

**AEA 38th Annual Business Meeting and Educational Conference
May 16 thru 18, 2018 InterContinental Hotel, Kansas City, MO**

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38th Annual Business Meeting – May 16, 2018

Call to Order - Sheryl Oldham

Invocation - Ann Dunham

Pledge of Allegiance - Susan Reiman

Introduction of Officers and Directors - Sheryl Oldham

Parliamentarian - Sue Fulfs

Sergeant At Arms - Steve Cattolica

Report of Credentials Committee - Sue Fulfs

Credential Report for Attending Delegates representing their individual State and Local Associations and the Delegates at Large (Executive Board and State AEA Directors) totaled 91 voting ballots as opposed to the 104 voting ballots from 2017.

Adoption of Business Meeting Standing Rules – The Standing Rules were read aloud in accordance with AEA requirements by Milre Henry

Report of Minutes (May 2017) - Tiffannie Hobgood

Minutes consisting of 13 pages in the Business Meeting Workbook were approved as submitted in the workbook

Report of Treasurer (April 2018) - Karen Christiansen

Filed for audit as presented in the Workbook

Report of Board of Directors - Sheryl Oldham

Report of Committee Chairs

Advisory of Past Presidents - Phil Dryden

Donna Inman of California was announced as the 2018 winner of the Earl G. Barrett Award

Bylaws/Policies & Procedures - Heather Wyant

All proposed Bylaws Amendments were approved as submitted with some discussion.

Quality Review Subcommittee - Linda Ruma

Conference - Carlye Buxton

Contract Review - Ann Dunham

Education - Karen Christiansen

Finance - Karen Christiansen

Future Sites - Tiffannie Hobgood

The committee has solicited 4 bids for locations in Arizona for the 2020 and 2021 Conferences. One bid has been accepted and the committee is waiting for a contract

Government Affairs - Rosanna Medeiros

Long Range Planning - Milre Henry

Membership - Donna Inman

Currently 9-member states with a combined AEA member count of 1,107

The Membership Committee has been contacting potential new member states and has

Minutes Review - Sue Fulfs

41 National Certification - Kathy Sullivan

42 Kathy Sullivan described the Certification process. She identified that there are 310 updated
43 questions in the testing pool.

44 Technology/Website - Tiffannie Hobgood

45 eNews/eBlast Subcommittee - Karen Greenhow

46 Social Media Subcommittee - Tiffannie Hobgood

47 Report of the Nominating Committee - Phil Dryden

48 The 2018 Slate was updated from the one presented with workbook materials as Jeanette Williams
49 from Nevada had withdrawn her acceptance to serve.

50 President: Rosanna Medeiros from California automatically ascended to AEA President for
51 2018-2019

52 President Elect Nominee Heather Wyant from Arizona was unanimously elected

53 1st Vice President Nominee Carlye Buxton from Arizona was unanimously elected

54 2nd Vice President Nominee Donna Inman from California was unanimously elected

55 3rd Vice President Nominee Tiffanie Hobgood from Arizona was unanimously elected

56 Secretary: Slate Nominee Lena Signor from California was announced.

57 Rebecca Lewis from Colorado was nominated from the floor.

58 California requested and received a 10-minute caucus where both candidates

59 visited each state delegation requesting personal ballot consideration from them

60 The ballots were tabulated,

61 Rebecca Lewis was named the new Secretary

62 Treasurer: Nominee Karen Christensen from Oregon was unanimously elected.

63

64 While the AEA Secretary ballots were being counted, Art Davis gave a brief Washington DC update:

- 65 1. Financial Crimes Enforcement Network (FinCEN) – Geographic Targeting Order information. There
66 has been an expansion of the responsibilities and new issues effective May 21, 2018.
- 67 a. ALTA and FinCEN have been in private negotiations since the last 90-day extensions of the
68 GTO
- 69 b. The Bank Secrecy Act provides that any GTO issued must remain confidential and the details
70 are not supposed to be disclosed to ANYBODY. The prior issued GTO had disclosed not
71 only targeted areas but also specific types of real estate transactions and also Transactional
72 limits.
- 73 c. The Title companies are now in compliance with the regulations and are **NOT ALLOWED** to
74 tell Settlement Agents, or anybody else, the kinds of transaction or the various limits and
75 counties that are covered. The title companies may be asking for compliance
76 documentation on all transactions to they are not selectively providing confidential
77 information.
- 78 d. If the transaction qualifies as a covered transaction, then the title company cannot record
79 and issue title insurance unless they report the collected information to FinCEN.
- 80 2. A bipartisan group of House members on Wednesday released a bill that would replace the director
81 of the controversial **Consumer Financial Protection Bureau** with a five-person commission. The bill
82 would also rename the CFPB the **Financial Product Safety Commission**.
- 83 3. HR 5287 is still a work in progress. This is a bill that Phil Dryden, SASIP and AEA Past President has

