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WHEN DISASTER STRIKES, WILL YOU BE PREPARED?

Recent severe weather incidents underscore importance of disaster management planning for title companies

THIS ISSUE:

NATIC®
NORTH AMERICAN TITLE INSURANCE COMPANY

Despite some of the natural disaster challenges we have faced in the last few months (see our cover story, "When disaster strikes, will you be prepared?" on Page 3), North American Title Insurance Company (NATIC) enjoyed a highly productive Fall season. In September, our Marketing and Education team produced a record five webinars for our affiliates and agents on a variety of topics: 1031 exchanges; recent updates to FinCEN reporting requirements affecting agents in several states; and judgments and liens. For more on the FinCEN updates, see our story, "FinCEN releases new Geographic Targeting Order," on Page 8.

In October, a large NATIC contingent headed to the American Land Title Association's ALTA ONE annual conference, held this year in Miami, home of our national headquarters. A major focus at this year's conference was a "pop-up" commercial video studio experience we offered to two dozen agents to provide them with a free opportunity to create a promotional video for their company. You can read more about this experience in our story, "NATIC produces commercial spots for agents," on Page 10.

Elsewhere at ALTA, **Rich Griffin**, our vice president and national sales manager, led a session on effective employee recruiting. On the last evening of the conference, NATIC hosted a "Tropical Night in Little Havana" at the historic night club Ball & Chain, where guests feasted on paella and enjoyed a salsa band (see back cover for photos from this fun event). Finally, we participated in the Title Industry Political Action Committee (TIPAC) Lip Sync Battle, kicking off an evening of entertainment with a rousing performance as the Blues Brothers.

We have also been offering live seminars to agents in the Midwest to help educate their real estate customers on key issues, including the advent of title insurance, ethics in real estate, and liens and encumbrances. Between all of these efforts, NATIC's Sales and Marketing & Education departments convened the first week of November at a ski resort in Pennsylvania for "Camp NATIC," a three-day company meeting to discuss how to better serve our independent agents and make plans for continued growth in 2018.

We are proud to share these efforts with you, and thank you for being an integral part of a very successful and productive 2017. ■

The NATIC Education Team

Camp NATIC, Class of 2017

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Contact a member of NATIC's MARKETING AND EDUCATION TEAM

KELLY McCAREL
V.P., Director of Marketing and Educational Programs

AMY TANKERSLEY
Manager of Education and Research

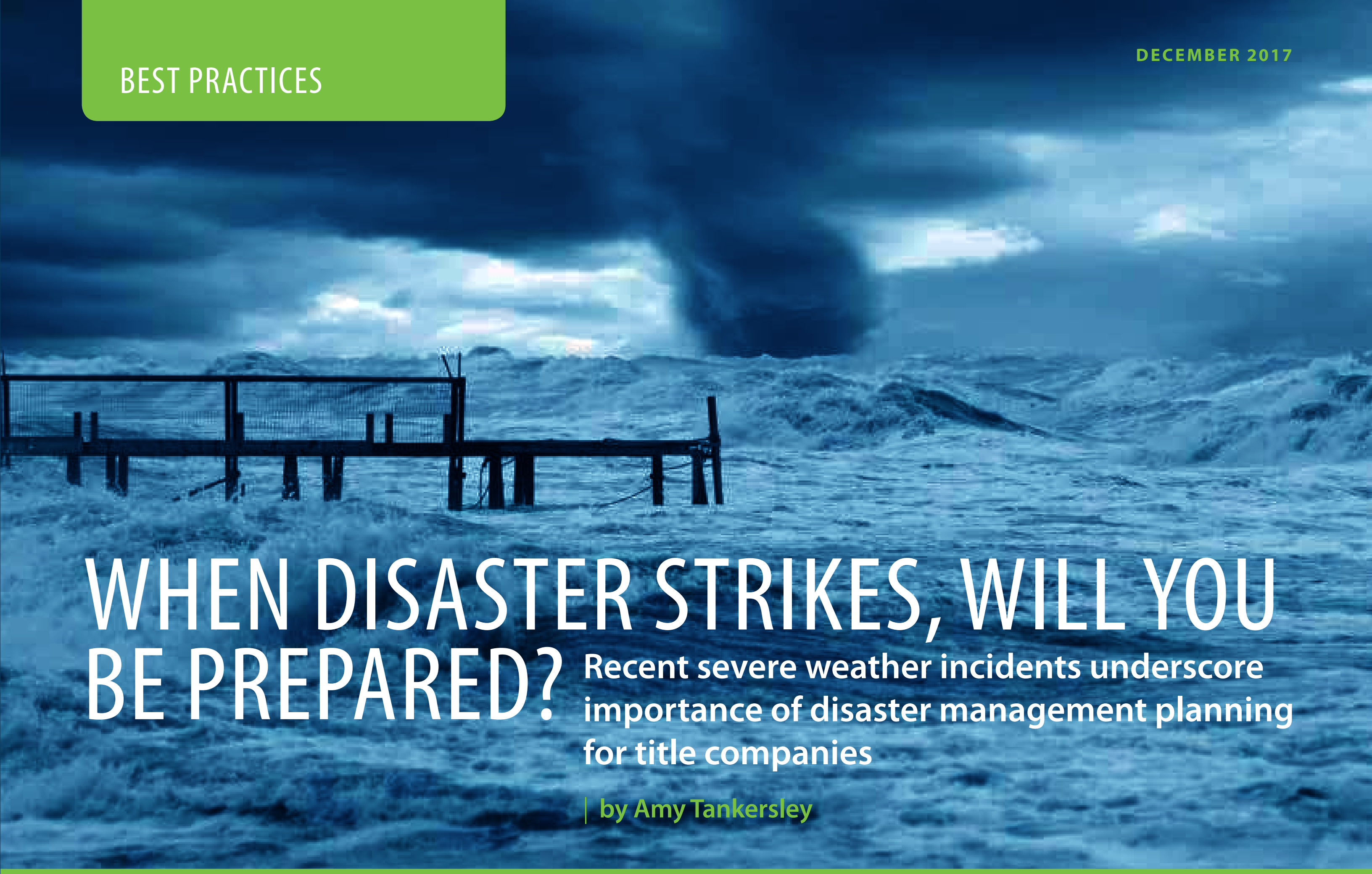
TIM STEELE
Senior Graphic Designer

CELESTE WAGNER
Project Manager, Marketing and Education

VIVIANA ALZATE
Events Coordinator

7550 Lucerne Drive | Suite 401
Middleburg Heights, OH 44130
naticeducation@natic.com
440.891.6820 • natic.com
https://agentlink.natic.com

For inquiries or comments regarding **LookingNorth** or for article submissions and reprint requests, please contact **Amy Tankersley** at **atankersley@natic.com** or **440.343.8531**.



WHEN DISASTER STRIKES, WILL YOU BE PREPARED?

Recent severe weather incidents underscore importance of disaster management planning for title companies

| by Amy Tankersley

In late August, Hurricane Harvey, a Category 4 hurricane, hit the Southern Coast of Texas, punishing Houston and the surrounding areas with harsh winds and up to 40 inches of rain. By the time Harvey finally dissipated around Labor Day weekend, it had caused nearly $200 billion in damages, primarily from widespread flooding in Houston, and set a new record as the costliest tropical storm on record — surpassing Hurricane Katrina's damages by nearly double.

Just days later, Hurricane Irma, a Category 5 hurricane, advanced on South Florida, the first major hurricane to make landfall in the Sunshine State since Hurricane Wilma in 2005. The 420-mile-wide storm hovered over the entire state for days, exhausting residents who chose not to escape the 130-mile-per-hour winds and 15-foot storm surges. When the storm was over, more than a million Floridians were without power for days, and state officials estimated damages at $100 billion.

In October, a series of wildfires ripped through Northern California, causing widespread destruction throughout Butte, Lake, Mendocino and Napa counties. Burning more than 1 million acres of land and destroying nearly 9,000 structures, current damage estimates from these fires top $3 billion.

