

EXHIBIT "A"



## Consumer Federation of America

1620 I Street N.W., Suite 200, Washington, D.C. 20006

November 2, 2007

Ms. Orice C. Williams, Director  
Financial Markets and Community Investment  
U.S. Government Accountability Office  
Washington, DC 20548

Dear Ms. Williams:

Re: April 2007 GAO Report on Title Insurance:  
"Actions Needed to Improve Oversight of the Title Industry  
And Better Protect Consumers"

Thank you very much for the work you and GAO did on this important study. If fully implemented, your recommendations will result in significant savings for consumers. Kickbacks and other inefficiencies in this non-competitive market -- a market that suffers significantly from the "reverse competition" phenomenon -- mean that consumers are paying billions too much for title insurance,

I write to urge you to verify the validity of a questionable study by Real Estate Services Provider's Council, Inc. (RESPRO) that is cited in your report. If the validity of the study cannot be confirmed, which I believe is highly likely, I urge GAO to retract references to the study in its own report and to make clear that GAO cannot vouch for the RESPRO study's conclusions

GAO cites the RESPRO Study with the following comment on page 33, "A recent study sponsored by RESPRO, an industry group that promotes ABAs, [Affiliated Business Arrangements] concluded that title agents that are part of an ABA do not charge consumers any more than title agents that are not part of an ABA." Although the disclaimer about the self-interest of RESPRO in promoting ABAs appears clear, the GAO also states in its report that it performed due diligence into the studies it included in the GAO Report.

For example, on page two of the GAO report the authors state that, "We reviewed available studies of the title insurance industry and discussed their results with the authors." The report also says on page 60, "We discussed the studies' results with the authors and raised questions about their methodology and conclusions to further broaden our knowledge of the varying approaches in analyzing title insurance markets."

It is my belief that references to the RESPRO study may have been an error as there are several significant reasons for suspecting that the study may have serious methodological

flaws. The GAO reference to the RESPRO study may also be having unanticipated consequences in states that are considering title insurance regulatory changes. In fact, several states that are examining issues involving ABAs are now also citing the RESPRO study in drawing their conclusions. These states may be relying upon the GAO's due diligence in concluding that the study's conclusions are valid, particularly the RESPRO Study's conclusion that ABAs cost about the same as independent title companies.

Consider the report released by the Washington State Insurance Commissioner's Title Insurance Task Force ("Title Insurance in Washington – Improving Competition and Consumer Choice)." The Washington report cites the GAO report many times throughout. At footnote 81, page 22, the Washington study states "Studies sponsored by the Real Estate Services Providers Council (RESPRO), a national organization representing affiliated businesses, have found that affiliations do not increase consumers' closing costs. The most recent study, in October 2006, analyzed data from 2,236 closings in nine states (not including Washington) in 2003 and 2005. Using regression analysis to isolate any effect of business affiliation on cost to consumers, the study found that affiliations did not affect either title insurance premiums or other title-related closing costs (Martin and Ludwick, "Affiliated Business Arrangements and Their Effects on Residential Real Estate Settlement Costs: An Economic Analysis," CapAnalysis Group LLC, October 10, 2006, available at [http://www.respro.org/docs/CAP%20RESPRO%20Study%20\(2\).pdf](http://www.respro.org/docs/CAP%20RESPRO%20Study%20(2).pdf)). RESPRO-sponsored studies have not identified any cost saving to consumers due to affiliations, but have assumed that the convenience of "one-stop shopping" makes affiliations beneficial in a less quantifiable sense."

Although it is possible that Washington State took steps to verify the methodological soundness of the RESPRO report, this report does not say so and does not offer evidence to that effect. I don't believe that it is an unreasonable conclusion that Washington may be "piggy backing" off the stated due diligence of the GAO when they cite the RESPRO Report for some very disturbing and important conclusions. There has not been an unbiased study done to determine whether ABA's can benefit consumers or that they cost less, yet the Washington Study reaches this conclusion based upon its examination of the RESPRO Study.

To clarify this matter, I request that GAO release to CFA and the public information about just how much or how little it examined questions of potential data bias in the RESPRO report. If legislators and regulators believe that GAO conducted due diligence into the methodologies of RESPRO's Study, and are relying upon that verification process instead of their own, they may be wrongly concluding that ABAs cost about the same as independents.

All methodologically sound studies must start with the careful collection of data. The data upon which the RESPRO study was based was supplied by RESPRO members who had an enormous interest in the outcome of that study, as GAO implied at page 33 of your report. RESPRO didn't use an independent source to collect the data. Moreover, I am advised that they refuse to provide the data to the public, even with private information redacted.

Such disrespect for transparency in data collection renders the RESPRO Study suspect. For example, the data could have been manipulated to obtain predetermined results with the intention of misleading the GAO and others. I can think of at least two ways in which RESPRO members could have skewed the evidence in a manner that would have gone

unnoticed and resulted in erroneous conclusions. The first would be if these members used HUD-1's from ABAs where a reissue credit was issued. That would result in an artificially low title insurance premium. Second, the HUD-1's supplied could have been supplied from transactions in which the ABA was matching fees of an independent title insurance company, which is apparently a common practice when ABAs are placed in a competitive situation.

There is no valid evidence that I am aware of that ABAs cost about the same as independent title companies. In fact, based on my knowledge of the title insurance marketplace, I would conclude that the opposite is much more likely. No study by any organizations should be regarded seriously enough to merit inclusion in a GAO Report if the data used to reach its conclusion is not independently collected and available for public scrutiny.

I encourage GAO to review the data from the RESPRO study and compare it to the actual fees charged by ABAs throughout the country. It would not be difficult to go evaluate the marketplaces where the data originated and verify whether or not HUD-1s represent the typical fees charged by these ABA's.

Doug Miller, owner of an independent title company in Minnesota who testified before the Housing and Community Opportunity Subcommittee of the House Financial Services Committee on the same day as I did (April 26, 2006), claims that he has conclusive proof that ABAs cost more than independent title insurance companies in his state. In fact, his company's website has a price comparison of eleven different firms (at <http://www.title-1.com/tools-compare2.htm>) demonstrating as much as a \$457 difference in closing costs between his firm and one of the largest ABA's he competes with, Burnet Title. And unlike RESPRO, Mr. Miller can back up his data with written quotes and HUD-1s from both his firm and his competitors. He can show that his HUD-1s match up to the filed premium rates and the quoted fees of his competitors.

If you have not studied the underlying data collection process, I encourage GAO to issue a statement that state policymakers can consider that GAO does not support the conclusion that ABAs "do not charge consumers any more than title agents that are not part of an ABA."

Yours truly:

J. Robert Hunter  
Director of Insurance