

# NALTEA

National Association of Land Title Examiners and Abstractors

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Mary Mitchel, President  
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I have had a multitude of inquiries, over the past month or so, by clients, small title companies and individuals, all pertaining to "abstracting" practices, some general while others more specific in nature. The questions ranged from, "What does this mean?" to "Can you tell me where I can go to take courses on how to become an abstractor?" Granted, these types of questions are by no means out of the ordinary; however, it got me thinking, again, about "abstracters/searchers" – the professionals.

Although I am sure there are many individuals and companies out there that appreciate what it is we do on a daily basis, I am sure there are equally as many that do not. I was reminded how being an abstracter is not just about the research we do, the speed in which we complete our assignments, or the fee we charge. We are so much more complex than that. Setting the researching portion aside for a moment, long after our work is returned, we often find ourselves walking someone through our search, sometimes multiple times to various people within the same office, explaining everything from a specific encumbrance to general nuances of a particular county or state. We do not charge for the continuing education we provide to our clients. It is just considered a part our responsibility and, I am sure in more cases than not, is simply taken for granted.

In order to educate we have to be educated. That is a given. It frightens me when, in the process of reviewing a search, someone contacts me and says, "Do I need to show this?" Over the past few years, it seems that more and more people who have the task of examining title are not educated in the basics of lien position, how they can affect marketable title, or their definition for that matter. Just yesterday, I had an individual from a title company ask me what a *lis pendens* was and whether or not it was "any big deal". I wanted to say

that I would not have shown it to them if it were not pertinent to the search, but I didn't, of course. Even scarier is the realization that potentially, title commitments and subsequent policies are being issued based on this same person's initial review and mark-up. Not only do we have to know our clients, from a terminology standpoint (we all know there are at least 10 different terms used to describe a current owner report), we have to understand their level of knowledge in order to provide them with the information they need to complete their file. I know that in providing a search product to certain clients, I have to be sure to make additional notations to further explain certain aspects of a given search. It saves further phone calls and possible delays down the road. For some other clients, no further explanation is necessary. As long as our searches are complete and legible, a knowledgeable person has the necessary tools to make an informed decision.

During the regular course of business, we are expected to accurately research, interpret, set out, and possibly explain everything we have reported. Being the professionals that we are, it is done without even giving it a second thought. I wonder what the statistics are, in references to potential claims, for those files in which the abstracter/searcher reported an item that was not shown? Whether it was due to lack of an examiner's understanding/knowledge of the product he was reviewing or just a simple, yet costly, error, I think that would be an interesting statistic to see.

All of this revolves right back to being educated. We owe it to ourselves, our clients and, our profession to be educated in the common practices and state statutes for those areas in which we search. NO, as we have said many times before, there is no quick course you can take, or book you can read, which would, upon its completion, make someone an instant abstracter/searcher. It takes time, experience and perseverance to achieve the level of knowledge necessary to conduct a

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(President's Message... continued from front cover)

thorough, accurate search of the public records and be able to understand, interpret and present that material in a concise manner. My advice has been to research educational avenues pertaining to the title industry in your area and see if you can work with an experienced abstracter that would be willing to mentor you. Many title companies have "in house" abstracters for the counties/registries that are in close proximity to their offices. It goes without saying, I suggest joining NALTEA, as we offer many resources that could be beneficial not only from an educational standpoint but from a supportive role. Even us "seasoned folks" never stop learning or adding to our knowledge. That is what makes us professionals.

Please take advantage of any opportunity to educate your clients. If nothing else, it may help them understand, more fully, what a terrific benefit we are to them. After all, and again this has been stressed many times, we are the foundation on which this industry was built.

If you would like to comment on this topic, share your own experiences or have a topic suggestion, please feel free to contact me. I would love to hear from you. I can be reached at: [mmitchel@accusearchco.com](mailto:mmitchel@accusearchco.com) OR [president@naltea.org](mailto:president@naltea.org) or by calling (585) 229-7806.