In the worst-case scenarios of these disasters, people lost their lives or their homes. In even the best cases, thousands of people were displaced or without power for significant periods of time. In terms of how these events impacted our industry, some offices were closed for days, and closings were delayed or canceled.

These recent events underscore how imperative it is for title companies to develop, maintain and execute a disaster management plan, said **Emilio Fernandez**, Esq., president of NATIC.

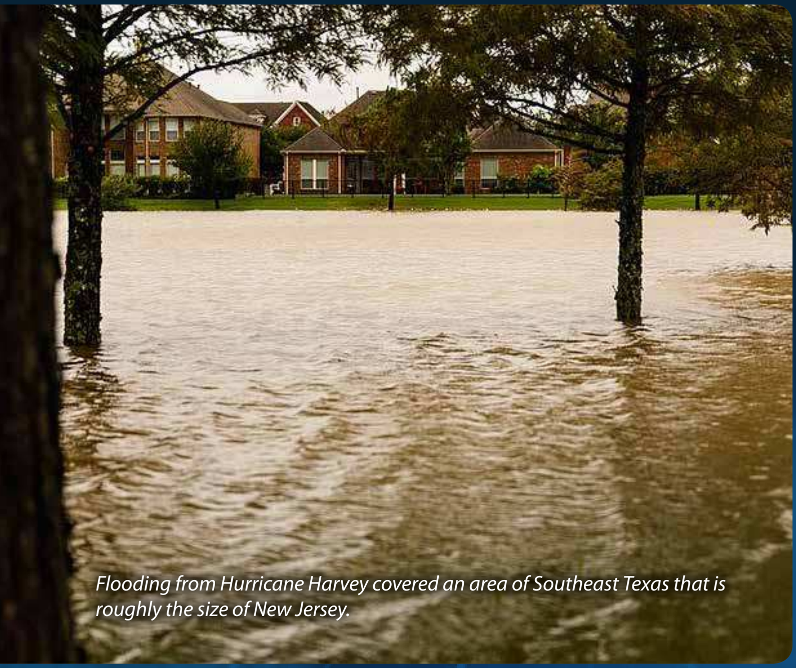
"In this new environment of frequent natural disasters, it's more prudent than ever for all agencies to have a disaster recovery and business continuity plan in place and fully tested," Fernandez said. "These plans should classify adverse events based primarily on anticipated duration and potential monetary loss from low impact to highest impact, ranging from a simple single server outage to a total loss of a data center location. A good plan in place today brings peace of mind in knowing that the business will continue operating, regardless of the adverse event presented."

Here's a look at some of the challenges NATIC and our agents experienced during some of the meteorological events that threatened business this Fall, and the steps we took to overcome them.

Houston Strong: Handling Hurricane Harvey

In Houston, the story of Harvey is not about the storm itself, but the massive flooding that brought life and business in the nation's fourth-largest city to a halt for weeks.

"Harvey was a bit of a different situation from other hurricanes because we had massive flooding in lots of neighborhoods,"



Flooding from Hurricane Harvey covered an area of Southeast Texas that is roughly the size of New Jersey.

said **Ashleigh Spruell**, NATIC's state agency manager for Texas and key accounts. "We had strong currents in the streets and open sewers feeding into the bayou's water system, introducing E. coli bacteria and other really bad stuff. Many people had eight or nine feet of water in their homes."

That included Spruell, who had to evacuate her bayou area home before checking on NATIC agents in the area to ensure they were safe. Spruell then focused on helping to bring supplies to certain areas in Houston that were underserved or difficult to access due to flooding.

"You see people really coming together at a time like this," she said. "Someone we knew drove from Dallas with their boat and used it to help people get out of their flooded homes. People you may never have spoken to before are now connected to you. Everyone here really pulled together."

Closely following reports of Harvey's activity, Celebrity Title Co., a NATIC independent agent with offices in Katy and Sugar Land, began preparing for Harvey by making a list of the closings they had for the next week and touching base with buyers, sellers and clients. Thanks in part to the Texas Department of Insurance's Disaster Recovery Guide, "we were prepared for anything, from having trash bags on hand to being prepared to replace our equipment," said **Andi Bolon**, the company's president. Celebrity Title's files were safe and sound, as all documents and servers are kept in Minneapolis.

With those solid disaster management preparations in place, Celebrity Title focused on the safety and well-being of its employees, clients and customers, Bolon said.

"Our company's slogan is, 'Partners in life, not just business,'" she said. "This was an opportunity to make sure our video matched our audio, so to speak. Some of our competitors just sent out canned, timed emails. We care about people as human beings, and did not see them as transactions."

Celebrity Title created a Facebook page so members of its team could check in and mark themselves safe. Employees checked in twice a day, and team members reached out to clients and customers.

"We have a team of 32 people, and we had 12 people in the danger zone for three days," Bolon said. "One employee lost her apartment and all of her wedding preparations. Another lost her car. We came out pretty lucky in the scheme of things."

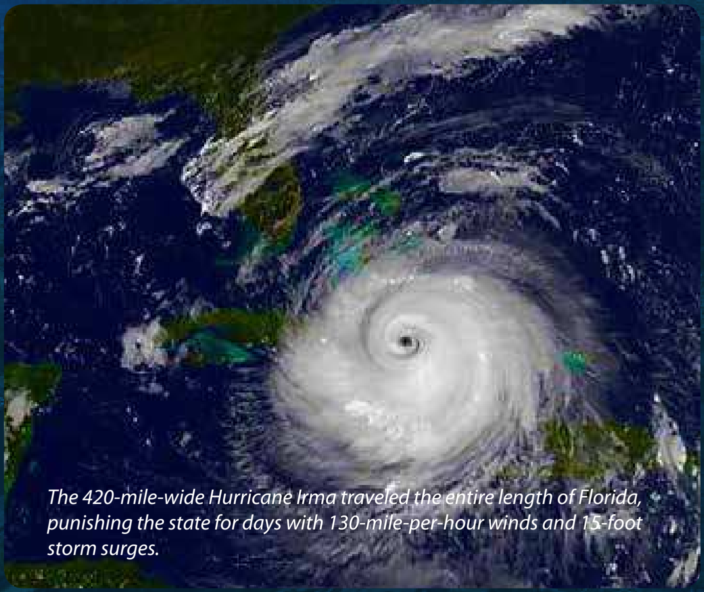
Bolon said her main concern was the well-being of her staff members, many of whom are single mothers.

"The last week of the month is when all of our money is supposed to be made. During the recovery period, we did not have any business, and no one was closing transactions," Bolon noted. "I couldn't not pay my employees. So I decided to incentivize them to go volunteer their time at a shelter or food bank, or help muck out homes. I told them to send me a photo, and I would compensate them for the day."

NATIC's physical office in Houston closed for the storm's impact, but associates continued to work remotely to prevent any disruption of business. To assist those impacted by the storm and flooding, Lennar Corp., NATIC's parent company, established a fund to contribute to the United Way Greater Houston Flood Relief Fund, pledging to match contributions dollar-for-dollar made by its 9,000 associates nationwide. To date, Lennar and its associates have raised $1 million for the cause.

Simple, Done Right in the face of Irma

As Hurricane Irma made its slow and dreaded turn toward Florida, Lennar, whose headquarters are in Miami, released associates early, giving them a few days before the storm's expected landfall to evacuate the state — which for many Floridians took time, as the state experienced fuel shortages and thousands clogged its two primary evacuation routes. NATIC then put its own disaster management plan into action.



The 420-mile-wide Hurricane Irma traveled the entire length of Florida, punishing the state for days with 130-mile-per-hour winds and 15-foot storm surges.

"Our plan allowed for our associates to know how they would continue business communications, where they needed to go and how they could continue doing their jobs," Fernandez said.

Despite NATIC's offices on the Lennar campus experiencing damage and loss of power for a few days, "NATIC was fully operational before, during and after the hurricanes by executing on our plan — combining the use of laptop computers, home offices, back-up personnel in locations unaffected by the storms, cell phone and Wi-Fi communications, data centers in strategic locations away from storm prone areas, and so much more," Fernandez said. "We were able to continue operating without missing a beat."

