial metrics – Underwriters, Dollar Volume;
- Commercial versus Residential components;
- Negotiating title exceptions and affirmative coverages;
- Multi-site and multi-state transactions;, and
- Unique title issues.

A Title insurance policy involves protection against events that remained undiscovered or existed *prior* to policy issuance and therefore remain outstanding as of the date of policy issuance. Typically a Title insurance policy states that:

Subject to the exclusions from coverage, the exceptions from coverage contained in Schedule B and the conditions and stipulations, the Title insurance company, insures, as of the *Date of Policy* shown in Schedule A, against loss or damage . . .

In contrast, the coverage provided by a P&C insurance policy insures against future events that may occur *during* the policy period. Typical language in a P&C insurance policy states that:

In Consideration of the Provisions and Stipulations herein, this Property and Casualty Insurance Company, for the term of *this date* at 12:01 a.m. to *one year later* at 12:01 a.m., does insure .

1868 Case (Pennsylvania) – *Watson v. Muirhead*

Watson, the buyer, lost his investment in real estate and sued the conveyer, Muirhead. Court sided in favor of Muirhead . Court found in favor of Muirhead.

1874 - Pennsylvania legislature passed law allowing creation of Title Insurance Companies

1876 - Joshua Morris, a conveyancer, and some of his colleagues, formed Real Estate Title Insurance Company of Philadelphia

Underwriters 2015 Recent Qtr. Direct Premiums Written (\$'000 Included)

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Title Underwriter	Premiums Written	Title Underwriter	Premiums Written
First American Title	\$1,509,269,684	American Guaranty Title	\$15,112,514
Chicago Title	\$907,662,483	National Investors Title	\$14,645,808
Old Republic National Title	\$852,853,804	Land Title Insurance Corporation	\$13,596,295
Fidelity National Title	\$724,396,782	Premier Land Title	\$8,383,676
Stewart Title Guaranty	\$625,820,295	Ohio Bar Title	\$6,337,131
Commonwealth Land Title	\$300,662,298	EnTitle	\$6,105,366
Westcor Land Title	\$176,097,955	Attorneys Title Guaranty Fund, Inc. (CO)	\$5,194,823
WFG National Title	\$145,621,350	General Title	\$4,865,147
Title Resources Guaranty	\$123,290,279	Agents National Title	\$4,234,897
Stewart Title	\$113,881,084	Real Advantage Title	\$3,748,902
North American Title	\$96,886,978	American Eagle Title	\$3,297,595
Investors Title	\$42,084,370	Conestoga Title Insurance Co.	\$3,069,365
Alliant National Title	\$41,770,584	Arsenal Insurance Corporation	\$2,542,458
National Title Insurance of New York	\$41,299,686	Sierra Title Insurance Guaranty	\$2,431,323
Alamo Title Insurance	\$33,481,000	Iowa Title Guaranty	\$2,424,998
Attorneys' Title Guaranty Fund, Inc. (IL)	\$30,861,940	American Security Title	\$2,363,555
First American Title Guaranty	\$29,813,661	Southwest Land Title	\$1,025,281
Connecticut Attorneys Title	\$29,225,649	First Atlantic Title Insurance Corp.	\$936,921
First National Title	\$22,510,924	Dakota Homestead Title	\$841,776
First American Title of Louisiana	\$20,998,232	OneTitle National Guaranty, inc.	\$145,338
Security Title Guarantee	\$20,024,724	Title Guaranty and Trust of Chattanooga	\$29,233
Mississippi Valley Title	\$15,112,514	Bankers Guarantee Title & Trust	\$24,240

Ameristract Title is active but did not write premium through the second quarter.

Underwriters 2015 Recent Qtr. Direct Losses Paid

(\$000 Included)



