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# Overview

1. History of Ethics
2. CE/CLE Requirements
3. SLTA Code of Ethics
4. New Licensing Law
5. Rule 1.15 and Rule 1.4
6. Select Best Practices
7. CPL Bulletin
8. Notice of Availability of Owner's Title Insurance
9. Steps to Prevent Wire Fraud
10. Enron v. Boeing
11. Concluding Points

- The Study of Ethics dates back to Socrates or Aristotle in 4<sup>th</sup> century BC.
- The examination of beliefs about right and wrong – is an action right or absent of context?



# Ethics in Real Estate

- For Title Agents, you must obtain 3 hours of ethics every two years to renew your license.
- For Attorneys, you must have 1 hour of ethics every year to renew your license.
- If you are a Title Agent and an Attorney, you must get both the 3 hours and the 1 hour above.



# Code of Ethics



- Governed by the laws, customs and usages of the respective communities they serve, and with the realization that **ready transferability** results from accuracy and perfection of titles, members shall issue abstracts of title or policies of title insurance only after a **complete and thorough investigation, founded on adequate records and learned examination thereof** and shall otherwise so conduct their business that the **needs of their customers shall be of paramount importance.**
- Every member shall **obtain and justifiably hold a reputation for honesty and integrity, always standing sponsor for his work, intellectually and financially.**
- Ever striving to serve the **owners** of interest in real estate, members shall endeavor (a) to facilitate transfers of title by **elimination of delays** and unnecessary exceptions; and (b) to make their services available in a manner which will encourage transferability of title, provide adequately for obligations which they assume in connection therewith, and afford a fair return on the value of services rendered and capital employed.
- Members shall support **legislation** throughout the country which is in the **public interest** and will **unburden real estate from unnecessary restrictions** and restraints and restraints on alienation.
- Members shall not engage in any unfair or deceptive acts or practices and shall conduct their business so as to **promote the public interest and continuing integrity and stability of the Title Profession.**

# Alabama Act No. 2016-296

The term "title agent" or "agent" does not include attorneys licensed by the Alabama State Bar. Licensed attorneys shall be exempt from any licensure or regulation pursuant to this chapter.

# Alabama Act No. 2016-296

- Generally speaking an attorney will fall into one of the following three categories:

1. Attorney operates only as an individual (and no entity is licensed).
2. Attorney operates as a law firm entity.
3. Attorney operates as a corporate title agency / entity.

# Attorney operates only as an individual (and no entity is licensed).

- Example: Chas Smith operates as Chas Smith attorney as law = Chas Smith is exempt from licensing



# Attorney operates as a law firm entity.

- Example: Chas Smith operates as Chas Smith, LLC = Chas Smith and Chas Smith, LLC are exempt from licensing UNLESS...
- Chas Smith, LLC, employs Suzy Smith, a non-attorney and Chas wants Suzy to continue to sign commitments and policies, THEN
- Chas Smith, LLC must be licensed with the ALDOI and Suzy Smith must be licensed as well.

# Attorney operates as a corporate entity

- Chas Smith, who is an attorney, operates as Hoover Title and Closing, LLC = Hoover Title and Closing, LLC must be licensed with ALDOI and if Chas wants to issue commitments and polices, he must be licensed as well.

# For More Details, please visit the link below

- <http://aldoi.gov/Licensing/TitleInsurance.aspx>.
- Title insurance agents who are now exempt from the title insurance agent licensing requirements can request the immediate cancellation of the title insurance agent license by **faxing or mailing** a letter to **Producer Licensing Division** requesting cancellation of license, or they can allow the license to expire by not renewing it.
- Reminder: Individuals previously licensed as title insurance agents in this state, whether by having passed the examination or by being exempt from the examination, are exempt from the examination requirements should they **subsequently seek to again become licensed** as title insurance agents, but only if the application for **license is received within 12 months of the date the previous license was cancelled**.