With NATIC's associates marked safe and resuming their normal activities, the company turned its attention to its agents and customers. Once Irma passed and Floridians began to return home, they found themselves without electricity for at least a few days.

"Our main concern in the wake of the storm was making sure everyone was safe, and that we had personal contact information for all of our associates and agents," said **Geoff Harris**, NATIC's state agency manager for Florida. "We were really lucky in that everyone was accounted for and safe. Many people were without power from at least Tuesday through Friday, but in some cases, some areas still did not have power 10 days after the storm hit. Everyone was patient and understanding with each other. Because there was no electricity and cell phone towers were down, there was no expectation that people would be in their offices working. Not feeling pressure to get five scheduled closings done right away put people at ease."

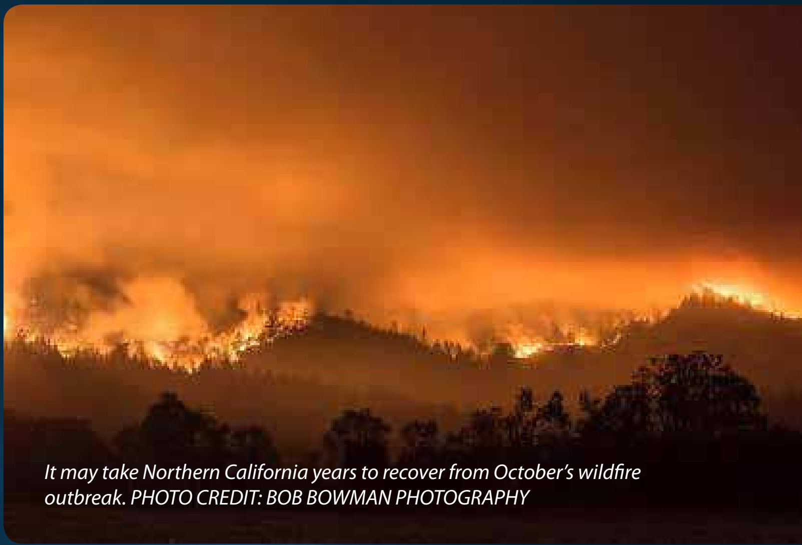
California wildfires: Taking it one day at a time

Thanks to earthquake readiness plans, California title companies were fairly well prepared to handle disruption of business caused by wildfires that struck the northern part of the state in October. However, unlike the hurricanes in other states, it was impossible for anyone to predict when, where and how the fires would spread. Officials believe it could be years before the area is able to fully recover.

"It's been a hard time for our little town and our whole community," said **Jody Sommerhauser**, executive vice president of North Coast Title Co., a NATIC independent agent in Santa Rosa. "Everyone here knows someone here who lost a home. There has been a lot of shellshock. We have neighborhoods that look like they were blown up in a war zone. There is a lot of anxiety in the air. We're taking things one day at a time."

The first few weeks of the fire were marked by insurance moratoriums. Lenders required re-inspections by appraisers to ensure their property interests were protected.

"We were at a standstill for a couple of weeks," Sommerhauser said. "We were able to get a few refinances closed during that time, but the insurance moratorium lasted until the fires were contained."



It may take Northern California years to recover from October's wildfire outbreak. PHOTO CREDIT: BOB BOWMAN PHOTOGRAPHY

North Coast Title deployed its disaster management plan and was fortunate in that it did not lose power at its offices.

"There wasn't a need to disrupt our day-to-day operations, and our email and escrow services operate off of a remote server," Sommerhauser said. "As a business, we were really fortunate in that none of our employees lost their homes. We had many people who were evacuated in the first few weeks, and we do still have some people trying to get back into their homes because of damage from smoke because the fires were close to where they are."

Still, the company's 14 employees learned some important lessons from the experience, she said.

"All of us have learned to have a personal go-bag ready with medications, a change of clothes, money and personal checklists, and keep those close to us," Sommerhauser said.

She shared some other advice for agents who may have to take quick action in the face of disaster.

"Have a printed list of all of the contacts for all of the people on your cell phone," Sommehauser advised. "Have a Facebook page, if your company is comfortable with social media, so you have a quick and easy way to communicate with all of your people."

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

FROM WASHINGTON STATE TO WASHINGTON, D.C.

With deep local roots, Olympic Peninsula Title's government outreach efforts extend far beyond Clallam County

by Amy Tankersley

Olympic Peninsula Title is the kind of small, family-owned, one-county title shop that is looked upon with great affection in our industry, and in recent years, it has been making a splash both in its home in Port Angeles, Washington, and in our nation's capital, Washington, D.C.

"In my opinion, we're an industry that is largely misunderstood by the general public, and we really need better brand recognition," said **Maureen Pfaff**, president and CEO. "Part of the Olympic Peninsula Title brand is that we are a hyper-local company and second-generation, family-owned business that cares about the community we are part of."

A few years ago, Pfaff attended the American Land Title Association's (ALTA) annual Advocacy Summit and Lobby Day for the first time, to communicate her company's concerns to elected government officials.

Olympic Peninsula Title hosted a luncheon for its local Congressman, Rep. Derek Kilmer (right), earlier this year.

"After that first year at Lobby Day, I was hooked," Pfaff said. "What struck me the most was the importance of building relationships with our elected officials. ALTA does an amazing job of preparing you to meet with your Congress members and answer their questions."

During her meetings on Capitol Hill, Pfaff met with Rep. **Derek Kilmer**, her district's Congressman, whom she has known since they were childhood schoolmates. Pfaff then decided to host a fundraiser luncheon for Kilmer back home.

"It was a small, informal barbeque luncheon," she said. "His staff told us, 'if you have any meat on a stick, he's there.' We cast a wide net of invitations and invited not just title professionals, but real estate agents, land developers and builders. Derek gave a brief, 'state-of-the-union' address about what is going on in Washington, D.C., and then we opened up the floor to attendees to discuss local issues like zoning, water rights and current wire fraud trends. We had a great discussion, and now Derek knows that if there is legislation that could impact our industries, he can call us."

Olympic Peninsula Title also supports local charities and organizations and sponsors golf tournaments and other fundraising events benefiting its community.

"We enjoy doing good work in our community, and we want people to associate our name with that," Pfaff said. "In our market, there are three title companies, and it is great when someone says they have heard of us and would like to select us as their title company."

Founded in 1982 by Pfaff's parents, Olympic Peninsula Title has two offices in Clallam County, Washington and nearly 30 employees, many of whom have three decades of experience in the title business.

"We have a deep knowledge base among our senior staff," Pfaff said. "My husband's family has been in Clallam County for four generations. He joined us in 2013 after working for 20 years in land development. We have the most detailed knowledge of land in this county."

Olympic Peninsula Title also operates what Pfaff called a very traditional title plant. "We still write in tract books" that will be digitized by early next year, she said. "We have these amazing, historical tract books, and as we phase them out, we will keep them in storage. They are such a terrific historical record of our county." ■

TITLE AGENT GETS PRISON SENTENCE FOR 'SELLING WORTHLESS TITLE INSURANCE'

Court says agent 'abused position of trust'

by Danielle L. Kaiser, Esq.

Title insurance has protected real estate owners and lenders from property loss or damage for more than 150 years, ensuring the soundness of the American real estate and property transfer system, but one title agent recently found herself in hot water for issuing what a court called "worthless title insurance."

Susan Kevra-Shiner was a licensed attorney and title insurance agent who owned her own agency. She was cancelled by her underwriter on Sept. 23, 2008. She continued to issue title insurance policies until Dec. 2, 2009, more than a year after the termination date of her agency agreement. The fraud was discovered when two lenders contacted the underwriter to verify the validity of their policies. As the court stated in *United States of America v. Kevra-Shiner (U.S. District Court, M.D. Pennsylvania, Case No. 3:14-CR-0257)*, "it is possible that the unauthorized policies could have gone unnoticed for many years."