## Delinquency Versus Collectability

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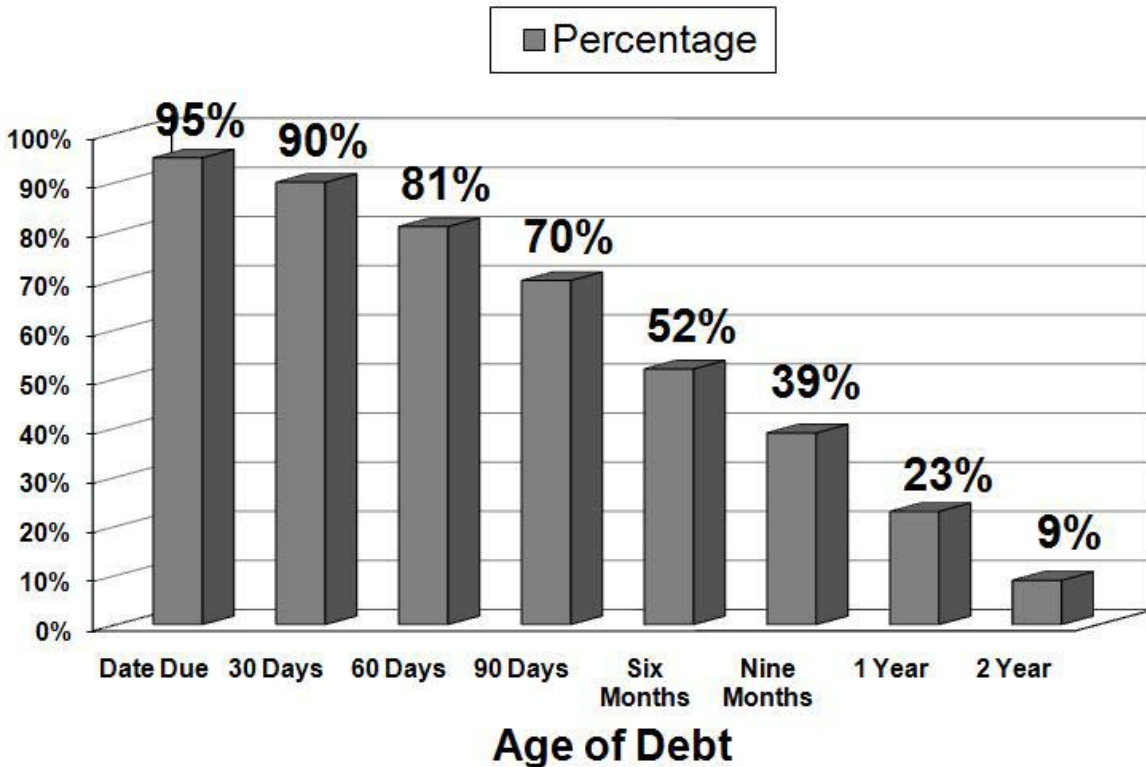
Previous articles have addressed ways to avoid delinquent accounts, minimize problems and proactively manage your accounts receivable.

Rarely does a day go by that we are not asked... When should we consider sending a past due account to collections? As the chart below illustrates, sooner is definitely better. The charts information was collected within the commercial collection industry.

There is a direct correlation between time of delinquency and collectability. Although these percentages can vary by industry, the survey clearly demonstrates the importance of addressing past due accounts.

Wexford & James is a professional collection firm specializing in commercial (business to business) collections throughout North America. We currently assist many NALTEA members with their collection requirements. If you are interested in discussing how Wexford & James can assist your company please give me a call at 877-547-6848 x 116.

### Commercial Collectability Trends



## RESPA and You: The Abstractor's Accountability

V. Lynn Hammett, Board Member  
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There's nothing new about the Real Estate Settlement Procedures Act, otherwise known as RESPA. It has been around for quite awhile. It was first passed in 1974 as a consumer protection act. Its intention was to help consumers better understand settlement services in the real estate transaction. It had the goal of eliminating abuses in the real estate settlement process that was creating higher fees for consumers. Thanks to RESPA, closing documents are explained in more detail, borrowers are given the opportunity to find out the costs associated with their closing in advance, and they have the right to know about what the settlement costs will be before they go to closing. Borrowers can even shop around for mortgages without penalty.