84 been very instrumental is working that deals with the number of allowed Seller Financing
85 transactions by certain parties under the CFPB regulations.

86 **This concluded the 38th Annual Business Meeting.**

87

88

89 **AEA 2018 Annual Education Conference - Day 1 - May 17, 2018**

90 The Education day started with the Opening Ceremonies consisting of:

- 91 1. the Parade of State Flags by the State Presidents,
- 92 2. Parade of AEA Past Presidents in attendance
- 93 3. Parade of current AEA Board of Directors in attendance
- 94 4. Invocation, Flag Salute, Mission Statement, AEA Creed and the AEA Premise
- 95 5. AEA President Sheryl Oldham – Welcome to the Education Conference.

96

97 **Michael Haas, CPA with Morton Alan Haas & Co**

98 **TAX ACT 2018: FIRPTA, 1099-s AND What it Means to Real Estate and You**

- 99 • FIRPTA enacted in 1980 but did not go into effect until 1984, and in the first year Canadians were
100 exempted.
- 101 • **NEVER, NEVER, NEVER** put Escrow/Settlement Agent in as the **Withholding Agent ! ! ! !**
- 102 • FIRPTA is only handled in **Philadelphia, PA** and **Ogden, UT** locations and those people handling the
103 phone calls are the same people handling the written FIRPTA paperwork.
- 104 • FIRPTA Payment is due 20 days AFTER THE CLOSE OF ESCROW. Don't wait for day 20. Make it a part
105 of your settlement process to send in FIRPTA funds at the close of escrow. There is no GOOD reason to
106 delay the FIRPTA payment.
- 107 • NEVER EVER STOP PAYMENT ON A CHECK SENT TO THE IRS IN ERROR!
 - 108 ○ Immediately send IRS a corrected 8288
 - 109 ○ Who's going to get the refund ?
 - 110 ■ The Buyer because they are the named party on the 8288
 - 111 ○ Encourage the Seller to file their return and request early refund instead
- 112 • What is triggering IRS notices?
 - 113 ○ Withholding Agent on 8288-A is the Buyer NOT Escrow/Settlement Agent
 - 114 ○ IRS 8288-A needs both the Withholding Agent ID and the Seller ID info
 - 115 ○ Because the FIRPTA payment check goes in with the IRS 8288 (transmittal) it needs to include
116 the Buyer Withholding Agent Tax ID #.
- 117 • FIRPTA Withholding is 15% unless an exemption exists:
 - 118 ○ **If Buyer signs occupancy affidavit** Sales Price under \$300,000 – No Withholding
 - 119 ○ **If Buyer signs occupancy affidavit** Sales Price between \$300,001 to \$1,000,000 –
120 Withholding is capped at 10%
 - 121 ○ Two-year occupancy or permanent occupancy is NOT part of FIRPTA. Only the **Buyer's**
122 **Occupancy Affidavit.**
- 123 • What to do if Seller claims to have a loss or a reduced withholding liability:
 - 124 ○ If Escrow/Settlement Agent is willing to hold funds BY SPECIFIC AMENDMENT SETTING
125 FORTH LIMITATIONS OF LIABILITIES)
 - 126 ○ IRS 8288-B must be mailed to IRS with appropriate forms and documents on or before the
127 close of escrow. Escrow needs proof of delivery for their file.

