

**Testimony**  
**Douglas R. Miller, President and CEO**  
**Title One, Inc., Minneapolis, Minnesota**  
**Before the House Financial Services Committee**  
**Subcommittee on Housing and Community Opportunity**

**April 26, 2006**

**Introduction**

Good afternoon and thank you for this opportunity to discuss the problems in the title insurance and closing services industry. My name is Douglas Miller, and I am the President and CEO of one of the last remaining competitive title companies in Minnesota. I am also an attorney and a Real Property Law Specialist, certified by the Minnesota State Bar Association.

My company may not be big at 55 employees, but we are the epitome of the American success story. My business partner and I started Title One out of my house fourteen years ago and grew the company to eight offices. When we started the business we recognized that real estate consumers did not know how to shop and compare title companies and we felt that real estate consumers were being overcharged for title and closing services. For that reason, we took the position that we had a duty to set our fees at a reasonable amount. We felt that a consumer's lack of knowledge and naivety about title insurance and closing services was not an asset to exploit, but rather it was a responsibility with which to take great care. Apparently we were alone in our philosophy.

My company has the lowest fees in the Minneapolis-St Paul metropolitan area by hundreds of dollars on average. See Exhibit 1 (Price comparison chart showing fees of Title One and other major title companies in Minnesota). We have some of the nicest facilities in Minnesota, we have the best technology available, and with attractive salaries and benefits, we attract highly qualified and skilled personnel to work for us. You won't find our company's fees on any rate comparisons of any of my competitors. And, unlike our competitors, we have to advertise for our business. We spent over \$500,000 on sales and marketing last year and our competition is still approximately 40% more expensive than us.

So why is my company having a hard time competing in Minnesota?

Because in Minnesota, the playing field is not level as the title insurance industry and the real estate industry have locked-up almost the entire marketplace through controlled business schemes. The culprit goes by many names: Affiliated Business Arrangements, Controlled Business Arrangements, One Stop Shopping, Ancillary Services, and Bundled Services are a few. The terms all mean the same thing – steering real estate consumers into over-priced ancillary services for secret profits. Controlled business is now estimated to be involved in over 90% of all residential real estate

transactions in my area. It would appear that most real estate firms in the Twin Cities are now involved in controlled business. The huge infusion of hundreds of “title companies” that has occurred in our area has actually reduced the choices of title companies down to only one choice – the controlled business arrangement.

No where in the United States are there more controlled business arrangements than in Minnesota. The problem is so deep that we are finding it to be a rare case when a real estate professional is not involved in controlled business. What better way to lock-in business, destroy competition and raise prices without consequences than to incentivize fiduciaries to manipulate their clients about choosing a title company? It should come as no surprise then that a recent investigation by MONEY magazine concluded that the widespread existence of controlled business relationships in the Minneapolis/St. Paul metropolitan area was the main reason we now have the highest closing costs in the nation. See Exhibit 2 (March, 2006 Money Magazine Article, “Snow Job”). Recently the Federal Housing Finance Board conducted a survey of mortgage closing costs in U.S. cities and concluded that Minneapolis-St. Paul metropolitan area closing costs were more than twice the national average. See Exhibit 3 - Table, Averages by Metropolitan Area, 2004, Federal Housing Finance Board.

The title and real estate industry know that consumers don’t shop and compare title insurance. In fact, most controlled business models acknowledge that their success is based upon the consumer’s ignorance and their reliance upon real estate professionals to make a recommendation. First American Title and its subsidiary Universal Title Company (“Universal”) have explained their business model to prospective real estate professionals in their Private Placement Memorandum (See Exhibit 4, Page 6) as follows:

*“The title insurance business is highly competitive. **However, unlike many industries, where consumers have a wealth of information to make choices among service providers, the title insurance industry competes by obtaining client recommendations from different sources in the real estate industry. Home buyers and sellers often use a particular title company because of a recommendation from their real estate agent or mortgage loan officer, and they typically follow this recommendation. Relatively few consumers actively comparison shop for a title company based upon price and service.** As a result, the Partnership’s success is highly dependent upon generating recommendations from sources in the real estate industry.”*

In my opinion, the above statement is the model for all real estate related controlled business arrangements. It is true for an in-house full-service title company and it is true for a sham title company that exists for no other purpose but to pay referral incentives to its partner members. The success and profit of a controlled business arrangement is dependent upon tainting the advice that real estate fiduciaries provide to their principals when selecting a title company.

Even if my company were interested in setting up controlled business arrangements, we don’t charge enough to be successful at it. We would have to raise our

fees to be competitive. In order to be successful at controlled business, you must charge a lot to make it attractive for the “investors.” In a controlled business model, the consumer savings for shopping and comparing title companies are pocketed by real estate professionals. Because real estate professionals have a captured audience who will pay whatever they are told, the incentive is to constantly raise prices. These controlled business arrangements have become so popular among real estate professionals in Minnesota that our State is literally littered with hundreds of them. That is why title fees are rising. The success of controlled business is measured by “capture rates” which has nothing to do with providing good service, but everything to do with exacting more money from consumers through the misuse of fiduciary responsibilities.

Service excellence and price are now meaningless in my market. Instead, we have a system that rewards real estate professionals for manipulating their clients into selecting the highest priced title companies. We are stopped at the door at most real estate brokerage houses in town. They have their own “affiliated” title company and don’t want to hear about us. Loan Officers who are loyal to our cause are powerless to risk making a title company recommendation to their clients that is contrary to the Realtor’s recommendation for fear of losing a referral source. Consumers are carefully guarded from information about competing title companies and agents are chastised if they recommend a title company other than their in-house company.

I am here today because I am being unfairly forced out of my marketplace and consumers are being manipulated into overpaying for title services and being prevented from shopping and comparing title services. Controlled business arrangements continue to spread across the U.S. with Minnesota in the lead. Please stop what is happening in Minnesota and don’t let Minnesota’s current situation become the standard for the rest of the U.S.

I need your help. I can’t compete for business right now because the business is securely locked away in controlled business schemes with Realtors, Mortgage Companies and Builders. It is these real estate professionals who guide their clients in selecting a title company. And it is to these same real estate professionals to whom I would normally market our services. However, my competition is no longer with other title companies, but rather with the same people to whom I would normally market – the people who exert enormous controls over their clients’ real estate decision making process – Realtors, Mortgage Companies and Builders. My company has now been forced to try and market directly to the real estate consumer, and because of the complexity of my industry it is proving to be an almost impossible task. See Exhibit 5 (Title One ad campaign). We should be the leading title company in our marketplace with our fee structure, convenient facilities and excellent service. But we’re not. We simply do not have a level playing field in Minnesota.

Please put a stop to controlled business and force my competition to face me in a free and fair market again.

## **RESPA background**

Section 8(a) of RESPA provides an absolute prohibition against the payment of referral fees to obtain real estate settlement services business. The prohibition is unambiguous in both its language and its intent. The purpose of the statute is to make merit, service, price, and other competitive factors decisive in the selection of service providers, and to eliminate cash incentives as the basis for referral decisions. The statute not only enhances the quality of available services for consumers by making excellence rather than kickbacks the key to purchasing decisions, it ensures that legitimate market forces, not institutionalized corruption, will determine success or failure for competing service providers. The prohibition could not be clearer: no payments to influence the selection of a particular settlement service provider to the exclusion of its competitors are permitted.