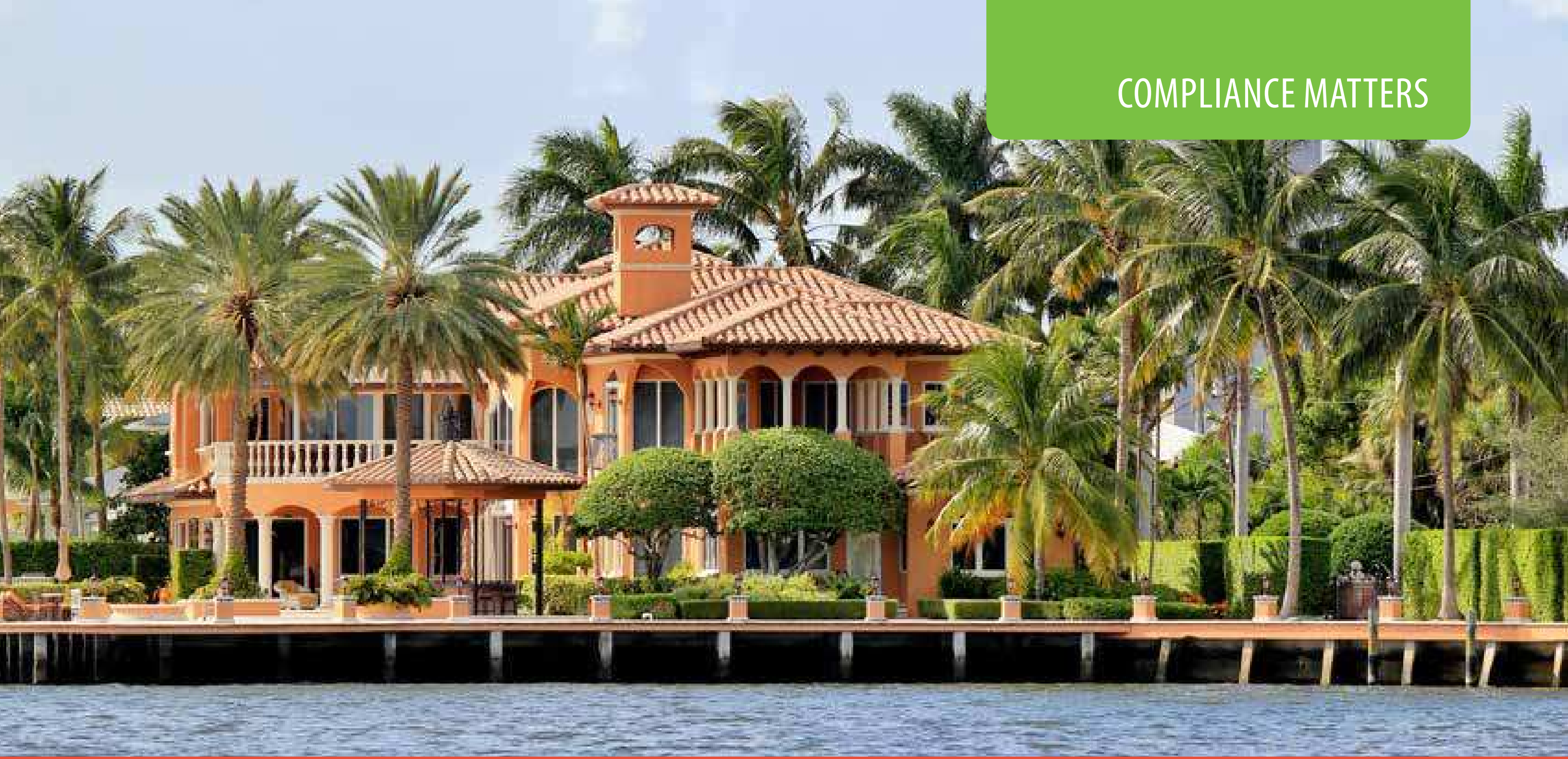
The scheme was uncovered and criminal charges were brought against Kevra-Shiner for "illegally issuing and selling her clients title insurance policies knowing that she was no longer an agent of the title insurance company and that the policies were not authorized by the insurance company," according to court documents. She was sentenced to a 24-month prison term, three years of supervised release, a $700-special assessment and restitution of nearly $68,000.

Kevra-Shiner appealed the sentence and its enhancements, but the court affirmed the sentence. The sentence was enhanced due to two factors. First, Kevra-Shiner perjured herself at trial. She testified that she was authorized to continue to issue title insurance policies on behalf of the underwriter through 2008. However, the evidence showed she was advised by a representative of the underwriter and signed a termination agreement that stated she was cancelled and not authorized to issue any title insurance policies after Sept. 23, 2008.

The second enhancement to her sentence was due to her "abuse of a position of trust." Over the course of the unauthorized title insurance policy issuance, 69 individuals paid nearly $68,000 in premiums for worthless title insurance policies. The court held that "[she] abused a position of private trust by using her knowledge and skills as a title insurance agent." Further, "these customers trusted [her] to help protect their property and by selling worthless title insurance, she violated that trust," the court noted.

Therefore, the court affirmed the sentence and Kevra-Shiner was ordered to surrender to the Bureau of Prisons on Oct. 12, 2017. ■

Danielle L. Kaiser, Esq., NTP, is NATIC's vice president, regional underwriting counsel for the Eastern Region.



FINCEN RELEASES NEW GEOGRAPHIC TARGETING ORDER

What you need to know about changes to title agent reporting obligations

by Valerie Jahn-Grandin, Esq.

On Aug. 22, the Financial Crimes Enforcement Network, or FinCEN, issued its third Geographic Targeting Order (GTO). The new order took effect on Sept. 22.

Established in 1990, FinCEN is a bureau of the Treasury Department that collects and analyzes information about financial transactions to combat domestic and international money laundering, terrorist financing and other financial crimes. A GTO is a Treasury Department order requiring domestic financial institutions in certain geographic areas to report on transactions that exceed a specific value.

In January 2016, FinCEN issued GTOs requiring title insurance companies to report beneficial ownership information on legal entities, including shell companies, used to purchase certain luxury residential real estate in Manhattan and Miami — specifically, property purchased by a shell company without a bank loan and made at least in part using a cashier's check or similar instrument. Title agents must report these transactions to FinCEN using the FinCEN/IRS Form 8300.

FinCEN reissued these original GTOs in July 2016 and February 2017, extending coverage to all boroughs of New York City, two additional counties in the Miami metropolitan area, five counties in California (including Los Angeles, San Francisco and San Diego), and the Texas county that includes San Antonio.

According to FinCEN's data, about 30 percent of reported transactions involve a beneficial owner or purchaser representative that was also the subject of a previous suspicious activity report. This corroborates FinCEN's concerns about the small segment of the market in which shell companies are used to buy luxury real estate in all-cash transactions. In addition, feedback from law enforcement indicates that the reporting has produced criminal investigations.

The Aug. 22 GTO has further expanded FinCEN's reach to the city and county of Honolulu, Hawaii. More notably, it has also removed a previously available exemption for transactions that were otherwise reportable under earlier GTOs, but exempt due to the use of wired funds in the closing. This change will exponentially increase the number of transactions that now qualify for both increased scrutiny of the parties to the transactions or their representatives and reporting using the FinCEN Form 8300.

The expanded GTOs will further help law enforcement and inform FinCEN's future efforts to assess and combat the money laundering risks associated with luxury residential real estate purchases. FinCEN sees real estate industry professionals as their eyes and ears to identifying financial criminals.

DEFINING 'COVERED TRANSACTION'

Under the GTO, agents must report all "covered transactions," which are defined as transactions in which a legal entity (defined as corporation, limited liability company, partnership or similar business entity) purchases:

1. Residential (one– to four–family) real property located in one of the impacted regions, including condominium and cooperative units;
2. For a total purchase price exceeding the threshold purchase price;
3. Where such purchase is made without a bank loan or other similar form of external financing; and
4. With the purchase price being paid using currency or a cashier's check, a certified check, a traveler's check, a personal check, a business check, a money order in any form — **or a wire transfer**. As stated above, that last requirement is the most significant change in the current GTO.