- 128 ▪ Section 5 of the 8288-B form (address where you want withholding certificate sent)
- 129 must be Escrow/Settlement Agent. **Not the Buyer/Transferee/Withholding Agent**
- 130 **or the Seller/Transferor**
- 131 ▪ FIRPTA Withhold Payment, when funds are held in escrow pursuant to filing Waiver
- 132 form IRS 8288-B is due 20 days AFTER THE dated date of the IRS determination
- 133 letter sent to Section 5 address.
- 134 ▪ The penalty for not paying on time is 25%
- 135 ▪ IRS may issue the Seller a temporary ITIN for correspondence purposes which can
- 136 be very confusing for Sellers.
- 137 ○ Some title companies are not allowing their escrow/settlement agents to touch the 8288
- 138 forms so the burden falls on the Buyer and Seller
- 139 ○ Since a foreign Seller can file their tax return any time they want to, they may find it
- 140 beneficial to record, pay the tax, file the return and receive funds faster, if they file for early
- 141 refund. Seller would need a copy of the 8288-A form to file with their return.
- 142 if they have issues with IRS they should contact one of the many Taxpayer Advocate
- 143 programs.
- 144 • IRS 8288 Form: What if your Buyer is a Foreign? Complete part 1 of the form with Buyer's
- 145 information using "n/a" or "foreign" as the "Identifying number".
- 146 ○ Make sure the check sent to IRS contains some form of identification to the Buyer linking
- 147 the check to the 8288-A form
- 148 ○ The Buyer needs to sign the 8288 form. Per Michael, if the Buyer will NOT sign the form,
- 149 escrow can sign it, just NOT IN THE "paid preparer" section.
- 150 ○ IRS looks at this form as a return and therefore must have "a" signature.
- 151 • New Tax Laws
- 152 ○ Even with the loss of deductions, most of the returns his firm filed for 2917 and also for
- 153 2018 projections the actual taxes went down NOT UP.
- 154 ○ IRS appears to have been giving the super wealthy corporations a reason to bring back their
- 155 offshore funds
- 156 ○ Another motivation was to give renters the same type of benefits as property owners.
- 157 • Exchanges
- 158 ○ Personal Property exchange rules no longer exist.
- 159 ○ FIRPTA payments by Settlement Agent only apply to the BOOT paid or credited through
- 160 escrow

Dr. Jordan Rappaport, Senior Economist at the Federal Reserve Bank of Kansas City
The Outlook for Housing in 2018

164 The Unemployment Rate for April 2018 is the lowest since the 1960's at almost ½ of what it was in 2013.

165 Income is up over 16% - people want to consume "lots of everything". Unfortunately for our industry non-

166 housing consumption has been growing at twice the rate of consumption for housing

167 Economy is improving

168 With the long-term effects of the recession and the increasing effect of enormous student debt, children are

169 not moving out of their parent's homes to start their own family units.

170 Problems with current housing:

- 171 • Across the country the US is short 3,000,000 households
- 172 • Inventory of available homes for sale is scarce

- 173 • Rental vacancies are close to the lowest since 1984
174 • New home construction through it has improved since the 2008 recession is still very low,
175 • Most find no sustainable reason to upgrade to better/different housing, so they just stay put
176 • Existing single-family housing listings relative to the numbers of US households is currently at the
177 lowest percentage since at least the early 1980's
178 • Low construction leads to low residential sales

179 National Home prices do not appear to be overvalued

180 The oldest baby boomers started turning **65** back in 2011, and many of them have already retired. Where
181 and in what kind of housing will they live?

- 182 • 15,000,000 baby-boomers will turn 75 by 2030
183 • Like the millennials the baby-boomers will want to move back into multifamily dwellings near other
184 family members
185 • This eventually will free up some inventory for those wanting to get into single family which will
186 cause some downward price pressure.

187

188 **Mark Ladd, VP Regulatory and Industry Affairs, Simplifile**
189 **BLOCKCHAIN – What is it and how does it affect us?**

190 Throughout time the history of man has been memorialized initially from handwritten books, to microfilm,
191 to scanning, to optical images now to BLOCKCHAIN.

192 Blockchain is an electronic system based on **cryptographic proof** (a mathematical formula) instead
193 of third-party testimony, allowing any two willing parties to transact directly with each other
194 without the need for a third party.

195 An electronic system based on **cryptographic proof** (a mathematical formula) instead of third-party
196 testimony, allowing any two willing parties to transact directly with each other without the need for a third
197 party.