# Renewing Your Title Insurance License

- Must have **24 hours** of Continuing Education (CE) in title insurance every 2 years
- That's basically **1 hour per month** (*webinar?*)
- 3 of those 24 hours must be in **Ethics**
- The 2 years corresponds to YOUR license date
- License date is your **birth month**
- **Even** or **Odd** year based on your year of birth


# Renewing Your Title Insurance License

- Renew during your birth month in year of renewal, every 2 years.
- If you miss the deadline during your birth month, there is a **30-day grace period** → license **reinstated retroactively**.
- If you miss the grace period, you can renew up to 12 months after your license expires without re-taking the test → *but your license is expired during that time.*

# Checking Your Hours

<http://www.statebasedsystems.com/EdTranscript.htm>

## Education Transcript Search

\*License State:  

\*Last Name:

\*Last 4 Digits of SSN:

\*National Producer Number :

*\*Required fields*

Reset

Search

- **Rule 1.15 [Safekeeping Property] - trust account - continues to lead to the most suspensions and disbarments**

# Rule 1.15 Safekeeping Property

- A lawyer shall hold the property of clients or third persons that is in the lawyer's possession in connection with a representation **separate** from the lawyer's own property.
- Lawyer is entitled to receive as a fee, reimbursement, or costs shall **not** be used by the lawyer for any personal or business expenses **until** such funds are removed from the trust account.
- A lawyer shall **designate** all trust accounts, whether general or specific, as well as deposit slips and all checks drawn thereon.



# Rule 1.15(e) Safekeeping Property

*Lawyers must retain the following records for a period of six (6) years*

1. Receipt and disbursement journals containing a record of deposits to and withdrawals from client trust accounts, specifically identifying the date, source, and description of each item deposited, as well as the date, payee, and purpose of each disbursement
2. Ledger records for all client trust accounts showing, for each separate trust client or third person, the source of all funds deposited, the names of all persons for whom the funds are or were held, the amount of such funds, the descriptions and amounts of charges or withdrawals, and the names of all persons to whom such funds were disbursed
3. Copies of retainer and compensation agreements with clients
4. Copies of accountings to clients or third persons showing the disbursement of funds to them or on their behalf
5. Copies of bills for legal fees and expenses rendered
6. Copies of records showing disbursements on behalf of clients
7. The physical or electronic equivalents of all trust-account checkbook registers, bank statements, records of deposit, prenumbered canceled checks, and substitute checks provided by a financial institution
8. Records of all electronic transfers from client trust accounts, including the name of the person authorizing the transfer, the date of transfer, the name of the recipient, and confirmation from the financial institution of the trust-account number from which money was withdrawn and the date and the time the transfer was completed
9. Copies of monthly trial balances and quarterly reconciliations of the client trust
10. Copies of those portions of client files that are reasonably related to client trust-account transactions

# Rule 1.4(a) and (b)

## 1.4(a) and (b) [Communication]

*(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.*

*(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.*

The courtesy of returning telephone calls may have prevented or mitigated the jury verdict in *Lawyers Title Insurance Corporation vs. Vella*, 570 So. 2d 578 (Ala. 1990). In that case, the plaintiff attempted to contact the insurer's agent by telephone on three or four occasions. However, the agent failed to return any of the telephone calls. According to the agent, he did not know that the plaintiff had tried to call him three or four times, and he certainly did not avoid talking to the plaintiff. However, this was the same agent who disregarded the requirements in the manual. The plaintiff would later testify that, when his telephone calls were not returned and he continued to receive threats from the IRS, "it was like a nightmare"; he was "strung out"; he "could not sleep"; he "was in a position of the house being taken away" from him; and, that he "didn't know what to do". Under these circumstances, one can understand as to why the jury would give so much weight to the suppression claim asserted by the plaintiffs.

# Best Practice No. 2 – Escrow Trust Accounts

- The ALTA titled Best Practice #2 as: **Establish Written Procedures and Controls for Escrow Trust Accounts** and described the purpose as:

“Appropriate and effective escrow internal controls and staff training help title and settlement companies meet client and legal requirements for the safeguarding of entrusted funds. These procedures ensure accuracy and minimize the exposure to loss of such funds.”

# Best Practice No. 2 – Escrow Trust Accounts Continued

- Internal Controls to safeguard funds may include some of the following:
  - **Bank account names that include “trust” or “escrow”**
  - **Maintenance of separate operating and real estate settlement escrow accounts (attorney and corporate agencies alike)**
  - Utilization of positive pay
  - Blocks on international wires
  - Two person verification of wires
  - Limited number of employees who can wire
  - Limited dollar amount on wires out
  - Blocks on ACH withdraws
  - **Duties are segregated so that the person reconciling the account does not have signing authority**
  - Management review of monthly reconciliations Management daily review of outgoing wires

# Best Practice No. 3 – Privacy and Information Security

- The ALTA titled Best Practice #3 as: **Written Privacy and Information Security Program to Protect Non-Public Personal Information** and described the purpose as:

“Federal and state laws require title companies to develop a written information security program that describes their procedures to protect non-public customer information. The program must be **appropriate to the company’s size and complexity**, the nature and scope of the company’s activities and the sensitivity of the customer information the company handles.”