Most of the news we've heard about RESPA in recent years revolves around the reform hearings and proposals that were taking place in the early part of 2000. ALTA, the Appraisal Institute, the National Association of Realtors and others did their part by providing guidance and testimony before government committees. Finally, in 2002, RESPA reform promised to simplify the home buying experience for consumers even more by limiting settlement fees through competition. HUD wanted some changes in the way broker's fees were reported. The agency wanted the good faith estimate to be better and more reliable, and there were plans to remove barriers to competition. However, in 2004, under pressure from consumer groups and the real estate industry, the HUD reform was withdrawn.

New discussions for reform began in June of 2005 and culminated with a total of seven roundtables held across the country. NALTEA was in its infancy at the time, so abstractors and examiners were not represented in these discussions. There are key organizations that did voice their concerns and offer input. In addition to those already mentioned, HUD also heard from the National Community Reinvestment Coalition, the National Association of Homebuilders, Mortgage Bankers Association of America, National Association of Mortgage Bankers, Real Estate Service Providers Council, Inc., and the Title/Appraisal Vendor Management Association. Even though the roundtables are over and the discussions have concluded, a new group is in the mix of interested parties. NALTEA is in a position to voice its concerns over the worldwide distribution of public records and the consumer's privacy and best interest. It's a small piece of the settlement process, but when abuse occurs, it's very damaging to the consumers RESPA is attempting to protect.

NALTEA is being noticed, and that's a good thing. We were consulted by the GAO for research compiled on the use of social security numbers in public records. The GAO report can be viewed online under their report dated June 15, 2007. Just visit the GAO website, [www.gao.gov](http://www.gao.gov). This was quite a milestone for NALTEA. We were recognized as the preeminent voice for title examiners and abstractors and our opinion mattered. While we don't have a seat at the

RESPA table yet, I have no doubt that in time, we will.

We need to realize that we are directly affected by RESPA, and the abstractor faces serious responsibility just like all the other players. Section 8 of RESPA "prohibits a person from giving or accepting any thing of value for referrals of settlement service business related to a federally related mortgage loan. It also prohibits a person from giving or accepting any part of a charge for services that are not performed. These are also known as kickbacks, fee-splitting and unearned fees." A violation of Section 8 would be subject to civil or criminal penalties with fines up to \$10,000 and one year in prison. So, is it okay to give a reward to a client in return for title work? No. Can we give incentives or a portion of the fee if searches are sent to our company instead of the competitors? No. But it's just cousin Eddie, and we promised him we'd give him a spiff if he'd send a little work our way. Still, no.

We've been so far removed from the real estate process that it's hard to believe the industry even knows we're here. But, our work is the foundation upon which all else rests. And we are a key player. So even though our voice isn't always heard, even though our work is misunderstood by others in the real estate industry, and our hard work is largely unrewarded, we are held to a high standard of ethics. RESPA is guidance for us as abstractors and title examiners. So if you are ever asked to give a little kickback for the promise of one search or a steady flow of work, you know how to respond. The right answer is the ethical one. As professionals, we don't need RESPA to spell it out for us, we already know.

*V. Lynn Hammett is President of Capitol Title & Research Services, Inc. Her experience in the real estate industry has spanned twenty-two years. Her professional experience has included preparation for zoning reclassification requests for private industry, abstractor workshops and training, commercial and residential abstracts and title examinations, and commercial appraisals. Property types include hotels, retail centers and offices, condominiums, eminent domain searches and appraisals, tax sales, cell towers, landfills, hospitals, manufacturing plants, golf courses, country clubs, proposed sewer and water projects, and multiple lot subdivision acquisitions for redevelopment. She is affiliated with Crider & Associates, Inc and Crider Appraisals, LLC, The Larse Group, LLC, and she serves on the Board of Directors for NALTEA. She has served as chair and liaison for the NALTEA Education Committee, which is currently completing its work to offer certification and testing for abstractors and title examiners nationwide.*

**Attention:** The NALTEA Members' Only Section of the Web site is up! You can request a password directly from the Web site and access the members' only information that is currently available. We will update that section of the site as new information becomes available.