198 Math is becoming the preserver of history – taking a digital snapshot of a transaction. Using cryptography to
199 keep exchanges secure, **blockchain** provides a decentralized database, or “digital ledger”, of transactions
200 that everyone on the network can see. This network is essentially a chain of computers that must all
201 approve an exchange before it can be verified and recorded.

202 **Types of Blockchains**

- 203 • **Public** – **Grants read access and ability to create transactions** to all blockchain users; users can
204 transfer value without the express consent of blockchain operators
- 205 • **Private** – **Limits read access to predefined list of entities**; users have to rely on interfaces provided
206 by blockchain operators in order to read and submit transactions
- 207 • **Permissionless** blockchain building allows anyone to contribute data to the ledger with all
208 participants possessing an identical copy of the ledger
- 209 • **Permissioned** blockchain building is restricted to a set of known entities; identical copies of a ledger
210 are distributed only to a limited number of trusted participants

Public	Private	
<ul style="list-style-type: none"> • Anyone can read • Anyone can write 	<ul style="list-style-type: none"> • Doesn't exist. A permissionless private blockchain wouldn't be very private 	Permissionless
<ul style="list-style-type: none"> • Anyone can read • Only known entities can write 	<ul style="list-style-type: none"> • Only known entities can read • Only known entities can write 	Permissioned

211

212 It is a TRUSTLESS PROCESS. EVERYONE can and does participate in the transaction. Since everyone is
 213 involved, if any of the numbers do not add up then the string of the blockchain history does not add up. If
 214 anyone tries to change a number in the string, it's noticed because the numbers now do not add up
 215 anymore. If a blockchain transaction is created in error, then the correction is made by a new entry. Not like
 216 an escrow recording error that may require the original document to be found and re-recorded.

217 Each transaction creates a single history, a universal truth about who owns what. The blocks are all linked
 218 together so if someone tries to mess with one block, the rest of the transaction makes no sense and the
 219 hack is noticeable.

220 **Value of Blockchains**

- 221 • Availability
- 222 • Openness / Transparency
- 223 • Auditability
- 224 • Alternative to existing centralized asset management
- 225 • Transforms *asset transfer* the way the internet transformed *data transfer*

226 **Security Properties**

- 227 • Impossibility of counterfeit
- 228 • Immutability (cannot be changed)
- 229 • Reduction in opportunity for fraud
- 230 • Disintermediation (no "middle men")
- 231 • Transparency and ease of auditing
- 232 • Less expensive transaction processing

233 Legislators are currently passing blockchain laws like crazy. Some of these laws include language that just
 234 does not make sense. There are way too many attorneys in the room when there should be many more
 235 industry advisors who actually know how things work in the real world of industry and consumers.

236 How big a problem would forgeries be in the blockchain world? In theory: the underlying technologies
 237 inherent in blockchain should prevent a significant amount of that, as long as the humans play by the rules.
 238 (i.e. If one gives a personal password to a spouse or significant other, and that person gives it to ant other
 239 third party the ID could get into the hands of bad persons.

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242

Kathy Sullivan, SASIP
National Certification Presentation

243 Kathy presented a detailed outline of the AEA National Certification process. She went online to the AEA
244 website and walked everyone through all the steps to follow to get to the point of taking the test online.

245 She reminded all that the AEA fiscal year runs from August 1st through July 31st and that once one obtains
246 the AEA Certification of SASIP (Senior American Settlement Industry Professional)

247 It is critically important, just like on your settlement desk, to read and follow ALL the instructions for the
248 program.

249 Everything is done on line and some of the sections do not allow for starting and then pausing. They feel the
250 process is user friendly.