There are numerous participants in the title industry. It is a business, however, that the ultimate consumers of title services know virtually nothing about, and the selection of a title company is typically a matter of the choice of and referral by the consumer's real estate agent or loan officer. For title service providers, there is, therefore, an almost irresistible incentive to financially influence these referral sources, and thereby ensure that the real estate agents, whose referrals and recommendations to consumers are so vital, refer business to them rather than to their competitors. As a result, title insurers typically do not need to market their services directly to consumers: they only market themselves to participants in the real estate industry with an ability to refer them business.

Despite the fact that §8 of RESPA prohibits the payment of any money or any "thing of value" for the referral of that business, it has become big business to devise schemes to attempt to bypass that prohibition and attract business controlled by the real estate professionals by providing financial incentives for sending referrals. The variations in these controlled business arrangements, or better described as tying arrangements, that lock-in real estate professionals to title companies are too numerous to identify in this testimony. I can, however, identify two predominant "models" of controlled business arrangements which I have seen in Minnesota and believe clearly harm consumers.

**1. Full Service Title Companies That Are Affiliated With Real Estate Brokerages:** These ABA's, although they offer full title and closing services and could stand alone in a free market, skew the marketplace by manipulating real estate agents fiduciary obligations. By Minnesota law, real estate agents owe fiduciary duties to their clients (Minn. Stat. 82.22 subd. 4 footnotes).<sup>1</sup> Despite these duties to act in the best

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<sup>1</sup> The fiduciary duties mentioned above are listed below and have the following meanings: Loyalty-broker/salesperson will act only in client(s)' best interest. Obedience-broker/salesperson will carry out all client(s)' lawful instructions. Disclosure-broker/salesperson will disclose to client(s) all material facts of which broker/salesperson has knowledge which might reasonably affect the client's use and enjoyment of the property. Confidentiality-broker/salesperson will keep client(s)' confidences unless

interest of the consumer at all times, financial and other incentives are provided to agents to steer their consumer's title and closing business to the company's high priced affiliate. As the price comparison attached as Exhibit 1 shows, two of the largest title companies in Minnesota are affiliated with the two largest realty companies and have some of the highest fees in the Twin Cities marketplace. **Why would any fiduciary, truly acting in its clients' best interests, repeatedly send those clients to an affiliate that it knows will cost them hundreds of dollars more on average?**

**2. Sham Title Companies Created To Filter Referral Fees Through.** By far the most common form of controlled business arrangement, these companies are created for no other purpose but to pay referral incentives to real estate professionals. In Minnesota, over the past 10+ years I have seen the *proliferation of hundreds of small sham "title companies"* dilute and destroy our marketplace.

The way this scheme typically works (there are many variations) is that a competing title company (a legitimate full service title company or title insurance underwriter) will approach a group of real estate professionals with similar amounts of volume and offer them a partnership in a joint venture. The title company then sets up a separate joint venture with the real estate professionals to perform services already being performed as part of title company's routine package of services. The title company will be the General Partner and the real estate professional "investors" will be Silent Partners. The "investors" don't need to know anything about title insurance. They will call this joint venture a "title company."

The only requirement for success of these sham title companies is that the silent partners refer similar amounts of business so that the referral incentives are fair to each of the partners. The pressure from other "investors" to refer equal amounts of business to this sham joint venture is tremendous. The competitor does all the closings for the sham as well as providing many other services. By setting up a joint venture as described above, the competitor will essentially lock-in real estate professionals into using only them.

This scheme adds no value to an already complex and expensive process. In fact, by adding unnecessary "investors" into the mix, they are adding unnecessary costs to the transaction which must be recouped somewhere. Keep in mind, that most title companies don't need "investors" in joint ventures. They are already well capitalized. There is only one reason for the existence of sham title companies, to pay referral incentives.

As described above, these type of joint ventures have no valid reason to exist other than to try to bypass RESPA prohibitions. Instead of marketing service, product and price to real estate professionals (working on behalf of their clients), they market

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required by law to disclose specific information (such as disclosure of material facts to Buyers). Reasonable Care-broker/salesperson will use reasonable care in performing duties as an agent. Accounting-broker/salesperson will account to client(s) for all client(s)' money and property received as agent.

redundant services (many of these sham title companies office right next door to the legitimate title company, See Exhibit 6, photograph of directory of joint venture title companies affiliated with Universal Title) and RESPA approved “kickbacks” and then rationalize the decision with talk about their so-called excellent service. Most real estate professionals that are members of these joint ventures understand the blatant deceitfulness of these schemes and as a result they rarely advertise this “service” to their clients. The “service” is not explained for its true nature as a referral scheme almost 100% of the time.

My company has lost a huge amount of market share to these referral incentive schemes. We’ve had many real estate professionals who were perfectly satisfied with my company switch to the more expensive joint venture in order to obtain the referral incentives. I’ve had many real estate professionals who are involved in these schemes tell me that they miss my company because our service was better and our fees were lower, but that they are now locked-in to the partnership and feel that they have no choice but to continue to refer “their” business to these shams. Most of them recognize that it is a disservice to their clients, but state that the financial incentives and pressures to refer business are too great.

Consumers whose business flows through one of these companies are harmed because lower priced alternatives in the marketplace are not presented as an option.

#### **Affiliated Business Arrangement is a Misleading Term**

The term “Affiliated Business Arrangement” does not adequately define the processes at work in these tying arrangements. RESPRO was successful in lobbying for and having the “negatively charged” term “Controlled Business Arrangement” changed to “Affiliated Business Arrangement.” See, Exhibit 7 paragraph 4 (RESPRO document). This was a mistake. Even the prior term “Controlled Business Arrangements” does not adequately describe the deceitful nature of these arrangements. These arrangements are not merely “affiliations.” Rather, they are sophisticated tying arrangements that utilize the manipulation and perversion of fiduciary relationships in order to unfairly steer business for profit. These arrangements are designed to remove “competition” from the title industry and to drive up prices. These arrangements by design interfere with real estate agents’ fiduciary responsibilities. In addition, they cause anti-competitive market results in that they eliminate legitimate competition and drive prices up.

These arrangements should be called **Sophisticated Captured Audience Manipulation Schemes** or **SCAMS**. They are illegal and cause dramatic negative effects to consumers and the marketplace.

#### **Controlled Business is Not Efficient and It Certainly Doesn’t Cost Less**

Controlled business proponents regularly argue that controlled business is good for America because it is efficient and those efficiencies translate into cost savings for consumers. That is not the case. If that were the case, then why are the highest volume controlled business title companies in the Twin Cities metropolitan area, who are affiliated with the area’s largest realty companies, also the most expensive? See Exhibit

1 (Price Comparison). And it is not just them, it is every controlled business relationship out there – the entire basis of their existence is to control business so that their clients are prevented from making an informed decision. A vulnerable and trusting consumer will pay more, so controlled business charges them more.

Controlled business does not provide motivation to the service providers to provide excellent service. Why would it? Real estate professionals are locked-in to the controlled business arrangements and the real estate professionals are not likely to go somewhere else without suffering all kinds of consequences. The people who work at these controlled business service providers are very well aware that they are going to get the business for just a mediocre showing of service. This type of relationship does not promote efficiency or great service.