Title Underwriter	Losses Paid	Title Underwriter	Losses Paid
First American Title	\$126,882,931	Conestoga Title Insurance Co.	\$250,403
Chicago Title	\$56,678,375	Agents National Title	\$200,033
Fidelity National Title	\$47,652,847	EnTitle	\$168,622
Stewart Title Guaranty	\$43,767,943	First American Title of Louisiana	\$151,968
Old Republic National Title	\$23,354,601	Ohio Bar Title	\$137,023
Commonwealth Land Title	\$21,498,426	Mississippi Valley Title	\$105,736
Stewart Title	\$4,134,939	American Guaranty Title	\$105,736
Westcor Land Title	\$2,842,258	First National Title	\$82,660
WFG National Title	\$2,599,386	Premier Land Title	\$33,794
North American Title	\$2,526,850	American Eagle Title	\$31,967
Alamo Title Insurance	\$1,616,520	Arsenal Insurance Corporation	\$20,000
Title Resources Guaranty	\$1,546,047	National Investors Title	\$7,448
Investors Title	\$1,461,974	Southwest Land Title	\$0
Connecticut Attorneys Title	\$1,364,312	OneTitle National Guaranty , inc.	\$0
Attorneys' Title Guaranty Fund, Inc. (IL)	\$1,114,110	First Atlantic Title Insurance Corp.	\$0
General Title	\$1,015,923	Sierra Title Insurance Guaranty	\$0
National Title Insurance of New York	\$580,370	American Security Title	\$0
Land Title Insurance Corporation	\$523,701	Bankers Guarantee Title & Trust (The)	\$0
Security Title Guarantee	\$457,790	First American Title Guaranty	\$0
Attorneys Title Guaranty Fund, Inc. (CO)	\$347,468	Real Advantage Title	\$0
Alliant National Title	\$269,919	Title Guaranty and Trust of Chattanooga	\$0
Dakota Homestead Title	\$264,831	Iowa Title Guaranty	-\$28,050

Ameristract Title is active but did not pay losses through the second quarter.

**Title Insurance Families
(\$000 Included)**

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Title Family	Premiums Written
Chicago / Fidelity	\$2,007,502,249
First American	\$1,566,418,708
Old Republic	\$883,078,832
Stewart	\$739,701,379
Unaffiliated Companies	\$559,933,026
Williston Financial	\$145,621,350
Investors	\$56,730,178
CATIC	\$29,225,649
ATKINS	\$4,234,897
Donegal	\$3,069,365
AmTrust	\$936,921

2014 Residential Title Activity (\$000 Included)

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Family	# of Policies	Premiums Written
Chicago / Fidelity	2,875,792	\$2,447,439,173
First American	2,602,192	\$2,132,208,581
Old Republic	1,372,251	\$1,348,654,665
Stewart	1,362,754	\$1,075,815,895
Unaffiliated Companies	956,736	\$959,860,390
Williston Financial	266,047	\$200,212,497
Investors	159,859	\$88,451,352
CATIC	85,559	\$53,271,222
ATKINS	36,729	\$6,604,238
Donegal	10,190	\$5,494,396

2014 Non-Residential Title Activity (\$000 Included)

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Family	# of Policies	Premiums Written
Chicago / Fidelity	322,339	\$1,236,646,118
First American	178,169	\$883,727,814
Stewart	(56,021)	\$345,444,537
Old Republic	124,897	\$322,594,504
Unaffiliated Companies	48,999	\$41,124,011
Investors	27,075	\$21,767,231
Williston Financial	12,451	\$14,593,101
CATIC	4,065	\$6,743,076
ATKINS	4,018	\$1,688,141
Donegal	548	\$680,524

- Title company is contacted once sale contract has been executed by seller and buyer, and lender approval is given to buyer.
- Cost of title insurance and closing is provided to lender for new Loan Estimate form.
- Title company conducts a search of the public records, including Recorder or Registrar of Deeds records, court records, real estate tax records, assessors records, and other governmental office records as required by state law.
- Examination of chain of title is conducted to determine all individuals or legal entities who have an interest in the land.
- Examination includes identifying all open liens, judgments, defects, if any, easement rights, covenants, conditions and restrictions, current status of real estate taxes, special assessments or HOA dues.
- Legal access to and from the land is determined.
- Title Commitment disclosing condition of title is issued to seller, buyer and purchase money lender.

- Conveyance documentation if prepared.
- Additional documentation is prepared to clear title defects, if any.
- Mortgage lender processes new loan and prepares documents.
- New *Know Before You Owe*, or TRID forms have created a completely new process of residential loan consummation and closing.
- Closing is scheduled.
- Closing figures are finalized and new Closing Disclosure is delivered to borrower.
- Conveyance documents and mortgage loan documents are executed and delivered at or before closing.
- Documents are recorded and funds are disbursed according to settlement statement.
- Owners Policy and Loan Policy are prepared and delivered post closing.
- Extended coverage over general exceptions is often given on Owners Policies.
- Standard endorsements generally included with Loan Policy are:
 - Environmental Protection Lien Endorsement
 - Location Endorsement
 - Comprehensive Endorsement

- ALTA Forms Committee is responsible for the creation of all model ALTA policy and endorsement forms used by the title insurance industry.
- ALTA model forms may be modified on a state by state basis.
- Forms Committee is made up of experienced underwriting attorneys from all of the title insurance underwriting companies.
- Process is collaborative and all new forms or amendments to existing forms are done based upon changes in federal or state laws, case law, market need, and claims experience.
- Forms Committee recommends changes to ALTA Board of Governors.
- ALTA Board of Governors ultimately votes to approve or disapprove new forms.
- ALTA series 36 energy endorsements are a good example of the title insurance industry addressing a market need to insure wind farms and solar farms.
- ALTA Endorsements provide additional coverage under a title insurance policy in order to provide buyer or lender with protection for unique circumstances. Be sure to discuss endorsement coverage with your local title agent.