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253

FBI Special Agent (husband and wife team) Kris and Amy Kanakares
CYBERCRIME and MORTGAGE FRAUD

254 Kris and Amy work on a variety of different kinds of cases

- 255 • CONSPIRACY cases, specifically:
 - 256 ◊ Conspiracy to defraud the USA under 18 U.S.C. §371
 - 257 ◊ Fraud and/or False statements
 - 258 ◊ Mail Fraud
 - 259 ◊ Wire Fraud under 18 U.S.C. §1343 (Has overtaken ALL other types of fraud)
 - 260 ◊ Bank fraud under U.S.C. §1344
 - 261 ◊ Money laundering: drug related and also significantly - mortgage related
 - 262 ◊ Criminal forfeiture under U.S.C §982
 - 263 ◊ Various Mortgage programs
 - 264 ◊ Cybercrimes online credit and debit card fraud
 - 265 (was \$1.5 BILLION in 2012 and could reach \$2.1 TRILLION by 2019)
- 266 • Home Equity Conversion Mortgages (HECM)
 - 267 ◊ Lots of fraud and elder abuse with these “Reverse” Mortgages made to unsuspecting and/or gullible
 - 268 seniors.
- 269 • Mortgage Fraud
 - 270 ◊ Material misstatement, misrepresentation or omission made by and underwriter of lender to fund,
 - 271 purchase or insure a loan
 - 272 ◊ Fraud exists when: If the lender would NOT have made the loan IF they had been aware of the “X”
 - 273 factor misrepresented, misstated or omitted.
- 274 • Fraud for Property schemes
 - 275 ◊ Usually a single borrower working on keeping a particular piece of property
 - 276 ◊ Occasionally an entity working the system to maintain or acquire multiple pieces of property.
- 277 • Stated Income or “Liar Loans”
 - 278 ◊ Various schemes to fraudulently inflate reported income to qualify for loans that the borrower has
 - 279 absolutely no way of making payments
 - 280 ◊ Loans made to promote income for the Mortgage Broker/Lender at the expense of the unsuspecting
 - 281 lender who purchases the loan on the secondary market.
 - 282 ◊ Fraud for profit – investors, corporations, much larger scale.

283 They gave specific examples of how they processed claims and pursued bad guys under the typical schemes:

- 284 ○ **Backward Applications**, where the loan application is fabricated to meet the needs to acquire a
285 specific desired property
- 286 ○ **Silent Seconds**. Various situations where outside financing to purchaser was NOT disclosed to
287 primary lender by builders and developers, sellers, real estate brokers. Normally required assistance
288 from additional players: i.e.: appraisers, settlement agents, title agents, real estate brokers,
289 mortgage brokers etc.
- 290 ○ **Property Flipping**: Property is purchase for value, then fraudulently resold with phony appraisal
291 evidencing a significantly higher sales price shortly after initial close of escrow. Typically, bad
292 appraisers, doctored loan applications and docs, inflated second buyer's income, etc.
- 293 ○ **Foreclosure Schemes**: Attorney or Mortgage Broker "foreclosure resolution expert" contacts
294 defaulting owner hoping to keep their homes and pretends to "work out" issues with the existing
295 lender by charging exorbitant upfront fees and collecting and keeping full or partial payments
296 instead dealing with existing lender.
- 297 ○ **Preforeclosure Sales Program (PFSP) (Short Sale Scams)** Lender allows borrower to sell property
298 for less than owed and accepts the lesser amount as satisfaction un full for debt rather than
299 foreclosing on the property. Bad guys negotiate sales for distressed purchase price sometimes
300 significantly less than the market will bear and fool lenders into accepting small payoff numbers.
301 Then they create LLC entities to immediately purchase the property for inflated values and take the
302 profit. Many times, they involve a fraudulent Buyer and double escrow. Short Sales are supposed to
303 be "arm's length" transaction. When a **HUD loan** if foreclosed – HUD pays the loss and that **means**
304 **WE THE TAXPAYERS PAY THE LOSS**. FHA paid claims on almost 20,000 Short Sale/PFSP sales with
305 claims totaling more than \$1,700,000,000 (That's BILLION) from 9-1-2010 to 8-31-2011. PFSP are
306 continuing on the rise over the past 5 years.
- 307 ○ **Sale and stay Scams**; Troubled Borrower recruits a friend (or family member with different last
308 name so relationship is NOT obvious) to purchase the property under PFSP/Short Sale transaction. In
309 the process they take extreme measures to devalue the property for the appraisal and sale process.
310 Then the Original Borrower STAYS in the residence with a lower mortgage loan and payment.