### **Is there Competition Among Controlled Business Arrangements?**

There is no competition among controlled business arrangements in the normal sense of the term. For example, it would be a rare case for a Coldwell Banker Burnet Realty agent to use Edina Title for its closing services. Edina Realty is a competitor with its own affiliated title company.

Large title insurance underwriters and small title agents approach Realtors, mortgage companies and builders with Private Placement Memorandums like the one in Exhibit 6 to start their own sham title companies. They set up hundreds of these “title companies” for no other purpose but to pay referral incentives to their silent partner real estate professional members. This strange scenario is caused by a loophole in RESPA. It makes no sense and has caused a perverted sort of competition in which the Underwriter or title agent is setting up companies to do services that they already perform. These companies are essentially competing with themselves. Bottom-line, they are not true stand alone businesses: they are referral incentive conduits. They offer financial incentives to real estate professionals to unfairly lock-in their customer’s business.

### **Real Estate Professionals are Fiduciaries – It is Illegal to Self-Deal**

A fiduciary is someone who has the power and obligation to act for another (often called the beneficiary or principal) under circumstances that require total trust, good faith and honesty. The most common is a trustee of a trust, but fiduciaries can include attorneys, accountants, guardians, administrators of estates, real estate agents, bankers or anyone who undertakes to assist someone who places complete confidence and trust in that person or company. Characteristically, the fiduciary has greater knowledge and expertise about the matters being handled. A fiduciary is held to a standard of conduct and trust above that of a casual business person. A fiduciary must avoid "self-dealing" or "conflicts of interests" in which the potential benefit to the fiduciary is in conflict with what is best for the principal.

Most real estate consumers put all their trust in a real estate professional when it comes time to select a title company. Real estate professionals recognize their higher level of knowledge and skill and happily assume the position of trustee of their clients’

real estate affairs. They are fiduciaries. That is what they do. What they should never do is exploit that unique relationship of trust for profit, especially secret profit.

Real estate clients are often completely reliant on the broker for expertise and advice in all aspects of the real estate transaction, including finding a title company. In addition, the client's only contact for advice throughout the transaction process is the agent, so there is a sort of "captive audience" situation. To represent a client fully all the way up to the point of choosing a title company, and then steer them into an in-house title company at a time when the client is often under a lot of pressure regarding other housing issues is abandonment and self-dealing at its worst. The agent knowingly places their client in a position of complete vulnerability and then takes financial advantage of them by sending them to an in-house title company.

The typical disclosures that brokers initially provide to their clients are in the form of two choices: 1. Pick our title company; or 2. Go look for your own title company. The choice is usually presented at a time when the client is overwhelmed with other decisions. Some of the largest brokers even put this choice right in the Purchase Agreement as part of the negotiations. There are other additional disclosures that are given to the client, but they are often presented in a flurry of papers and come nowhere near obtaining the informed consent of their clients.

Does the real estate professional owe a duty to the client to make a diligent effort to comparative shop title companies for their client? If the real estate professional creates a situation of reliance in which the client is reasonably led to believe that a title company is being selected with the client's best interests at heart, then yes the broker owes the client a duty to make a skillful recommendation based upon service, product and price. In addition, as a fiduciary, the professional has a duty to avoid conflicts of interests. They shouldn't be out there creating them. After all, most consumers don't know the first thing about selecting a title company, and many consumers go into a relationship with an agent thinking that the agent will guide them through all the real estate related questions, including selecting a title company.

Once a client relies on the fiduciary for expertise, it is the fiduciary's responsibility to navigate very carefully and make sure that the client's interests are best served. It is of course not a time to become opportunistic. That would be self-dealing and would be illegal. Unfortunately, that is exactly the type of "opportunity" for which the controlled business model is aiming.

And groups like RESPRO that have made these abuses of fiduciary relationships common place have also managed to somehow convince some real estate education authorities that classes for continuing education credit on the subject are also a good thing. Classes on how to start controlled business arrangements for credit are being given all over the country.

Luckily there are some organizations that believe fiduciary relationships in real estate are something to be respected. One such organization is NAEBA, the National



Association of Exclusive Buyer Agents. That organization takes the very practical and responsible position that dual agency is to be avoided in all circumstances. They believe that is impossible to make the necessary disclosures to adequately represent a client in a dual agency scenario. In addition, they also take a strong position against controlled business. See Exhibit 8, Letter from President of NAEBA.

### **Is a RESPA Analysis Really Enough?**

Currently, in order to engage in controlled business, real estate professionals rely upon client signed Affiliated Business Arrangement Disclosure forms. The forms are designed only to satisfy RESPA disclosure requirements. They are not designed to satisfy common law fiduciary disclosure requirements regarding a conflict of interest. Disclosure of the affiliated business relationship is not the primary issue. Rather, the question is, was there *full* disclosure of all the material ramifications of controlled business. Considering that the disclosure typically starts out with a misleading name by calling the arrangement “affiliated business” and then omits some of the key disclosures that a consumer would really want to know, I believe the answer is that the current disclosures are terribly inadequate.

In 1993, Edina Realty, a Minnesota company, made national news and settled a lawsuit alleging undisclosed dual agency after losing on Summary Judgment.<sup>2</sup> In ruling on Edina's summary judgment motion, the state district court held that, while the disclosure statement appeared to comply with the state's statutory requirements, the statute did not eliminate common law disclosure requirements. The state court judge granted summary judgment to the plaintiffs holding that Edina breached its fiduciary duty to disclose to the class members the consequences and effect of dual representation.

The Affiliated Business Disclosure forms being used today do not protect real estate professionals from Edina Realty type lawsuits and those forms certainly do not adequately disclose to consumers the nature of the controlled business scheme being thrust upon them and its ramifications. In fact, if a full disclosure were to be made to consumers about using an in-house title company, consumers would not select the in-house title company almost 100% of the time.

Imagine what would need to be said in order to fully disclose a real estate agent's and real estate brokerage's conflict of interest in referring their client to an in-house title company with significantly higher fees. Timing is everything. Disclosure of the conflict of interest needs to be made at first substantive contact, before the client begins to rely upon the agent for their expertise. The fiduciary must disclose if their in-house title company is more expensive than others and by how much. They must disclose the names of other title companies that they know are less money and if they provide similar services and products. They may not omit information because it is not favorable. In fact, if the agent is being pressured by a manager to use the in-house title company, then that information must also be disclosed. The broker must disclose if managers are getting

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<sup>2</sup> See, *Dismuke v. Edina Realty*, 1993 WL 327771 (Minn.Dist.Ct.,1993). See also, *Bokusky v. Edina Realty*, 1993 WL 515827 (D.Minn.1993)

compensated based upon the “capture rate” of the agents in the office. If the broker uses the “capture rate” of the agent to determine commission splits, then that should also be disclosed.

The list of disclosures is almost endless and specific to each situation. It would probably require a lawyer trained in conflict management on every file to properly obtain the client’s informed consent to engage in self-dealing. It is for exactly this reason that you see other fiduciary professions like accountants and attorneys avoiding conflicts, not creating them.

Bottom line, controlled business is self-dealing and not legally possible in a fiduciary relationship.

### **The Elderly, First Time Home Buyers and Protected Classes are Most Vulnerable**

Most of the consumers that have been subject to these controlled business schemes probably will never know that they were harmed. Although the elderly, first time home buyers and some protected classes may be victimized the most, these schemes cross over all racial and demographic borders. Practically every consumer that has bought a house through a controlled business arrangement overpaid for their services and didn’t give their informed consent to the atrocities to which they were subjected.