REGIONS IMPACTED BY THE CURRENT GTO

The impacted regions and the threshold for reporting residential, cash (non-financing) transactions, made in part using currency, cashier's check, certified check, traveler's check, personal or business check, a money order, or wire transfer, are as follows:

STATE	COUNTY	REPORTING THRESHOLD
Texas	Bexar	$500,000
Florida	Miami-Dade, Broward, Palm Beach	$1 million
California	San Diego, Los Angeles, San Francisco, San Mateo, Santa Clara	$2 million
New York	Manhattan	$3 million
New York	Brooklyn, Queens, Bronx, Staten Island	$1.5 million
Hawaii	Honolulu	$3 million

REPORTING USING THE FINCEN/IRS FORM 8300

The GTO requires that FinCEN/IRS Form 8300 be completed and filed for a covered transaction within 30 days of the closing. Note: The GTO expressly informs us with instructions that supersede any instructions contained in the form, https://www.irs.gov/pub/irs-pdf/f8300.pdf or on the e-filing site. The information on the form is required from the representative of the purchasing entity, defined as a party who has the authority to bind the entity or execute contracts on its behalf.

Policy-issuing agents of NATIC can visit Underwriter Link, found on AgentLink, for specific filing instructions under NATIC's guidelines.

STAY TUNED FOR FURTHER CHANGES

GTOs expire every 180 days. When the newest GTO expires on March 20, 2018, a new order will likely either extend or modify the terms of the GTO. In the meantime, here are some questions that title professionals should keep in mind:

- How do I conduct my settlement and closing business under the latest GTO?
- What region of my market will be impacted?
- How can I effectively educate my real estate agent and consumer customers about additional closing requirements under the GTO?

In addition, FinCEN is asking real estate professionals to carefully scrutinize covered transactions to root out suspicious activity by asking these questions about the deal as it is unfolding:

- Does the transaction lack economic sense or have no apparent lawful business purpose? Be alert to suspicious real estate transactions which may include purchases/sales that generate little or no revenue or are conducted with no regard to high fees or monetary penalties.
- Is the transaction used to purchase real estate with no regard for the property's condition, location, assessed value or sales price?
- Does the transaction involve funding that far exceeds the purchaser's apparent wealth, comes from an unknown origin or is from or goes to unrelated individuals or companies?
- Are you being asked to conduct the transaction in a deliberately irregular manner? Be leery of illicit actors who may attempt to purchase property under an unrelated individual's or company's name or ask for records (*e.g.*, assessed value) to be altered.

NATIC agents can find more information and the tools needed to comply with the GTO on the AgentLink website at https://agentlink.natic.com/Underwriter.

Valerie Jahn-Grandin, Esq., is NATIC's Executive Vice President and Chief Underwriting Counsel. She can be reached at vjahn-grandin@natic.com.

NATIC PRODUCES COMMERCIAL SPOTS FOR AGENTS

Creative crew of eight and production crew of four turned out 22 agent videos at ALTA ONE

by Kelly McCarel

In a premier suite at the Trump National Doral in Miami, 22 NATIC agents were guided through a sequence of exercises that resulted in the creation of their very own video commercial spot for use on their websites, social media sites and other marketing channels. The agents chose the topics, and on Oct. 11, NATIC provided its first-ever pop-up commercial studio at the American Land Title Association's ALTA ONE conference.

According to **Gary Lipkowitz** of *Marketing Profs*, the average user spends 88 percent more time on a website with video than a website without one. With video continuing to rise as a preferred way to receive information online, it is becoming more and more attractive to agents. If you are pursuing recording a commercial spot for your agency or would like to use video as a channel for your content marketing strategy, here are five easy steps to get you started.

1. Determine your audience

Your message might be different depending on to whom you are talking. Is the message for consumers, real estate agents, lenders or a general audience? Keep the audience in mind when you are drafting your talking points.

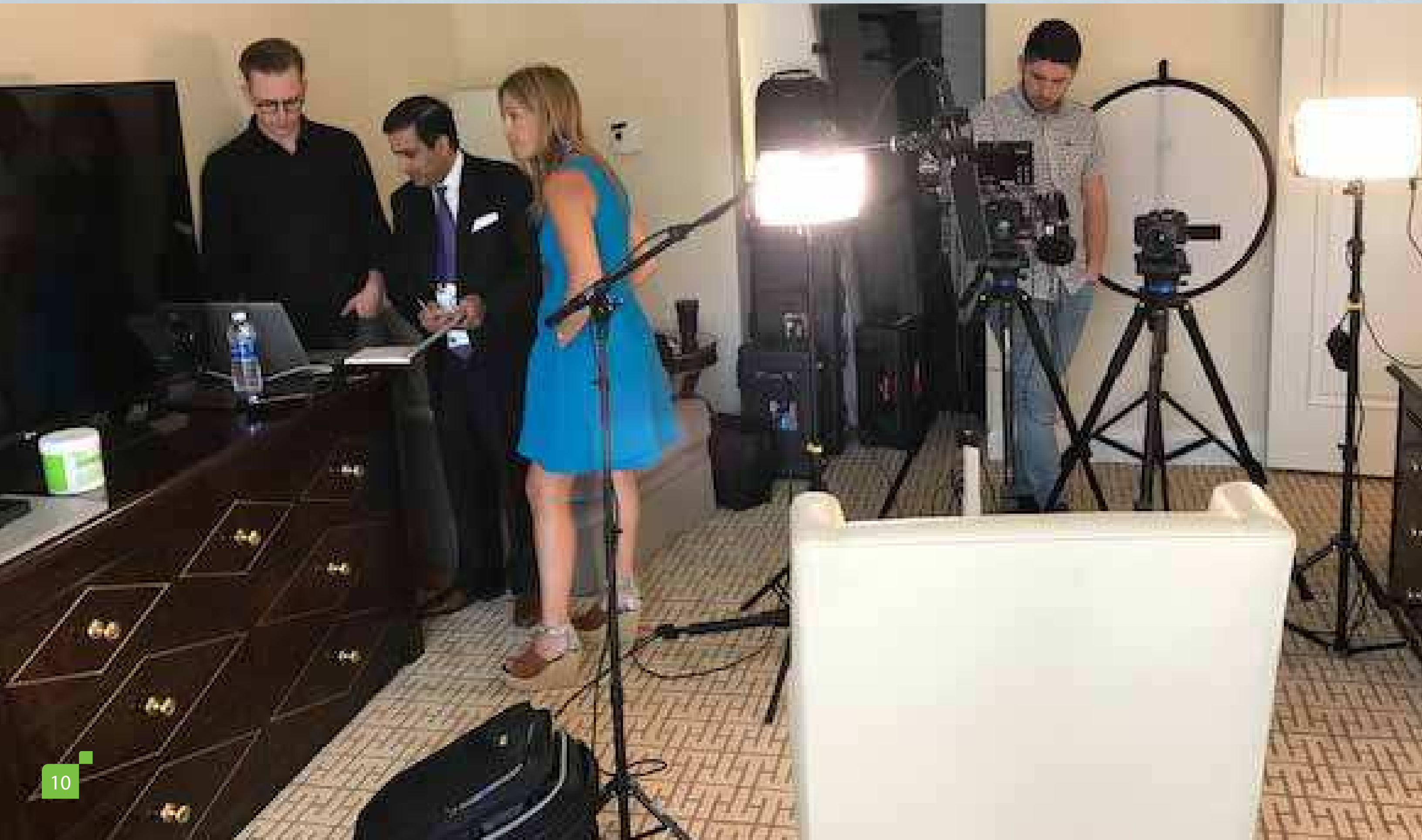
Tip: Know your audience

2. Write your script

Tip: Focus on one key item/theme in your message. This is the lesson of "less is more." What is the one thing you want your audience to learn from the message? Incorporate that message in your script, provide supporting material and then emphasize that one takeaway at the end. As you develop your script, consider this question: Why is your message important? With script writing, remember to keep sentences short and concise, and the message to the point.