311 **Three Easy Ways To Report Fraud:**

- 312 1. hotline@hudoig.gov
- 313 2. Fax: 202-708-4829
- 314 3. <http://www.hudoig.gov/report-fraud>

315 **"ALWAYS GROWING"**

316 **Jones Loflin, Author, Educator, Internationally Recognized Speaker**

318 Jones presented a very interesting session concentrating on **How to successfully motivate, develop, and**
319 **empower a diverse group of people to work together and achieve remarkable results**. He compared the
320 process of building a successful team to a gardener raising any kind of crop. One needs to break ground and
321 cultivate to create conditions where the team can thrive. One needs to make sure the environment is
322 conducive to nurturing the growth of each member of the team. A Leader needs to supply the necessary
323 resources to allow the team members to continue growing and bear fruit.

324 We keep bringing in mechanics when what we need are gardeners. Mechanics repair specific things. They
325 attack and fix something that has gone wrong. Then they find a new problem somewhere else and do it all
326 over again. Gardeners take in an entire process. They see the current state of the landscape, the potential of

327 what it could be. They envision every step necessary to cultivate the ground, plant the seed, water and
328 fertilize the plants, then they prune back that extraneous sprouts and buds. They continually celebrate each
329 and every positive result of their activity and work towards the final harvest of a beautiful bed of flowers or
330 whatever. Then they start again, over and over.

331 His **Always Growing** system is built on the 3 Ps

- 332 1. **Priorities** (the systems and procedures needed to create foundation). Doing the little things
333 that seem insignificant in doing, yet when compounded over time bring about magnificent
334 results. Key: Doing little things consistently
- 335 2. **People** (cultivating relationships and building stronger connections) Digging deeper into
336 understanding what is important to each team member and how to build mutual
337 responsibilities and goals.
- 338 3. **Prune** (remove obstacles that are inhibiting growth) make sure the team members are not
339 overburdened with extraneous tasks or duties.

340 The **BEST TIME** to plant a tree is: 20 years ago

341 The second **BEST TIME** is **RIGHT NOW!**

342

343 **e-EVERYTHING: e-CLOSINGS, e-NOTARY, etc.**

344 **Richard Hill**, VP, Technology, Mortgage Brokers assn.

345 **Mark Ladd**, VP, Regulatory & Industry Affairs, Simplifile

346 **Penny Reed**, Wells Fargo Home Lending

347 Industry surveys conducted ask: **WHY eMortgage/digital documents?**

348 Consumers say: Want it NOW and on a device of our choice. Consumers want instant response without
349 complications. Consumer driven (not millennial driven – it is an across the board expression of NEED.

350 Over the past five years the Loan Origination cost have gone up from \$5,200 to \$8,200 (Dodd Frank – TRID
351 etc.). There is less business to go around. Going digital is needed to save business and it costs less. As the
352 industry goes digital, we need to avoid just “adding to and adding to” – Need to rethink the entire process
353 and build in simplified work interactive flow between entities. The Borrower Disclosures could (should) be as
354 simple as I am borrowing \$250k, the payment is this and if I don’t make payments the lender takes my
355 home/their security.

356 Get rid of the checker checking the checker who is checking the other checker, etc.

357 The language in the loan documents need to be LESS legalese and easier for the consumer to understand
358 without the assistance of legal counsel.

359 **eClosings:**

360 Significantly challenging; It gets very thought-provoking when you start consolidating Federal Law with State
361 Laws.

- 362 • Where is the Original digital Note going to be delivered?
- 363 • How does the digital Deed of Trust/Mortgage get recorded? (83% of the US population lives in a
364 county where the recorders are currently doing some version of electronic recording
- 365 • What special requirements will the secondary market investor place regarding electronic signatures,
366 etc. etc. .

367 What to do with transactions that cannot be converted to digital due to either consumer (I want paper docs)
368 or other Lender or loan program restrictions?

369 You cannot out-regulate the fraudsters. The bad guys will always find a way to “work the system”

370 **eNotarization:**

371 There are currently 26 of 50 states where On-Line notarization is viable today.

372 MBA and ALTA collaborated on model legislation standards for online notarization. MISMO is creating
373 industry standards for online and remote notary standards.

374 Virginia, Montana, Texas, Nevada, Indiana, Tennessee and Minnesota currently have passed laws for
375 Remote On-Line Notarization. Implementation regulations are currently being created in some of these
376 states. California has presented a Remote Notarization Bill for consideration. California currently doesn't
377 allow e-notarization on real estate documents.