### **Enormous Legal Consequences**

There are numerous legal theories that could generate massive lawsuits surrounding controlled business. Self-dealing, unfair business practices, anti-competitive business practices, conspiracy to defraud, unjust enrichment, interference with a fiduciary relationship are just a few.

It has become routine for real estate fiduciaries to regularly engage in conduct that exploits their client’s trust and reliance upon them: They direct clients to controlled business relationships without obtaining their clients’ informed consent. This conduct amounts to self-dealing and violates the fiduciary duty of loyalty as well as other duties. The substantial omissions involved in directing business may be considered to be fraud by some Courts. As far as I know, I believe the only legal analysis done prior to setting up a controlled business arrangement is a RESPA analysis. I don’t believe anyone is looking to the common law of agency, the anti-trust implications, theories of fraud or other sources of law for additional legal requirements. That oversight may be putting the entire real estate industry in jeopardy.

The written disclosures being used do not secure the informed consent of clients almost 100% of the time. It is almost impossible to adequately disclose self-dealing, its’ inherent conflict of interests and obtain the informed consent of the principal. The fact that fiduciaries have used these controlled business arrangements to unfairly exact higher fees from consumers does not make the case any better for real estate professionals. This is a huge liability risk for all the real estate professionals involved in controlled business.

Misrepresentation by omission is considered to be fraud in many jurisdictions.

Think about the intentional omissions that are kept from consumers when they are directed into a controlled business. Add to this the fact that the potential defrauder is also a fiduciary and now you have a situation where real estate transactions utilizing controlled business may be considered to be fraudulent... Could this be reason enough to unravel a real estate transaction? Many transactions involving dual agency have been nullified. The potential ramifications are enormous.

Title underwriters and agents are probably also at risk for the act of enticing agents with financial rewards to breach their fiduciary duties to their clients. Although there may not be a lot of law on the subject, it would not be a huge stretch to devise a tort called, "interference with a fiduciary relationship." I imagine the financial consequences would not be small.

The typical remedy in a breach of fiduciary duty case that involves self-dealing or a serious breach of loyalty is disgorgement of all fees earned. In the Edina Realty lawsuit the plaintiffs were seeking one hundred million dollars in damages. And that was just one firm in Minnesota. The kicker is that in a fiduciary duty lawsuit, you don't even need to prove up damages. Once it is proven that there was a fiduciary relationship and that self-serving conduct took place, the burden of proof is often switched to the Defendants to prove that they obtained the informed consent of their principal before engaging in the conduct. In order to obtain the informed consent of their principal it is necessary to make a full disclosure of ALL the ramifications of the conduct and you have to prove that the client understood the disclosure and agreed to it.

The potential damages could be all the real estate commissions, title fees and other fees charged where there was any kind of controlled business relationship. I believe the damages could be in the hundreds of billions of dollars nationwide. A case of this magnitude would likely bankrupt many mortgage lenders, title insurers and real estate companies. Most of the large companies that are involved in controlled business are publicly held. This could be a disaster for their shareholders.

Controlled business is not good for the consumer, it is not good for a free market and although it might generate a lot of revenue in the short term, it is not good for controlled business owners as the legal consequences could be devastating.

### **Recommendation**

Make a strong statement that controlled business in real estate is illegal.

Force all forms of controlled business to disband including in-house title and mortgage companies and make them compete for the right to do business.

### **Conclusion**

You have the power to resolve this problem. If you do nothing, then you will be sanctioning anti-competitive business practices, the practice of fiduciaries preying upon their clients and the destruction of a free market. Controlled business needs to be

eliminated. Controlled business is an exploitation of a fiduciary relationship and does not belong in any fiduciary based industry. If you do nothing, companies like mine will cease to exist and prices will continue to artificially rise. Title One may be appropriately named, as we may be the only truly independent title company left in the Minneapolis area.

Unfortunately, because of extensive budget cuts, the Minnesota Attorney General's Office has taken a position that they cannot afford to investigate this matter. See Exhibit 9, Letter from Mike Hatch.

Give me a chance to compete and I will outperform my competitors in service and price and earn the right to do business. Stop controlled business and you will force my competitors to compete on the merits of their work again, not the influence they place over their clients. We develop loyal customers the old fashioned way, we earn them. We don't buy them. When business is locked away and consumers are getting ripped off to preserve a "diversified revenue stream," there is a serious problem. Please have the courage to stand up to ALTA, NAR, and RESPRO. These organizations are deeply entrenched in the anti-competitive and manipulative business practice schemes called controlled business and it needs to stop. Let me take them on in a normal marketplace. If you need the support of other organizations I suggest that you enlist AARP and other organizations whose members have been victimized the worst.

Eliminate controlled business in real estate and you will have a free market with healthy competition based upon service and price. Fees will go down. Realtors will divest themselves of conflicts of interest and be better suited to represent their clients and title companies won't be tempted to offer Realtors financial incentives in exchange for referral business.

Thank you for your attention to this important problem.

# TITLE-1

Exhibit

1

Title One, Inc., has been a key player in the industry since 1992, when we were founded upon the simple premise that title insurance did not have to be expensive and high quality customer service should be the standard. We have built a loyal following of Loan Officers and Realtors who seek the best service and price for their clients. Below is a price comparison, showing you how much you save your clients, in respect to other title companies in town. Our settlement fee drops to \$165 on most transactions involving new financing in which Title One, Inc. performs both the mortgage and real estate closings.

The following example is a typical transaction with a purchase price of \$250,000 and new financing in the amount of \$200,000.

	Closing Fee	Exam Fee	Name Search	Plat Drawing	Recording Service Fee	Title Insurance Lender	Title Insurance Owners	Adjustable Rate Rider	Totals	Total Savings
<b>TITLE-1</b>	<b>195.00</b>	<b>135.00</b>	<b>25.00</b>	<b>55.00</b>	<b>31.00</b>	<b>400.00</b>	<b>225.00</b>	<b>0.00</b>	<b>1066.00</b>	
Burnet Title	280.00	145.00	35.00	60.00	50.00	577.50	330.00	50.00	1527.50	\$462.00
Dakota Abstract & Title	250.00	125.00	25.00	50.00	40.00	812.50		50.00	1352.50	\$286.50
Edina Realty Title	290.00	140.00	30.00	50.00	40.00	562.50	300.00	50.00	1462.50	\$396.50
Stewart Title	250.00	130.00	30.00	60.00	50.00	575.00	287.50	50.00	1432.50	\$366.50
Walsh Title	275.00	140.00	30.00	60.00	30.00	562.50	300.00	50.00	1447.50	\$381.50
Chicago Title	275.00	130.00	30.00	60.00	60.00	575.00	287.50	0.00	1417.50	\$351.50
GAC	250.00	200.00	30.00	60.00	30.00	687.50	175.00	50.00	1482.50	\$416.50
Excel Title	275.00	125.00	50.00	60.00	60.00	575.00	287.50	0.00	1,432.50	\$366.50
1 <sup>st</sup> American Title	270.00	160.00	36.00	60.00	30.00	508.75	306.75	0.00	1371.50	\$305.50

\* Our competitors' figures were obtained from verbal quotes in March/ April 2006 and are well documented. However, verbal quotes may be inaccurate and they are not guaranteed. The purpose of this rate comparison is to demonstrate the substantial savings at Title One, Inc.