Tip: Remember to answer the question, "Why?"

As humans, our retention levels are higher when we are laughing, excited, having fun or hearing something compelling. Here are some helpful tips for writing your script:



- Consider starting with a compelling statement, fact, question or attention-grabbing sentence that triggers emotion;
- Identify a particular topic or issue to which your audience can relate and then offer an answer or solution;
- Tell a real-life story;
- Think about how you impact your customers;
- Talk about your differentiator or something unique to your agency, *i.e.*, do you offer a relaxing, closing room and put emphasis on your décor? Do you operate a mobile closing vehicle? Do you have a unique communication tactic with your customers?

Tip: Start at the end. In his book *Do The Work*, **Steven Pressfield** offers this: "Figure out where you want to go; then work backwards from there." This advice works well for commercial spots. Figure out what it is you want the audience to learn — that is your end — your big splash. Then construct your introduction and middle, keeping on point as you lead up to the one thing you want to be memorable. If your topic is unmatched response times, end with that. Then write a middle that supports why you excel in that area and craft a beginning that introduces the audience to that concept. At the end, you'll want to bring it home with a powerful statement — a catchy phrase that is memorable and supports that key message of response times.

Tip: When developing video commercials or content video messaging for websites and social media, limit your commercial time to under one minute.

3. Set the scene

The speaker or video subject should offer a persona to match the message and be in a setting that makes sense for the content. Do you want to create a relaxed tone? You may want to film it in your greeting room next to the fireplace to portray a casual atmosphere. Are you feeling a bit adventurous and want an exciting outdoor backdrop? With the proper audio and visual equipment, you could create an outdoor-themed backdrop, but consider wind noise, traffic and other outside influences. Do you want to appear professional? Maybe the traditional chair, lamp and window set-up is best.

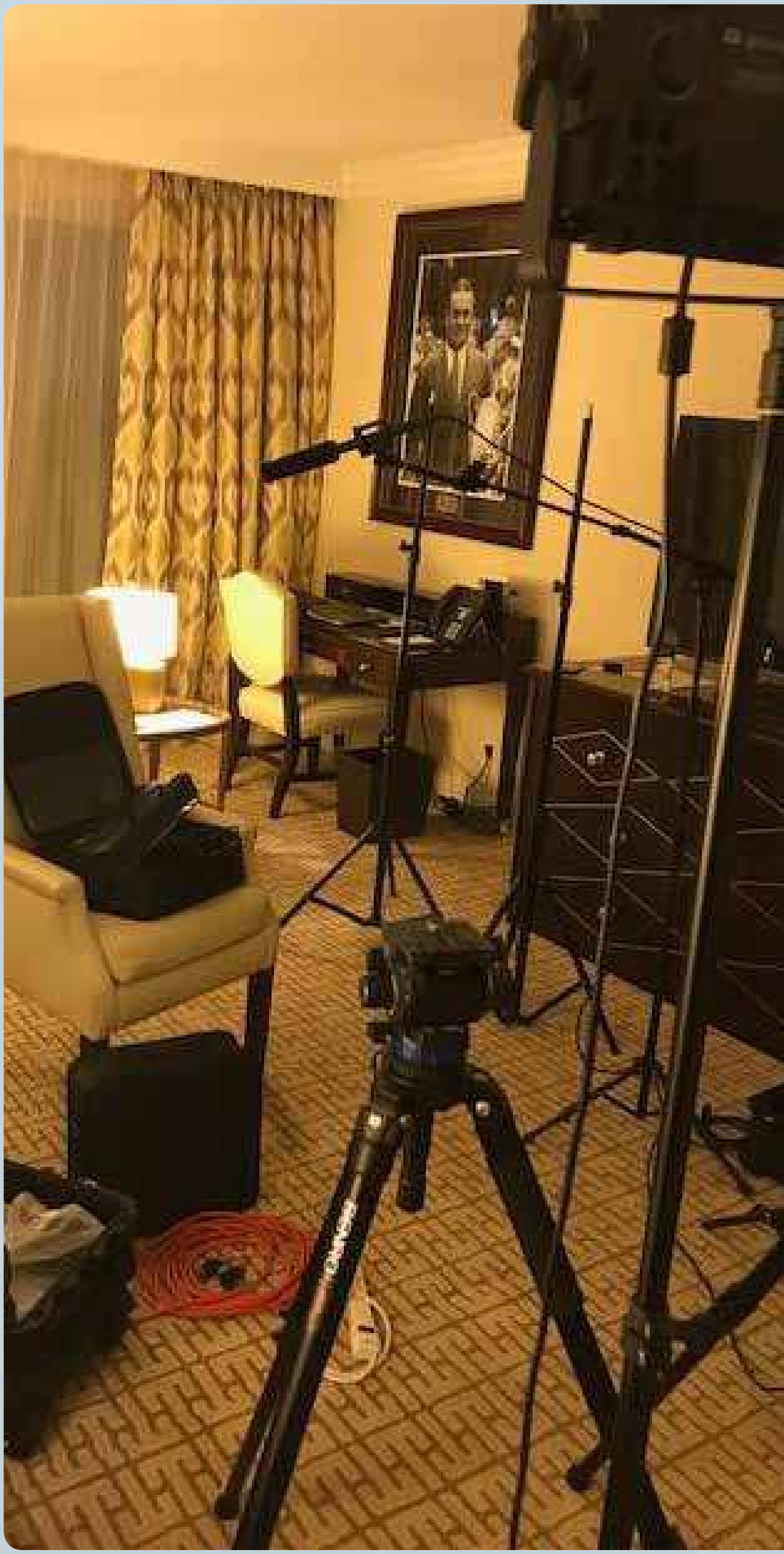
Tip: Whatever setting you choose, camera equipment, lighting, sound, attire, hair, make-up, motion and body language should all be considered.

4. Practice

Practice your script. Some people do better on camera with a memorized script. Others do better studying talking points and then speaking "off the cuff." Whatever your preference, practice until you deliver the message smoothly. This results in a fluid recording and editing process.

5. Hire a production professional

If you have a production crew in-house, you are ready for the



studio. If not, it is recommended to pay the small fee for a production company to film and edit the commercial.

Kelly McCarel is NATIC's Vice President and Director of Marketing and Educational Programs. She can be reached at kmccarel@natic.com.

ASSESSING THE CONSUMER FINANCIAL PROTECTION BUREAU

What has the bureau accomplished, and what is its future?

by Gytis L. Nefas, Esq.

The CFPB's timeline: Important dates in the bureau's six-year history

2007/2008:	Financial collapse and recession
2010:	Dodd-Frank Act signed into law by President Barack Obama
July 2011:	CFPB, authorized by Dodd-Frank, opens its doors
June 2012:	Competitive Enterprise Institute and Texas bank file first lawsuit challenging CFPB's constitutionality; lawsuit is dismissed
July 2012:	Dodd-Frank mandates the CFPB to consolidate TILA and RESPA disclosure forms
December 2013:	CFPB finalizes TILA-RESPA Integrated Disclosure (TRID) rule
January 2014:	CFPB issues notice of charges against PHH Corp. for alleged reinsurance practices that violated RESPA; PHH moves to dismiss charges and a multiyear legal battle is born
October 2015:	TRID rule takes effect
October 2016:	U.S. Court of Appeals for District of Columbia declares CFPB's structure unconstitutional in *PHH v. CFPB*; bureau appeals and requests rehearing *en banc*
January 2017:	CFPB reports saving consumers $12B
May 2017:	D.C. Court of Appeals holds rehearing *en banc* in *PHH v. CFPB*; court has not yet issued ruling
July 2017:	CFPB issues first major updates to TRID rule
November 2017:	Director Richard Cordray announces resignation

The Consumer Financial Protection Bureau (CFPB) is a federal agency that has garnered much attention from the banking and financial industries — and, to a lesser degree, from the title insurance industry. Since the bureau's inception in 2011, the title, real estate and closing services industries have had to adapt to and comply with its rules and regulations. Six years after the CFPB's inception, what has it accomplished? In light of the many challenges — legal and political — to its existence and authority, what are its future prospects?