- Title company is often contacted earlier as part of due diligence process.
- Proposed escrow instructions with requested endorsements are provided.
- Title insurance and closing costs are quoted or negotiated.
- Search and examination steps are the same as with residential transactions, however:
 - Legal description of the land is often more complicated.
 - Parcels are often large
 - May have multiple parcels
 - May be more cumbersome metes and bounds descriptions.
 - Fee title interests in the land are often held in legal entities, such as corporations, LLC's, or Partnerships.
 - Other interests in the land may be in place.
 - Leasehold interests
 - Easement interests
 - Access
 - Rail lines
 - Docking or harboring
 - Water wells and water rights
 - First right of refusal

- Commitment issued and provided to parties and surveyor.
- ALTA/ACSM now ALTA/NSPS survey is prepared disclosing all improvements to the land.
- Survey is examined by title company and commitment is amended to reflect matters shown on survey.
- Buyer and lender request additional coverage to be provided by endorsement.
- Title company determines documentation needed to provide additional requested coverage.
- Proposed documentation is presented for approval.
- Pro Forma policies are prepared for approval by buyer and lender.
- Once all parties are satisfied, closing can proceed.
- Closing is often conducted remotely, and closing may or may not be conducted by company handling the title insurance.
- Executed documents are delivered to title company for recording.
- Final policies are prepared and delivered.

- Sellers need to be sure what land they are actually selling.
 - We are often just given street addresses or Tax Parcel ID's, but not legal descriptions.
 - Corporate names may have changed and title to some parcels may be in a different corporate name, or possibly a related individual's name.
 - Any and all additional information, such as a prior survey or drawing, or all doing business names of corporation or LLC, or any individuals related to corporation that may have acquired parcels, can prevent parcels from being missed.
 - More information is better than less when initiating the title order.
- Lender documents to be insured on commercial transactions are generally not standard form documents as they are in residential transactions. Said documents need to be provided to the title company for review before a pro forma policy can be prepared. We need to see what it is we are being asked to insure. The earlier in the process that happens, the less likely a delay will occur.

- It takes time for professional surveyors to do field work and to prepare an ALTA/NSPS survey, because of the level of detail required to meet ALTA/NSPS minimum standards.
- It then takes time for the title company to examine the ALTA/NSPS survey, which is necessary in order to issue many of the commonly requested endorsements and to issue the pro forma policies.
- Access easement rights have to be properly created and granted. A plat or survey showing a lane or roadway that has not been publicly dedicated does not constitute granting of easement rights. Those rights have to be created and granted by a deed or other easement agreement document.
- All documents to be insured should be sent to the title company to be reviewed **prior** to recording. Sending documents directly to the courthouse to be recorded leads to errors and delays in issuance of policies.

Access and entry – open and dedicated streets

Utility access – survey or letter from the utility company

Single tax parcel

Multiple tax parcels

Private rights as to the land

Contiguity of parcels

Location of real property

Doing business – i.e., authorization to do business in a State

Same as the survey

Parcel was created per subdivision statutes and ordinances

Usury – affirmative assumption that the mortgage does not violate usury laws of State

Easement enforced removal – removal of improvements due to an easement

Assignment of Rents and Leases

Reservations of rights, encroachments and minerals

Zoning with parking

Deletion of Arbitration clause from policy

Environmental Protection Lien

Communication early in the process, and throughout the transaction, helps the entire transaction go more smoothly!

A well-established local title insurance agent or title office doing business in the county where the land is located has the greatest knowledge of that county's real estate market, the greatest understanding of local practices and knows the local public records best.

Title insurance agents who are members of their State Land Title Association and the American Land Title Association are generally well informed and have many resources at their disposal.

Questions and Discussion

Next Insurance LIVE Online Workshop

August 7, 2016

***Fundamentals of
Commercial Insurance,
Issues and Problems***

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Disclaimer

This publication is designed to present, as simply and as accurately as possible, a general explanation of processes and functions within the mortgage industry. It should be noted that the information presented is not all-inclusive. Forms, regulations and overall processes may change because of changes within the industry. This publication should not be used as a substitute for referring to the applicable rules and regulations and is distributed with the understanding that the publisher is not engaged in rendering legal or other personalized professional service. If legal or other expert assistance is required, the services of a competent professional should be sought.

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