## Metropolitan Areas

**Terms on Conventional Home Mortgages -- 2004**  
**Table VIII - Averages by Metropolitan Area**

Metropolitan Area - *Consolidated MSA	Contract Interest Rate (%)	Initial Fees and Charges (%)	Effective Rate (%)	Term to Maturity (Years)	Purchase Price (\$thou.)	Loan to Price Ratio (%)	% of Loans LTV 70.0 Less	% of Loans LTV 70.1 - 80.0	% of Loans LTV 80.1 - 90.0	% of Loans LTV Over 90.0	Percent of Number with Adjustable Rates	Number of Loans
Albany-Schenectady-Amsterdam, NY*	5.74	0.40	5.80	26.8	189.9	75.9	26	47	9	18	17	341
Atlanta-Sandy Springs-Gainesville, GA-AL*	5.62	0.35	5.67	28.0	235.2	75.4	19	55	7	19	44	6,752
Austin-Round Rock, TX	5.91	0.17	5.94	26.6	217.5	71.0	27	46	6	21	22	1,463
Birmingham-Hoover-Cullman, AL*	5.95	0.74	6.06	28.6	179.3	79.4	15	56	9	21	37	608
Boston-Worcester-Manchester, MA-NH*	5.42	0.29	5.46	28.5	379.6	71.2	33	49	7	11	45	4,140
Buffalo-Niagara Falls, NY	5.91	0.15	5.93	28.4	188.1	78.0	25	31	15	30	4	440
Charlotte-Gastonia-Salisbury, NC-SC*	5.78	0.43	5.84	27.5	220.6	74.1	22	51	7	20	22	2,115
Chicago-Naperville-Michigan City, IL-IN-WI*	5.57	0.20	5.60	28.6	271.9	75.6	24	50	10	15	50	11,830
Cincinnati-Middletown-Wilmington, OH-KY-IN*	5.59	0.32	5.63	28.9	197.7	80.7	14	48	11	28	38	1,883
Cleveland-Akron-Elyria, OH*	5.75	0.70	5.85	28.7	216.7	80.6	17	43	11	30	21	1,967
Columbus-Marion-Chillicothe, OH*	5.39	0.61	5.48	29.0	213.5	79.3	13	62	9	16	50	1,630
Dallas-Fort Worth, TX*	5.94	0.25	5.98	26.2	179.9	73.5	24	35	6	35	18	5,443
Dayton-Springfield-Greenville, OH*	5.85	0.64	5.95	28.5	195.5	80.9	15	47	9	30	17	787
Denver-Aurora-Boulder, CO*	5.50	0.53	5.57	29.1	297.4	74.6	23	62	7	8	59	3,411
Detroit-Warren-Flint, MI*	5.59	0.21	5.62	28.4	186.9	77.5	21	48	9	22	32	3,307
Fresno-Madera, CA*	5.83	0.24	5.86	27.8	260.1	72.0	29	49	8	13	38	944
Grand Rapids-Muskegon-Holland, MI*	5.77	0.37	5.82	29.0	190.0	79.9	13	57	12	18	45	453
Greensboro--Winston-Salem--High Point, NC*	5.61	0.49	5.68	27.2	180.2	75.8	21	48	7	23	27	1,062
Greenville-Anderson-Seneca, SC*	5.66	0.55	5.74	28.1	178.2	79.6	16	45	13	26	19	703
Hartford-West Hartford-Willimantic, CT*	5.72	0.33	5.77	28.3	277.4	74.4	28	51	9	13	27	872
Honolulu, HI	5.41	0.83	5.53	28.7	368.5	74.3	23	64	7	6	28	707
Houston-Baytown-Huntsville, TX*	5.85	0.43	5.91	26.5	178.0	77.5	19	44	6	31	20	4,170
Indianapolis-Anderson-Columbus, IN*	5.77	0.20	5.80	28.1	157.0	80.2	14	51	5	30	26	807
Jacksonville, FL	5.71	0.33	5.75	27.9	223.7	76.4	21	49	9	21	40	1,587
Kansas City-Overland Park-Kansas City, MO-KS*	5.73	0.36	5.78	27.7	185.5	79.0	17	45	8	30	30	2,553
Knoxville-Sevierville-La Follette, TN*	5.62	0.75	5.73	27.0	170.7	77.4	19	54	9	18	27	758
Las Vegas-Paradise-Pahrump, NV*	5.63	0.38	5.68	28.2	288.3	72.5	27	52	9	12	50	2,131
Little Rock-North Little Rock-Pine Bluff, AR*	6.00	0.41	6.06	27.7	143.1	81.3	15	38	14	33	27	391
Los Angeles-Long Beach-Riverside, CA*	5.46	0.20	5.49	28.0	425.8	68.0	40	48	5	6	54	17,120
Louisville-Evansville-Scottsburg, KY-IN*	5.81	0.52	5.89	28.0	168.1	78.4	19	54	6	21	35	1,039
Memphis, TN-MS-AR	5.95	0.49	6.02	28.2	164.1	81.0	13	47	11	29	32	899
Miami-Fort Lauderdale-Miami Beach, FL	5.73	0.43	5.80	28.5	266.9	76.1	25	44	12	19	43	7,970
Milwaukee-Racine-Waukesha, WI*	5.74	0.25	5.78	29.1	203.6	78.0	16	59	8	18	38	881
Minneapolis-St. Paul-St. Cloud, MN-WI*	5.38	0.94	5.51	29.1	272.9	77.3	20	58	6	16	47	6,253
Nashville-Davidson--Murfreesboro--Columbia, TN*	5.80	0.30	5.85	27.0	212.8	75.3	20	52	9	19	20	1,350
New Orleans-Metairie-Bogalusa, LA*	5.74	0.27	5.78	28.4	205.3	79.6	18	49	11	22	21	1,056
New York-Newark-Bridgeport, NY-NJ-CT-PA*	5.63	0.32	5.68	28.2	397.5	69.6	39	46	8	8	32	15,812
Oklahoma City-Shawnee, OK*	5.97	0.32	6.02	27.2	146.7	79.3	16	45	14	24	21	655
Omaha-Council Bluffs-Fremont, NE-IA*	5.78	0.67	5.88	28.8	177.5	78.4	13	68	6	13	36	965
Orlando-The Villages, FL*	5.76	0.37	5.81	28.3	212.7	76.7	20	51	11	18	37	2,873
Philadelphia-Camden-Vineland, PA-NJ-DE-MD*	5.83	0.33	5.87	28.7	274.6	76.3	25	45	12	18	20	7,059
Phoenix-Mesa-Scottsdale, AZ	5.67	0.57	5.76	28.0	217.4	75.9	21	49	7	23	39	4,907
Pittsburgh-New Castle, PA*	5.85	0.52	5.93	28.1	211.2	79.0	21	40	11	28	12	1,957
Portland-Vancouver-Beaverton, OR-WA	5.64	0.31	5.68	27.7	255.4	71.5	28	58	5	9	43	3,084
Providence-New Bedford-Fall River, RI-MA	5.57	0.32	5.61	28.6	325.1	70.7	36	45	9	11	39	860
Raleigh-Durham-Cary, NC*	5.66	0.44	5.73	27.0	221.1	70.9	25	58	4	12	42	1,236
Richmond, VA	5.78	0.65	5.87	27.9	231.6	75.2	22	49	8	21	27	1,953
Rochester-Batavia-Seneca Falls, NY*	5.79	0.22	5.82	27.6	203.4	80.5	19	34	13	35	7	426
Sacramento--Arden-Arcade--Truckee, CA-NV*	5.49	0.28	5.53	28.3	375.5	70.0	32	55	7	7	62	3,261
Salt Lake City-Ogden-Clearfield, UT*	5.56	0.52	5.64	27.7	231.3	75.6	22	55	9	13	44	1,115
San Antonio, TX	5.95	0.37	6.01	26.7	161.3	77.5	20	45	10	25	22	1,334
San Diego-Carlsbad-San Marcos, CA	5.22	0.26	5.26	28.7	512.3	66.4	42	52	3	3	67	3,254
San Jose-San Francisco-Oakland, CA*	5.41	0.12	5.42	28.1	552.3	67.7	34	56	5	5	67	10,044
Seattle-Tacoma-Olympia, WA*	5.48	0.35	5.53	27.9	304.7	72.6	27	56	5	12	47	7,629
St. Louis-St. Charles-Farmington, MO-IL*	5.95	0.25	5.99	27.1	188.9	75.2	23	45	7	25	27	1,696
Tampa-St. Petersburg-Clearwater, FL	5.79	0.37	5.84	27.8	204.6	75.2	22	50	11	18	33	4,210
Tucson, AZ	5.76	0.36	5.81	27.2	204.2	73.0	27	49	7	17	29	934
Tulsa-Bartlesville, OK*	5.95	0.41	6.01	27.4	156.6	78.5	18	46	9	27	27	335
Virginia Beach-Norfolk-Newport News, VA-NC	5.74	0.55	5.82	27.8	247.1	73.2	23	54	9	14	37	1,875
Washington-Baltimore-Northern Virginia, DC-MD-VA-WV*	5.75	0.57	5.84	28.1	372.2	70.6	29	53	6	12	33	14,158