## Understanding E&O Insurance

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Hosting Source of Title, I get tons of e-mail inquiring about many different subjects; E&O is one of the most frequent. I am often surprised how many abstractors do not really understand some of the basics of their E&O policy. E&O insurance is complicated and it is important to use an experienced agent who will guide you through your purchase of the policy and any claims scenario (but let's hope you never have a claim).

My agent is Nancy Walker with Title Program Administrators (www.titleprogram.com). I would highly recommend her to anyone for their E&O policy.

The thing about E&O insurance that many do not understand is that it is a claims-made type of policy. What does that mean? Well, it means that in order to be covered a claim must be made during the policy period. The opposite would be an occurrence policy, which means that a claim is covered if the policy was in force when the loss-causing event occurred. In the E&O world, occurrence policies do not exist; they are all claims-made policies.

One of the most important dates on your policy is the Retroactive Date. That is when your coverage began, and any loss-causing events from that date, through your current policy period, will be covered. Each time you renew your policy, the retroactive date remains the earliest point at which you have had continuous coverage.

It is VERY important that you do not have a lapse in coverage or your retroactive date will start all over and any work you have done prior to that will no longer be covered.

I learned this the hard way. I had my local insurance agent handling my E&O insurance when I first obtained coverage in 1997. They weren't very knowledgeable on the subject. When my renewal premium tripled, I decided to shop around a bit. It took several weeks to get a few quotes back and by that time, my policy had lapsed and I was informed that I was no longer covered for the previous year. A good agent would have warned me about this hazard. My retroactive date is now 1999, and I am very cautious to make sure that my policy does not lapse and I retain that coverage.

So, what happens when you leave the business and no longer need E&O coverage? You must request tail-coverage. Tail-coverage will extend the reporting date for any claims for up to 5 years. As we all know, in the title business, claims may arise years after the work has been done. Without tail-coverage, you are taking a gamble that you will not have any claims on work you previously completed.

To sum it up: (1) Make sure you have a knowledgeable agent for your E&O policy; (2) Never let your policy lapse; and (3) When you leave the business, purchase tail-coverage.

## Board of Directors Update

Robert A. Franco, Vice President  
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During the last board of directors' meeting, the board decided to extend and modify the Bring-In-Three membership drive. A referring party is eligible for a free membership if they bring in three new members. If the referrals all join prior to March 31, the referring party may take advantage of a free membership from that time, through the end of August. If the referring party is already a paid member their free membership will be credited on their renewal invoice. If the referrals join after March 31, the referring party will get a free year if all of the referrals renew for a full year. The forms for the Bring-In-Three program are available on the NALTEA Web site at www.naltea.org.

The board also approved a grievance procedure for the ethics committee to follow in the event they receive a complaint of an ethical violation committed by a NALTEA member. One area of discussion was whether or not anonymous complaints should be accepted. It was decided that they will be kept on file and the alleged violator would be notified that a complaint was received. However, because of the difficulty investigating an anonymous complaint, it was acknowledged that there was very little that could likely be accomplished unless other similar complaints were filed indicating a complaining party.

The information for obtaining Jeanne Johnson's book, *Principles of Abstracting, Searching and Land Records Management (National Edition)*, with a special members' discount was added to the members' benefits page of the Web site. The book has been approved as a recommended resource for the NALTEA abstractor certification test by the education committee. The education committee worked with Jeanne Johnson on the development of the publication.

NALTEA was also contacted by Professor Joseph Eaton, one of the authors of *The American Title Insurance Industry: How A Cartel Fleeces The American Consumer*. The board is currently working on a letter to Professor Eaton to help him understand the importance of the role of professional title abstractors to the title industry. It is a positive sign when those outside the industry look to NALTEA for input on title practices and procedures.

Other housekeeping items that were discussed were reminding the officers and committee chairpersons to check their Web mail and making sure that they still have access to their e-mail accounts, the ongoing development of adding a credit card account for payment of dues and conference fees, and speakers/exhibitors for the January conference.

## NALTEA Membership Update

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NALTEA currently has 120 active members. If you know someone that may be interested in becoming a member, please e-mail membership@NALTEA.org and someone will contact them with a membership application.