Following the financial collapse in 2007-2008, which devastated the U.S. and world economies, Congress in 2010 passed the Dodd-Frank Wall Street Reform and Consumer Protection Act. Signed into law by President **Barack Obama**, Dodd-Frank was designed to reform aspects of the nation's banking system, financial institutions and Wall Street trading practices that led to the collapse. It was intended to end "too-big-to-fail" bailouts of banks, regulate derivatives, regulate hedge funds and create financial transparency. It also provided for a strong consumer financial protection watchdog: The CFPB.

Led by an independent director appointed by the president and confirmed by the Senate, the CFPB has a budget independent of Congress and paid for by the Federal Reserve. It has the authority to independently write rules to protect consumers and regulate all financial institutions offering consumer financial services or products. It has jurisdiction to investigate and enforce regulations for banks and credit unions, payday lenders, debt collectors, consumer reporting agencies and all mortgage related businesses such as lenders, servicers and mortgage brokers.

The last recession produced criticisms that enforcement of consumer protections were spread out over several agencies considered lax in monitoring lending practices. Similar to the consolidation of the many agencies responsible for the nation's security under the Department of Homeland Security, the CFPB consolidated the task of consumer protection from various federal agencies such as the Federal Trade Commission, Department of Housing and Urban Development, Federal Reserve and National Credit Union Administration, into a single agency.

In terms of its accomplishments, the CFPB said at the beginning of this year it had saved consumers $12 billion. **Richard Cordray**, the former director of this watchdog agency, had been a pit bull. The tenacity and vigor with which he pursued his role made him a magnet for criticism by many of the CFPB's regulated industries, as well as sympathetic to industry politicians. The agency has pursued enforcement actions against payday loan fraud, mortgage lender kickbacks, collection agencies' unlawful practices, auto lenders, credit repair company practices charging illegal fees, private college loans and credit card companies. A number of the actions involve large trusted institutions such as Well Fargo Bank, Equifax, Experian, Ocwen, American Express and Zillow, to name just a few. A CFPB favorite for enforcement is payday lenders. Title insurance agency enforcements are rare, with only two alleged Real Estate Settlement Procedures Act (RESPA) violations involving joint advertising and for failing to properly disclose affiliated business arrangements.

TRID: OUR INDUSTRY'S Y2K

Among Dodd-Frank's directives was a mandate that the CFPB consolidate the Truth in Lending Act (TILA) and RESPA disclosure forms provided to mortgage borrowers, which were often criticized as confusing to consumers and burdensome to lenders and settlement agents, into one form. After extensive consumer and industry research, the CFPB finalized the TRID rule in December 2013. Pitched under the aphorism of "Know Before You Owe," the rule sought to simplify and streamline the closing process for typical residential home sales and to better inform the consumer of the actual costs of a home loan and all expenses associated with closing.

TRID took effect in October 2015, and its implementation was met with consternation by mortgage lenders and settlement services providers. Who can forget the flood of webinars, seminars and frequently asked questions leading up to its kickoff? It was a veritable redux of "Y2K" for the mortgage industry.

TRID marked its second anniversary last month. Its implementation has, for the most part, been accomplished, but it is still a work in progress. The CFPB issued its latest finalized updates to the rule on July 7.

QUESTIONS OF CONSTITUTIONALITY

Since its inception, the CFPB has been the subject of partisan controversy. The brainchild of Harvard professor, consumer advocate and later Sen. **Elizabeth Warren**, (D-Mass.), the agency was a solution to some of the financial services industry and Wall Street practices she often criticized. Although Warren served as assistant to the president and special advisor to the secretary of the Treasury Department on the creation of the CFPB, President Obama did not select her as its first director. That position went to Cordray, former Ohio Attorney General. His appointment was bitterly opposed amid criticism of the CFPB's independent and centralized structure. In the end, Cordray was confirmed by the Senate after he was installed by

the president on a much-criticized recess appointment.

It wasn't long before lawsuits were filed challenging the constitutionality of the CFPB. The first lawsuit, filed in June 2012 by the Competitive Enterprise Institute and a Texas bank, was dismissed but later partially reversed on appeal and sent back for further proceedings to the lower court. A second suit filed in July 2013 charged that the CFPB lacked political accountability, but was dismissed by a D.C. federal court.

Another significant case raised the question of whether the CFPB's director can be fired by the president on an "at-will" or "for-cause" basis. In the case of *PHH Corp. v. CFPB*, the court ruled in October 2016 that the director is an "at-will" appointee, allowing the president to fire the director without having to show any cause or abuse of power. Opponents of the CFPB hailed this result, which would have allowed the president to remove Cordray before the end of his term in July 2018. However, the D.C. Court of Appeals vacated the ruling and granted a request for a rehearing *en banc,* which occurred on May 24. To date, the court has not issued a ruling on the matter.

POLITICAL AND LEGISLATIVE CHALLENGES

There have also been a number of political and legislative challenges to Dodd-Frank and the CFPB. The most significant one is a bill sponsored by Rep. **Jeb Hensarling** (R-Texas), who has referred to the CFPB as a "rogue agency" and its director as a "dictator." The bill, referred to as the Financial Choice Act, passed the House on June 8. It is a 600-page bill seeking to entirely replace Dodd-Frank. The proposed bill would generally

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NATIC associates and agents wage war against growing email fraud epidemic

With wire fraud and business email compromise continuing to plague our industry, NATIC associates and agents are becoming more vigilant in spotting fraud at the closing table. NATIC rewards our associates and agents for these efforts through our CloseWatch Reward program. NATIC agents can learn more about the program and how to stop fraud in its tracks by visiting https://agentlink.natic.com, and clicking on the Tools & Resources tab. Here's a roundup of NATIC's recent CloseWatch Reward recipients.

Colorado Escrow Officer thwarts email fraud scam — for the second time

A Colorado Escrow Officer discovered that her real estate agent client's email had been hacked during a recent closing. The agent asked if the Escrow Officer had emailed their mutual customer instructing him to wire funds. This was not the Escrow Officer's first encounter with a business email compromise scheme, as she had experienced a similar email fraud attempt in the recent past. After enlisting the help of her IT department, it was discovered that the agent's email had been hacked. For reporting and preventing another case of business email compromise, the Escrow Officer received a $500 CloseWatch Reward and gratitude certificate.

Colorado Senior Commercial Escrow Officer intercepts email fraud attempt

After a Senior Commercial Escrow Officer in Colorado had a client sign off on wire instructions in his office, he received an email purportedly from the same real estate agent instructing him to send the funds to his corporate account instead. After the escrow officer called the real estate agent to confirm that this email was fraudulent, the $360,000 transaction closed with no interference. The escrow officer received a $500 CloseWatch Reward and a letter of thanks for his efforts.

Colorado Senior Escrow Officer wrangles fraudster away from cowboy's sale

A Senior Escrow Officer in Colorado received four emails and five phone calls from an individual claiming to be her seller and requesting revisions to the transaction's wiring instructions. While the actual seller was known to the officer as a Caucasian "cowboy" in his 70s, the caller sounded younger and spoke with a foreign accent. In addition, the phony seller's emails appeared to come from the listing agent. After the officer refused to comply with the fraudster's demands, he became aggressive, and she immediately contacted her NATIC underwriting counsel for assistance. She then reported the fraudster to the appropriate authorities, and the $120,000 transaction moved forward with no further problems. The officer received a letter of gratitude and a $500 CloseWatch Reward for stopping and reporting the scam — the second time this year she received a CloseWatch Reward.