378 Consumers want eNotarization to simplify many transactions, not just real estate.

379 How paper and electronic documents line up for recordation and priority is still an issue being considered by
380 regulators.

381 Under the laws of UETA, each county can decide to the extent they will embrace electronic recordings and
382 eTransactions. Recording fee predictability is an issue today under the TRID guidelines.

383

384 **AEA 2018 Annual Education Conference - Day 2 - May 18, 2018**

385 **ETHICS – DIARY OF A WHITE-COLLAR CRIMINAL**

386 **Jerome Mayne**, Author, Internationally-Recognized Speaker, Former Loan Officer

387 Jerome is a Former Federal Inmate.

388 **Fraud definition:** false representation of a matter of fact, whether by word or contact; concealment of that
389 which should have been disclosed; that deceives or intends to deceive another, to his financial injury (more
390 or less...)

391 **Forgery and the like are fraud** – but equally fraudulent and bad is **the concealment of information** that
392 leads someone to make a decision

393 Example:

- 394 • Borrower comes in and wants to get a loan on a rental property;
- 395 • Borrower is **guided** to get better rates if it's NOT represented as a rental, but rather as a second
396 home...
- 397 • Borrower obtains owner occupied loan

398 **“Rarely does your instinct tell you to do the WRONG thing first...”**

399 **“COINCIDENCE”** in business is a real red flag

400 When Not paying attention to the red flags, we turn to justification and rationalization.

401 Fraud does not have to be profitable to be wrong.

402 The appearance of impropriety is as bad as impropriety itself.

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UCI PANEL DISCUSSION

Richard Hill, VP, Technology, Mortgage Bankers Assn
James C. Lamphere, VP, Title and Escrow, HomeServices of America
Penny Reed, Wells Fargo Home Lending

MISMO has created a Closing Instruction Developmental Work Group to create and maintain a standard **template** for lenders to use for their Closing Instructions to Settlement agents. This DWG consists of industry leaders from Small to very large Lenders, Settlement Agents, Title Insurance Agents, software vendors, secondary market lenders, regulators entities, etc.

Recent survey showed that the average closer is working with 20+ different lenders per week. If all their instructions are different, that creates a problem Closing instructions are all over the ballpark, in content AND in form. With this myriad of formats and detailed complicated instructions it increases the likelihood that compliance issues and errors will regularly occur.

Lenders routinely require settlement agents to assume duties, obligations and responsibilities that they cannot legally assume. The Lender Instructions are complex and frequently arrive to the settlement agents just prior to (or after) the borrower has arrived to sign the entire set of complicated loan documents.

It is not uncommon to have a lender include provisions which may not be possible for the settlement agent to comply with

- This requires time to resolve with the lender
- Some lenders are not receptive to changes
- Some lenders do not have clear channels for resolving the issues
- Amending or redacting closing instructions can result in post-closing issues
- Delays incurred in resolving these issues result negatively affect consumer satisfaction

The MISMO process is to gather MISMO members and industry professionals together.

- Everyone can offer comments –
- Participants are EXPECTED to comment during and throughout the process
- Once a DWG has created a “product” they are happy with it is reviewed by various MISMO committees for collaboration making sure it meets criteria and then it is released for public comment. These comments will be reviewed and issues, if any resolved the final product will be released for industry use.

Areas of specific Focus – Closing Instructions Initiative

1. Template Creating
2. Training/ Educational Materials
3. Reference Guide Creation Largely for lenders – how to use the template
4. Marketing The form will not be mandatory – lenders will have to be sold on the idea
5. Technology - Facilitating the lenders in incorporating the template

The Primary GOAL:

- Create a common template for Lender Closing Instructions to be used by cooperating lenders:
 - Universal format for organizing the commonly used terms, conditions and requirements of the specific transaction
 - Establish and determine the KEY components that should be included I the instructions
 - Separate General Instructions applicable for all loans from instructions specific to the transaction

446 ○ Organize and prioritize the information for closing in a manner that supports workflow and
447 understanding of all the parties to the closing