*Taken from the Federal Housing  
Finance Board*

*Exhibit*

*3*

illegal activity; (vi) to ban any person involved in any illegal activity under RESPA from further participation in any FHA program; (vii) to impose civil penalties of double damages, plus \$5,000 for false statements or claims in connection with any FHA mortgage insurance issued in violation of RESPA; and (viii) to withdraw FHA approved mortgagee status for any mortgage brokers or other lenders who violate RESPA.

Although RESPA does not apply to all real estate transactions, it is the Partnership's policy to require that all Limited Partners adhere strictly to the requirements of RESPA because the situations in which RESPA will not apply are expected to be rare and difficult to ascertain with any certainty.

The Partnership intends to comply with the applicable requirements of RESPA by, inter alia, (1) requiring Qualified Investors to provide the requisite controlled business disclosure statement to clients referred to the Partnership, a current form of which is attached to this Prospectus as Attachment D, (2) prohibiting Qualified Investors from requiring that clients use any particular provider of settlement services, including the Partnership, and (3) providing that the only financial benefits which Qualified Investors will receive from the Partnership are profits to be distributed pro rata, strictly in accordance with the Partners' respective ownership interests outstanding from time to time, regardless of how much business has been referred by each partner receiving a distribution. In addition, the Partnership will not adjust a partnership interest in any fashion to reflect the amount of business referred by a partner. The Partnership's policy regarding the Limited Partners' compliance with RESPA is that Limited Partners are not required to refer clients to the Partnership for title services, and that in the event a Limited Partner refers a client to the Partnership, the Limited Partner is required first to disclose his/her interest in the Partnership in the manner required by RESPA.

Although the Partnership believes it is in compliance with applicable RESPA rules, there is no assurance that it in fact is in total compliance with such rules or that it will continue to be in compliance in the future. See "Business -- Federal Regulations."

D. Competition. The title insurance business is highly competitive. However, unlike many industries, where consumers have a wealth of information to make choices among services providers, the title insurance industry competes by obtaining client recommendations from different sources in the real estate industry. Home buyers and sellers often use a particular title company because of a recommendation from their real estate agent or mortgage loan officer, and they typically follow this recommendation. Relatively few consumers actively comparison shop for a title company based upon price and service. As a result, the Partnership's success is highly dependent upon generating recommendations from sources in the real estate industry. There is no assurance that the Partnership will be able to generate sufficient recommendations to be profitable.

The title closing and insurance underwriting services offered by First American and Universal Title Company, which companies are the Partnership's sole vendors of such products and services, will compete with many other title insurance underwriters and service providers in the Minneapolis-St. Paul metropolitan area. Many of these companies are affiliated with local

Exhibit  
8



NATIONAL ASSOCIATION OF  
EXCLUSIVE BUYER AGENTS

*The Buyer's Voice. The Buyer's Choice.*

To: House Financial Services Committee  
Sub Committee on Housing and Community Opportunity

The National Association of Exclusive Buyer Agents (NAEBA) joins those who oppose controlled business arrangements (CBA) when promoted by many of the mega Broker as an additional choice for consumers.

Regardless of the service provided by the CBA whether it be Title Insurance, Mortgage Brokerage, Home Inspection, Home Warranty, or any one of the ancillary services provide by those involved in the real estate transaction, providing more choice is not the reason for its existence. The CBA is created as a profit center – PERIOD.

In the past Title Insurance representatives and other service providers have been allowed full access to the sales staff of most brokerages. That meant the representative could stop into any office and speak freely to any agent within the brokerage. This put into play the natural forces projected on an open market place. These representatives were forced to be competitive in both pricing and the level of service provided.

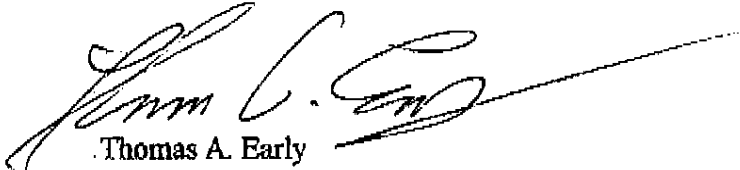
Once a CBA is put in place by a brokerage, the outside unaffiliated service provider, no matter what service they are providing or the cost of such service, is stopped at the reception desk and told they can no longer visit with the agents of the brokerage. This has the effect of narrowing the choices and in fact declaring the service provider which is approved by the brokerage owner for use by the agents within the brokerage.

This happens with every CBA put in place no matter what the service is. Incentives, in one way or another, are in place to make sure the CBA is in fact used by the majority of the agents working for the brokerage as independent contractors. Agents with long tenure and high production levels do not see the pressure to use the CBA in the same way a new agent will feel it. Most new agents are told that if they are going to support the Brokerage they work for, they will use the CBA companies' services. For a brokerage owner who has set up a CBA to say differently stares in the face of reality.



If an agent is in fact acting as a fiduciary, it would be self dealing and an obvious breach of fiduciary duty to accept pressure or incentives in the selection of a Title Company or any other service provider.

These CBA's are set up as profit centers and do NOT encourage competition when in fact the policy adopted by the brokerage cuts off the competition at the front door.

A handwritten signature in black ink, appearing to read 'Thomas A. Early', with a long horizontal flourish extending to the right.