# Non-Public Personal Information Defined?

- What is NPPI?
- “any **information** an individual gives you **to get a financial product** or services (for example, name, address, income, Social Security number, or other information on an application.”

## Examples of NPPI?

- SSN
- Buyer and Seller Names with Property Address on CD/HUD
- Date of Birth combined with Name
- Driver's License Number combined with Name
- State Issued ID Number combined with Name





**Identify where NPI exists  
in your company.**



Data in Use



Data in Motion



Data at Rest

- **Data in Use-NPI on Server/CPU/Phone/Desk**
  - **Clean Desk Policy**
  - Lobby Separated from Offices or Conference Room
  - Does **Janitorial Service** have **access to** areas that have **NPI**?
  - Do you require computers/phones/laptops to have **passwords** to prevent unauthorized users from accessing NPI
  - Does your computer have firewall protection?



**Identify where NPI exists  
in your company.**



Data in Use



Data in Motion



Data at Rest

## **Data in Motion-NPI in e-mail**

- Do you have an **e-mail encryption** program
- Are you using **public e-mail address** like gmail or yahoo to transmit NPI?



**Identify where NPI exists  
in your company.**



Data in Use

The icon shows a document with horizontal lines, representing data being actively processed or used.

Data in Motion

The icon shows a document with horizontal lines and a yellow arrow pointing to the right, representing data being transferred or moving.

Data at Rest

The icon shows a document with horizontal lines and a yellow folder, representing data that is stored and not being actively used.

## **Data at Rest**-How do you dispose of NPI documents?

- How do you dispose of paper records? i.e. are they all going in a file room that is fireproof, in a file cabinet open to anyone that comes into your office, scanned in and then destroyed. If scanned in and destroyed, how often are they destroyed and who is doing the destroying?

# Best Practice No. 4 – Recording and Pricing Procedures

- The ALTA titled Best Practice #4 as: **Document Recordation and Title and Settlement Pricing to meet applicable laws and described the purpose as:**

“Adopting appropriate policies and conducting ongoing employee training can ensure a real estate settlement company can meet state, federal and contractual obligations governing the settlement process and provide a safe and compliant settlement..”

# Best Practice No. 5 – Title Policy Procedures

- The ALTA titled Best Practice #5 as: **Adopt Written Procedures Related to Policy Production, Delivery, Reporting and Premium Remittance** and described the purpose as:

“Appropriate procedures for the production, delivery and remittance of title insurance policies ensures title companies meet their legal and contractual obligations.”

# CPL Bulletin – October 19, 2011

- “Alabama has legislated a charge for CPL coverage for the first time ever, following a national trend. The law sets minimum prices and that is all our company is charging.
- For a **lender** it is **\$25.00**;
- for a **buyer/borrower** it is **\$25.00**;
- for a **seller** it is **\$50.00**;
- **due entirely to the underwriter.**”

# When is a CPL Required?

A Notice **IS required** in transactions only if:

1. Title Insurance is being provided, **and**
2. There is a transfer of ownership or possessory interest (which includes cash sales), **and**
3. The Lender has NOT requested a CPL prior to the closing.

A Notice **is NOT required** in transactions in which:

1. Title Insurance is NOT provided, even if the attorney also happens to be a title insurance policy issuing agent, **or**
2. The transaction is a refinance or other mortgage transaction involving only a Borrower and Lender, **or**
3. The Lender HAS requested a CPL prior to the closing.

# CPL Notice of Availability Continued

- The Act does not require you to provide notice to the other parties to a real estate transaction **if** the lender requests a CPL in advance.
- However, we **recommend** the Notice be presented to **each** buyer/borrower and seller in an insured transaction and that it be signed by those parties indicating their preference for the coverage.
- If the CPL is issued **in advance to the lender at their request**, *no further notice is required* to the lender and they do not need to sign the Notice.
- If the lender does not request a CPL, you must have the lender execute the Notice indicating they declined coverage.



# CPL Notice of Availability Continued

- **Blanket CPL's no longer in compliance with the Act**, which contemplates closing protection specific to the party and the transaction.
- CPL can only be issued listing our **title agents** or **approved attorneys** as settlement agent. Lender closing their own transaction can't get CPL.