- 448 • Though the DWG may include sample language for lenders who wish to take advantage of standard
449 language, the template is NOT intended to mandate the use of specific language.
- 450 • FNMA/FHLMC are involved in the overall process

451 According to TRID the law is very clear on where the liability lies (WITH THE LENDER). One of the goals is to
452 stop the shifting of liability from lenders to the settlement agents

453 An DWG Education Goal:

- 454 • To Create implementation guides for lenders, settlement agents and loan operation system vendors
455 for using the common template
- 456 • to Create instruction for the day to day use of the template
- 457 • Also to consider including sample language for certain sections of the form

458 The Closing Instruction DWG has a meeting at MDA headquarters on June 26 and 27 to work on finalizing
459 the General and the Specific Templates. They will also be working on the next phase of creating the user
460 guide, and educational materials needed for implementation. They will also be working with the technology
461 group to collaborate common issues for implementation.

462 This MISMO Closing Instruction DWG has a one-year mandate to ‘GET IT DONE’

463

464 **TITLE ODDITIES – CEMETERIES, GHOSTS & ZOMBIES**
465 **Michael Holden, VP, Strategic Agency Manager, NATIC**

466 This Was a very interesting presentation dealing with the history of cemetery lands, the rights of purchasers
467 of cemetery plots. When can a cemetery plot be sold and what title insurance is available. Why some
468 cemetery burial grounds are below or above ground level and why.

469 What disclosures are required if a property is “haunted”? CA: has a regulation that if a murder occurred --
470 or a person died in the property -- within three years, it has to be disclosed –However - That a person died of
471 AIDS does NOT have to be disclosed, no matter what timeframe.

472 **ZOMBIES!** (Houses, that is)

- 473 • Right to ownership and possession of a home that remains with a person who believes he or she has
474 lost the property because of foreclosure
- 475 • A zombie house happens when a lender initiates foreclosure proceeding by issuing a notice of
476 foreclosure and then unexpectedly dismisses the foreclosure
- 477 • Owner moves out, believing they’ve been foreclosed upon
- 478 • If the person is unaware of the foreclosure DISMISSAL, he or she will be left holding a “zombie
479 house”
- 480 • A lender may decide to dismiss the foreclosure for a variety of reasons, including a surplus of
481 inventory, if costs associated with a foreclosure cannot justify its costs or if the lender does not want
482 to take possession of the home
- 483 • The homeowner still may be responsible for real estate taxes, liens for code violations and the un-
484 foreclosed mortgage.
- 485 • Detroit has 100,000 zombie houses... sometimes whole streets
486 ○ Sometimes the city will raze the entire block and zone it for mixed use, and sell
- 487 • What do zombie titles do to communities?? Lower property values, Create health/safety issues,

488 Attract crime AND Reduce ability of nearby landowners to sell properties

489

490

HISTORY OF TITLE INSURANCE

491

Anita Rubeck, Consultant, Forensic Escrow Services

492

Anita gave an intriguing history of Title Insurance going back to and including detailed information about

493

Costa Rica, Russian Czars, Egyptian Surveyors, Romans, William the Conqueror and the Doomsday Book,

494

Napoleon Bonaparte and Thomas Jefferson. She even threw in some Spanish Conquistador claims and the

495

Mexican revolution and war, the California Gold rush. (You had to be there).

496

Origins of the WORD “Escrow”

497

- Egyptian Pharaoh relied on SCRIBES to accurately write down the terms of agreements negotiated with the kings of foreign lands

498

499

- Ancient Rome – SCRIBA

500

- Ottoman Empire; SCRIVENER

501

- French: ESCROUE

502

- Medieval England: ESCROWL

503

Then sometime around 1890... man sold a property, received certificate of title and had to leave town

504

before being paid. Gave docs to a third party to hold ‘til the buyer paid the money TADA - ESCROW

505

506

LEGISLATIVE UPDATE AND WASHINGTON, D.C. UPDATE

507

Arthur E. Davis, III, AEA Washington, D.C. Representative

508

The content of this session is very detailed and is included with the materials

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510

Respectfully Submitted, David A. Shean, CSEO/CEI

511

With a VERY SPECIAL THANK YOU to Debi Peters, CEO/CSEO, 2017-2018 OCEA President, who

512

shared her copious and spot on notes with myself and many other AEA attendees.