Texas Escrow Officer discovers seller's email was hacked

As a Texas Escrow Officer prepared for a closing, she received an email, purportedly from the seller, providing wire instructions for closing proceeds. Just to confirm, the officer presented this email to the seller at closing, but the seller informed her that he never sent any wiring instructions and did not hold the bank account mentioned in the email. When the officer forwarded the seller a copy of the email, she received a response from the hacker: "Yes. These are the correct wiring instructions." For intercepting and reporting this email fraudster and protecting a $134,000 transaction, the Escrow Officer received a letter of thanks and a $500 CloseWatch Reward. ■

Maureen Pfaff (fifth from left) was among several NATIC independent agent representatives tapped to serve in leadership roles at ALTA.

At the recent American Land Title Association 2017 ALTA ONE conference, held the week of Oct. 9 at the Trump National Doral in Miami, members of several NATIC independent agents were installed in leadership positions at the trade association. **Randall E. Bradley**, Executive Vice President of Mother Lode Holding Company in Roseville, California, will serve as Vice Chair of the Abstracters and Title Insurance Agents Section Executive Committee. **Celia C. Flowers**, Owner of Flowers Title Companies LLC in Tyler, Texas, will serve a three-year term on that same committee. **Maureen Pfaff**, President and CEO of Olympic Peninsula Title in Port Angeles, Washington, will serve as an Agents Section Representative on ALTA's Board of Governors. Finally, **Nicole Plath**, CEO and Owner of Fortune Title Agency in Roseland, New Jersey, will serve as Secretary of the Abstracters and Title Insurance Agents Section Executive Committee.

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Michael Holden, NATIC's Vice President and Strategic Agency Manager, has been hitting the conference circuit this fall, speaking at the Colorado Land Title Association, Southeast Land Title Association and Michigan Land Title Association. Michael's presentations focused on a host of title-related issues, including ethics, financial protection and current real estate market trends.

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On Oct. 12, **Shawn Neely**, NATIC's Illinois State Agency Manager, co-sponsored the Real Estate to the Rescue (RttR) Chicago Chapter Launch Party, which raised funds for homeless animals in Chicago. RttR helps support three dozen no-kill adoption and rescue organizations in the Chicagoland area. In addition, the Illinois Land Title Association recently tapped Shawn as its new Communications Co-Chair for Social Media.

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Manoj Purohit, NATIC's State Agency Manager for Minnesota and Wisconsin, has joined the board of directors of Spare Key, a nonprofit organization that provides mortgage grants to families with critically ill and seriously injured children in the hospital. Manoj will lead the Tyler's Helping Hand Program, which will provide Spare Key families who have been approved for housing grants with gift cards to offset expenses they incur during their children's medical crises. The initiative is named for Manoj's late son Tyler, who was diagnosed with a malignant brain tumor.

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On Oct. 15, **Glen Stout**, NATIC's Northeast Division State Agency Manager, participated in the third-annual Wine, Women & Shoes event benefiting the Ronald McDonald House (RMH) of Cleveland. Serving as a "Shoe Guy" for the event, which offered wine, dining, a fashion show and shoes served on silver platters to 500 attendees, Glen helped raise more than $45,000 for the RMH. Other activities at the fundraiser generated more than $230,000. Glen is a longtime supporter of RMH and works with therapy animals that assist families with sick children.

Shawn Neely, left, and Steven Rust, account executive at Greater Illinois Title Company, help raise funds for Real Estate to the Rescue.

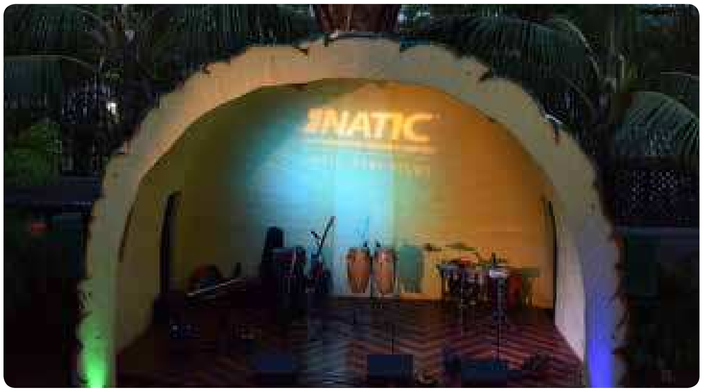
ASSESSING THE CONSUMER FINANCIAL PROTECTION BUREAU *Continued from Page 13*

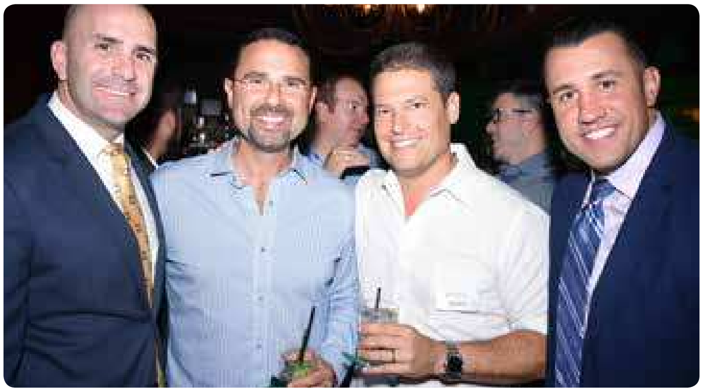
cut back on financial regulation and the regulatory authority of the CFPB, and restrict the control of the CFPB director. It appears unlikely that such a comprehensive bill would ultimately pass the Senate. Speculation is that incremental modifications to Dodd-Frank and the CFPB are more likely.

Sen. **Ted Cruz** and Rep. **John Ratcliffe**, both Republicans from Texas, grabbed headlines by introducing companion bills that proposed repealing the CFPB altogether. There are numerous other bills pending that are less drastic, seeking to replace the single director with a five-member committee, limit the CFPB's authority to act against financial institutions, eliminate the bureau's consumer complaint database and give Congress direct control of the CFPB's budget.

On top of it all, President **Donald Trump** has promised to do "a big number on Dodd-Frank." Despite the current administration's defunding and understaffing of various federal government agencies and departments, the CFPB has been able to maintain a strong focus and presence on consumer protection. It has been largely untouchable due to its financial independence and its obstinate and stalwart director. At press time, Cordray resigned, leaving questions about who will succeed him as director. We will discuss these developments in the next edition of **LookingNorth**. In the meantime, let's hope that any future alterations to Dodd-Frank and the CFPB will not diminish the progress we have made or open the door to another Great Recession. ■

Gytis L. Nefas, Esq., is NATIC's Vice President and Senior Underwriting Counsel for California.





NATIC hosts 'Tropical Night in Little Havana' event at ALTA ONE

During the American Land Title Association's 2017 ALTA ONE conference in October, NATIC hosted attendees, agents and customers at a "Tropical Night in Little Havana" party. Held at the iconic 1950s Latin nightclub Ball & Chain in Miami, guests feasted on paella and were treated to handrolled cigars and salsa dancing lessons. Thanks to all who celebrated with us. ■

EVENTS AT A GLANCE

Dec. 6-8, 2017
Louisiana Land Title Association
Annual Convention
Hotel Monteleone
New Orleans, LA
www.llta.org

Dec. 7, 2017
NATIC
Working with NATIC Underwriting Counsel: A How-To Guide for NATIC Agents
NATIC Agent Webinar
https://agentlink.natic.com

Dec. 7-8, 2017
Texas Land Title Association
Texas Land Title Institute
Hyatt Regency Hill Country Resort & Spa
San Antonio, TX
www.tlta.com

Dec. 11, 2017
NATIC
New Jersey Probate & Estate Laws
A CE/CLE webinar for New Jersey agents
www.natic.com

Jan. 18, 2018
Pennsylvania Land Title Association
Mid-Year Conference
Crowne Plaza Hotel Valley Forge
King of Prussia, PA
www.plta.org

January 24, 2018
NATIC
2018 Toolkit for Title Agents
CE/CLE seminar for Texas agents
The Westin Galleria Dallas
Dallas, TX
www.natic.com

Feb. 13, 2018
NATIC
2018 Toolkit for Title Agents
CE/CLE seminar for Ohio, Indiana and Kentucky agents
Hilton Columbus/Polaris
Dublin, OH
www.natic.com