# Notice of Availability of Owner's Title Insurance

Per the law, **we** as the **Insurer** require **YOU** as the **AGENT**, in any transaction where there is a **purchase/sale**, to obtain at or before closing from the purchaser a written **statement** acknowledging that owner's title insurance may be available to the purchaser in accordance with our underwriting guidelines and that the purchaser does or does not desire to purchase an owner's policy.

The written notice shall contain all of the following:

- (1) The **address** or legal description of the property.
- (2) A disclosure that owner's coverage may be **available** per our underwriting guidelines, along with the premium.
- (3) A space for purchaser to either acquire or decline **coverage**.
- (4) The **date** the notice is executed by the purchaser.
- (5) The **signature** of the purchaser(s).

# THE IMPORTANCE OF AN OWNER'S TITLE INSURANCE POLICY

## Do I need an Owner's Title Insurance Policy?

Most definitely! Title Insurance is a means of protecting yourself from financial loss in the event that problems develop regarding the rights to ownership of your property. There may be hidden title defects that even the most careful title search will not reveal. In addition to protection from financial loss, Title Insurance pays the cost of defending against any covered claim.

## How will Owner's Title Insurance protect me?

Some common examples of problems covered by an Owner's Title Insurance Policy include:

- Improper execution of documents
- Mistakes in recording or indexing of legal documents
- Forgeries and fraud
- Undisclosed or missing heirs
- Unpaid taxes and assessments
- Unpaid judgments and liens
- Unreleased mortgages
- Mental incompetence of grantors on the deed
- Impersonation of the true owners of the land by fraudulent persons
- Refusal of potential purchaser to accept title based upon condition of title

## What can make the Title to my home defective?

When you purchase your home, you take "title" to your property. Any number of problems that remain undisclosed after even the most meticulous search of public records can make a title defective. These hidden "defects" are dangerous indeed because you may not learn of them for many months or years. Yet they could force you to spend substantial sums on a legal defense and still result in the loss of your property.

## Won't the Lender's Title Insurance Policy protect me?

No, there are two types of Title Insurance. Your lender likely will require that you purchase a Lender's Title Insurance Policy. This policy only insures that the lender has a valid, enforceable lien on the property. Most lenders require this type of insurance, and typically require the borrower to pay for it.

An Owner's Title Insurance Policy, on the other hand, is designed to protect you from title defects that existed prior to the issue date of your policy. Title troubles, such as improper estate proceedings or pending legal action, could put your equity at serious risk. If a valid claim is filed, in addition to financial loss up to the face amount of the policy, your Owner's Title Insurance Policy covers the full cost of any legal defense of your title.

## How much does Title Insurance cost?

The one-time premium is directly related to the value of your home. Typically, it is less expensive than your annual auto insurance. It is a one-time only expense, paid when you purchase your home. Yet it continues to provide complete coverage for as long as you or your heirs own the property.

## ADDITIONAL QUESTIONS? PLEASE CONTACT:

Name

Contact Information



OLD REPUBLIC INSURANCE GROUP

# How to Prevent Wire Fraud

- One of the best defenses against Wire Fraud is to have a signed document by someone who will be receiving proceeds, i.e. seller, stating how they want the funds delivered
- If you obtain a signed document and changes occur regarding disbursement of said funds, you need to independently verify the authenticity thereof.

## Education & Marketing

Education & Marketing go hand-in-hand. Staying informed on the latest regulatory and market trends are great ways to promote your business. We understand the importance of growing your business and are dedicated to providing you the tools you need!



### Education



**CFPB's TILA-RESPA Integrated Disclosure Rule**  
Additional resources on the CFPB's TRID Rule.



#### Shared Success

ORT's "Shared Success Program" provides business-building consulting, sales and marketing training, access to complimentary live and recorded webinars, and more.



#### Legal Education

Relevant topics such as bankruptcy and foreclosures can be found here.



#### Best Practices Education

Check out our resources! Keeping you in the game!



#### Informational Videos

Relevant topics such as bankruptcy and foreclosures can be found here.



#### Cybersecurity Information

Useful information for the prevention & detection of cybercrime.

### Marketing for Agents



#### Old Republic Title Marketing Collateral

View, download, customize and print ORT marketing collateral and use to promote your Agency.



#### Old Republic Title's YouTube Channel

Follow ORT's YouTube channel for great resources and videos about the title industry.



#### Authorized Agent Program



#### Homebuyer Outreach Program



Bring cyber awareness into every email message by inserting this alert into your signature. [Download](#) and save a high resolution version.



[Instructions](#) on how to insert Cybersecurity Awareness Message in your email signature (once it has been downloaded and saved).