Thomas A. Early  
President, NAEBA



OFFICE OF THE ATTORNEY GENERAL

State of Minnesota

ST. PAUL 55155

May 12, 2004

MIKE HATCH  
ATTORNEY GENERAL

Exhibit  
9

Mr. Douglas R. Miller  
President  
Title One, Inc.  
601 Carlson Parkway, Suite 1140  
Minnetonka, MN 55305

Dear Mr. Miller:

I thank you for your e-mail correspondence to Assistant Attorney General Prentiss Cox dated April 21, 2004.

You are the President of Title One, Inc. ("Title One"), an independent title insurance company and residential closer. You believe that various title companies have formed "sham" partnerships with independent real estate agents and loan officers as a means to pay those persons a referral fee in violation of the Real Estate Settlement Procedures Act ("RESPA"). You also believe that various corporations which own both title companies and real estate and/or mortgage affiliates pressure their employees to refer business to the in-house title company and/or provide compensation which essentially amounts to a referral fee for such business.

In your February 13 letter to me on these topics, you asked to have a "round table discussion" with this Office. Mr. Cox and Solicitor General Lori Swanson thereafter met with you on March 10, 2004, and you subsequently spoke with Mr. Cox by telephone. I understand that Mr. Cox and Ms. Swanson encouraged you to pursue your concerns with the federal Housing and Urban Development agency ("HUD") and the state Commerce Department, the two primary regulators in this area. In your April 21 e-mail, you asked for an "official" explanation of why this Office made those recommendations.

This Office has undergone extensive budget cuts. Indeed, it was approximately fifty percent larger in 1999. The vast majority of the lawyers in this Office are required to provide legal assistance to State agencies, and the remaining lawyers (less than 20 percent of the complement) currently have very heavy caseloads trying to address lawsuits that don't relate to state agencies. Among other things, they are tied up trying to track down and civilly commit

Mr. Douglas R. Miller, President  
May 12, 2004  
Page 2

sexual predators who were erroneously released by the Department of Corrections. They are also attempting to recover money for senior citizens who have been defrauded by prescription drug companies, to save the homes of people who have been targeted by equity stripping schemes, to remove trustees who have pilfered charitable trusts of elderly citizens, to prosecute physical abuse of vulnerable adults, to enjoin the conduct of a manufacturer of defective bulletproof vests sold to police officers and to stop illegal pyramid schemes and other fraudulent sales. In addition, the Office is prosecuting approximately one dozen murder trials in rural Minnesota and about three dozen cases involving methamphetamine dealers. We are also involved in a variety of antitrust investigations on issues ranging from prescription drugs to software to timber sales.

As a result of our limited resources, this Office must prioritize its work. In doing so, we have encouraged constituents with industry grievances that are regulated by other agencies at the state or federal level to pursue them with those regulators. As you know, HUD is the federal agency which acts as the primary enforcer. I understand that you do not believe that HUD has been sufficiently zealous in its enforcement practices. I nevertheless encourage you to file a complaint with that agency as follows:

Minnesota Department of Housing and Urban Development  
Stephen J. Gronewold, Chief Counsel  
920 Second Avenue South  
Minneapolis, MN 55402  
Phone: (612) 370-3000  
E-mail: [www.hud.gov](http://www.hud.gov)

In addition, the Minnesota Department of Commerce is the primary regulator of title and mortgage companies in Minnesota. You indicate that you have not been impressed with the Commerce Department. Unlike this Office, the Commerce Department is funded and structured to receive and investigate complaints involving the real estate industry. Accordingly, I strongly encourage you to file a complaint with the Commissioner of Commerce, who may be reached as follows:

Commissioner Glenn Wilson  
Department of Commerce  
85 Seventh Place East, Suite 500  
St. Paul, MN 55101  
(651) 296-4026

Mr. Douglas R. Miller, President  
May 12, 2004  
Page 3

As you probably know, federal law does provide a private right of action for violations of RESPA's anti-referral fee provisions, and plaintiffs may receive damages of up to three times the amount of any improperly-paid amounts, together with costs and attorneys fees. I understand that you were represented at your meeting with Ms. Swanson and Mr. Cox by the law firm of Zimmerman and Reed, a well-known and capable class action litigation firm. At the meeting, your attorney indicated that he had commenced a private lawsuit in federal court involving some of the "sham" partnerships about which you complain, which lawsuit was apparently settled pursuant to a confidentiality order. In addition to filing complaints with the regulators identified above, you may wish to discuss with your attorney the feasibility of bringing another private lawsuit based upon the above allegations.

I thank you again for contacting this Office.

Very truly yours,



MIKE HATCH  
Attorney General  
State of Minnesota

MAH/tlh

cc: Solicitor General Lori Swanson  
Assistant Attorney General Prentiss Cox  
AG: #1223496-v1

# TITLE-1

Title One, Inc., has been a key player in the industry since 1992, when we were founded upon the simple premise that title insurance did not have to be expensive and high quality customer service should be the standard. We have built a loyal following of Loan Officers and Realtors who seek the best service and price for their clients. Below is a price comparison, showing you how much you save your clients, in respect to other title companies in town. Our settlement fee drops to \$165 on most transactions involving new financing in which Title One, Inc. performs both the mortgage and real estate closings.

The following example is a typical transaction with a purchase price of \$250,000 and new financing in the amount of \$200,000.

	Closing Fee	Exam Fee	Name Search	Plat Drawing	Recording Service Fee	Title Insurance Lender	Title Insurance Owners	Adjustable Rate Rider	Totals	Total Savings
<b>TITLE-1</b>	<b>195.00</b>	<b>135.00</b>	<b>25.00</b>	<b>55.00</b>	<b>31.00</b>	<b>400.00</b>	<b>225.00</b>	<b>0.00</b>	<b>1066.00</b>	
Burnet Title	280.00	145.00	35.00	60.00	50.00	577.50	330.00	50.00	1527.50	\$462.00
Dakota Abstract & Title	250.00	125.00	25.00	50.00	40.00	812.50		50.00	1352.50	\$286.50
Edina Realty Title	290.00	140.00	30.00	50.00	40.00	562.50	300.00	50.00	1462.50	\$396.50
Stewart Title	250.00	130.00	30.00	60.00	50.00	575.00	287.50	50.00	1432.50	\$366.50
Walsh Title	275.00	140.00	30.00	60.00	30.00	562.50	300.00	50.00	1447.50	\$381.50
Chicago Title	275.00	130.00	30.00	60.00	60.00	575.00	287.50	0.00	1417.50	\$351.50
GAC	250.00	200.00	30.00	60.00	30.00	687.50	175.00	50.00	1482.50	\$416.50
Excel Title	275.00	125.00	50.00	60.00	60.00	575.00	287.50	0.00	1,432.50	\$366.50
1 <sup>st</sup> American Title	270.00	160.00	36.00	60.00	30.00	508.75	306.75	0.00	1371.50	\$305.50

\* Our competitors' figures were obtained from verbal quotes in March/ April 2006 and are well documented. However, verbal quotes may be inaccurate and they are not guaranteed. The purpose of this rate comparison is to demonstrate the substantial savings at Title One, Inc.