[ORT Cybercrime Awareness Video](#)



[Beware of Wire Fraud Infographic](#)

This JPG is suitable for electronic sharing (social, email, etc.).

This PDF version is suitable for printing on standard or legal paper.



[Shared Success University - Top 10 Tips to Avoid Cybercrime Losses](#)



[Shared Success - Cyber Hygiene](#)



[Sample Funds Transfer Agreement Version 1](#)



[Sample Funds Transfer Agreement Version 2](#)



**SAMPLE FUNDS TRANSFER AGREEMENT**

Date: \_\_\_\_\_

File Number: \_\_\_\_\_

Property Address: \_\_\_\_\_

Dear (Title Agent),

Please accept this as your authorization to disburse the funds for closing on the above-referenced property by the method checked below:

- I/we will attend closing and will personally accept a check for my/our funds.
- Send check to: \_\_\_\_\_
  - via overnight courier for an additional \$ \_\_\_\_\_
  - via US Mail
- Wire: Name(s) on the account: \_\_\_\_\_  
(Name(s) must match parties on the transaction)

ABA Routing Number: \_\_\_\_\_

Account Number: \_\_\_\_\_

I/we understand that these instructions can only be changed by my/our affirmative confirmation of any change request at the following phone number: \_\_\_\_\_.

You will not permit any alteration to these instructions until the change is verbally confirmed at the above number. I/we acknowledge that these steps are imposed to protect my funds. I/we also understand that if you do not feel that the change request is sufficiently confirmed in your sole discretion, you reserve the right to withhold the issuance of the funds until such time as the revised instructions are sufficiently confirmed.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print

\_\_\_\_\_  
Print

**SAMPLE FUNDS TRANSFER AGREEMENT**

Date: \_\_\_\_\_

File Number: \_\_\_\_\_

Property Address: \_\_\_\_\_

Dear (Title Agent),

Please accept this as your authorization to disburse the funds for closing on the above-referenced property by the method checked below:

- I/we will attend closing and will personally accept a check for my/our funds.
- Send check to: \_\_\_\_\_
  - via overnight courier for an additional \$ \_\_\_\_\_
  - via US Mail
- Wire: Name(s) on the account: \_\_\_\_\_  
(Name(s) must match parties on the transaction)

ABA Routing Number: \_\_\_\_\_

Account Number: \_\_\_\_\_

I/we understand that these instructions can only be changed by my/our affirmative confirmation of any change request at the following phone number: \_\_\_\_\_.

You will not permit any alteration to these instructions until the change is verbally confirmed at the above number. I/we acknowledge that these steps are imposed to protect my funds.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print

\_\_\_\_\_  
Print



# Enron

- Examples of ethical failure usually focus on financial impropriety.
- 2 weeks before Enron bankruptcy was filed, Ken Lay sent out a positive email.
- Enron and other such cases are extreme examples of more common and everyday ethical failures at the level of relationships

# Boeing

- Boeing would bid on a defense contract with the US Defense Dept.
- The general would recommend Boeing and ultimately the bid would be awarded to Boeing BUT when the general got ready to retire Boeing would have a consultant job for him.
- The Justice Department alleged quid pro quo
- CEO Phil Condit resigned, Henry Stonecipher was hired but has some issues.
- In 2005 Jim McNerney was hired specifically because he was a published author on business ethics.

# Boeing Continued

- Boeing has been a visionary company that values quality, excellence, and innovation.
- Boeing management sustains the core ideologies of the company and relates the values and purposes to its employees.
- Long term investment in Boeing has proved to be a successful venture.

# Boeing Continued

- Boeing encourages you to move to different departments and jobs if you are not happy at your current position.
- Boeing Encourages a broad knowledge base to further employees development.

# Be a Student of Your Trade

#1



Whoever said, “Ignorance is bliss” was not in the title business.

“Ignorance is a risk.” I’ve made my biggest mistakes when I was ignorant about something, lack of knowledge is not an excuse.

Here is a better quote. **“Risk comes from not knowing what you’re doing.”**

Warren Buffet

It takes a lifetime to build your reputation, and one unethical mistake will destroy it, even if you didn’t know.

# CFPB Update

## Best Practices

## Technology

## Market Trends





# Thank you!

- If you have any questions regarding any of this material, call me at 1-800-843-1688 or e-mail me at [cwsmith@mvt.com](mailto:cwsmith@mvt.com). Thank you again for all you do for ORT!