## Terms on Conventional Home Mortgages -- 2004

Table VIII - Averages by Metropolitan Area

Metropolitan Area - *Consolidated MSA	Contract Interest Rate (%)	Initial Fees and Charges (%)	Effective Rate (%)	Term to Maturity (Years)	Purchase Price (\$thou.)	Loan to Price Ratio (%)	% of Loans LTV 70.0 Less	% of Loans LTV 70.1 - 80.0	% of Loans LTV 80.1 - 90.0	% of Loans LTV Over 90.0	Percent of Number with Adjustable Rates	Number of Loans
Albany-Schenectady-Amsterdam, NY*	5.74	0.40	5.80	26.8	189.9	75.9	26	47	9	18	17	341
Atlanta-Sandy Springs-Gainesville, GA-AL*	5.62	0.35	5.67	28.0	235.2	75.4	19	55	7	19	44	6,752
Austin-Round Rock, TX	5.91	0.17	5.94	26.6	217.5	71.0	27	46	6	21	22	1,463
Birmingham-Hoover-Cullman, AL*	5.95	0.74	6.06	28.6	179.3	79.4	15	56	9	21	37	608
Boston-Worcester-Manchester, MA-NH*	5.42	0.29	5.46	28.5	379.6	71.2	33	49	7	11	45	4,140
Buffalo-Niagara Falls, NY	5.91	0.15	5.93	28.4	188.1	78.0	25	31	15	30	4	440
Charlotte-Gastonia-Salisbury, NC-SC*	5.78	0.43	5.84	27.5	220.6	74.1	22	51	7	20	22	2,115
Chicago-Naperville-Michigan City, IL-IN-WI*	5.57	0.20	5.60	28.6	271.9	75.6	24	50	10	15	50	11,830
Cincinnati-Middletown-Wilmington, OH-KY-IN*	5.59	0.32	5.63	28.9	197.7	80.7	14	48	11	28	38	1,883
Cleveland-Akron-Elyria, OH*	5.75	0.70	5.85	28.7	216.7	80.6	17	43	11	30	21	1,967
Columbus-Marion-Chillicothe, OH*	5.39	0.61	5.48	29.0	213.5	79.3	13	62	9	16	50	1,630
Dallas-Fort Worth, TX*	5.94	0.25	5.98	26.2	179.9	73.5	24	35	6	35	18	5,443
Dayton-Springfield-Greenville, OH*	5.85	0.64	5.95	28.5	195.5	80.9	15	47	9	30	17	787
Denver-Aurora-Boulder, CO*	5.50	0.53	5.57	29.1	297.4	74.6	23	62	7	8	59	3,411
Detroit-Warren-Flint, MI*	5.59	0.21	5.62	28.4	186.9	77.5	21	48	9	22	32	3,307
Fresno-Madera, CA*	5.83	0.24	5.86	27.8	260.1	72.0	29	49	8	13	38	944
Grand Rapids-Muskegon-Holland, MI*	5.77	0.37	5.82	29.0	190.0	79.9	13	57	12	18	45	453
Greensboro-Winston-Salem-High Point, NC*	5.61	0.49	5.68	27.2	180.2	75.8	21	48	7	23	27	1,062
Greenville-Anderson-Seneca, SC*	5.66	0.55	5.74	28.1	178.2	79.6	16	45	13	26	19	703
Hartford-West Hartford-Willimantic, CT*	5.72	0.33	5.77	28.3	277.4	74.4	28	51	9	13	27	872
Honolulu, HI	5.41	0.83	5.53	28.7	368.5	74.3	23	64	7	6	28	707
Houston-Baytown-Huntsville, TX*	5.85	0.43	5.91	26.5	178.0	77.5	19	44	6	31	20	4,170
Indianapolis-Anderson-Columbus, IN*	5.77	0.20	5.80	28.1	157.0	80.2	14	51	5	30	26	807
Jacksonville, FL	5.71	0.33	5.75	27.9	223.7	76.4	21	49	9	21	40	1,587
Kansas City-Overland Park-Kansas City, MO-KS*	5.73	0.36	5.78	27.7	185.5	79.0	17	45	8	30	30	2,553
Knoxville-Sevierville-La Follette, TN*	5.62	0.75	5.73	27.0	170.7	77.4	19	54	9	18	27	758
Las Vegas-Paradise-Pahrump, NV*	5.63	0.38	5.68	28.2	288.3	72.5	27	52	9	12	50	2,131
Little Rock-North Little Rock-Pine Bluff, AR*	6.00	0.41	6.06	27.7	143.1	81.3	15	38	14	33	27	391
Los Angeles-Long Beach-Riverside, CA*	5.46	0.20	5.49	28.0	425.8	68.0	40	48	5	6	54	17,120
Louisville-Elizabethtown-Scottsburg, KY-IN*	5.81	0.52	5.89	28.0	168.1	78.4	19	54	6	21	35	1,039
Memphis, TN-MS-AR	5.95	0.49	6.02	28.2	164.1	81.0	13	47	11	29	32	899
Miami-Fort Lauderdale-Miami Beach, FL	5.73	0.43	5.80	28.5	266.9	76.1	25	44	12	19	43	7,970
Milwaukee-Racine-Waukesha, WI*	5.74	0.25	5.78	29.1	203.6	78.0	16	59	8	18	38	881
Minneapolis-St. Paul-St. Cloud, MN-WI*	5.38	0.94	5.51	29.1	272.9	77.3	20	58	6	16	47	6,253
Nashville-Davidson--Murfreesboro--Columbia, TN*	5.80	0.30	5.85	27.0	212.8	75.3	20	52	9	19	20	1,350
New Orleans-Metairie-Bogalusa, LA*	5.74	0.27	5.78	28.4	205.3	79.6	18	49	11	22	21	1,056
New York-Newark-Bridgeport, NY-NJ-CT-PA*	5.63	0.32	5.68	28.2	397.5	69.6	39	46	8	8	32	15,812
Oklahoma City-Shawnee, OK*	5.97	0.32	6.02	27.2	146.7	79.3	16	45	14	24	21	655
Omaha-Council Bluffs-Fremont, NE-IA*	5.78	0.67	5.88	28.8	177.5	78.4	13	68	6	13	36	965
Orlando-The Villages, FL*	5.76	0.37	5.81	28.3	212.7	76.7	20	51	11	18	37	2,873
Philadelphia-Camden-Vineland, PA-NJ-DE-MD*	5.83	0.33	5.87	28.7	274.6	76.3	25	45	12	18	20	7,059
Phoenix-Mesa-Scottsdale, AZ	5.67	0.57	5.76	28.0	217.4	75.9	21	49	7	23	39	4,907
Pittsburgh-New Castle, PA*	5.85	0.52	5.93	28.1	211.2	79.0	21	40	11	28	12	1,957
Portland-Vancouver-Beaverton, OR-WA	5.64	0.31	5.68	27.7	255.4	71.5	28	58	5	9	43	3,084
Providence-New Bedford-Fall River, RI-MA	5.57	0.32	5.61	28.6	325.1	70.7	36	45	9	11	39	860
Raleigh-Durham-Cary, NC*	5.66	0.44	5.73	27.0	221.1	70.9	25	58	4	12	42	1,236
Richmond, VA	5.78	0.65	5.87	27.9	231.6	75.2	22	49	8	21	27	1,953
Rochester-Batavia-Seneca Falls, NY*	5.79	0.22	5.82	27.6	203.4	80.5	19	34	13	35	7	426
Sacramento-Arden-Arcade-Truckee, CA-NV*	5.49	0.28	5.53	28.3	375.5	70.0	32	55	7	7	62	3,261
Salt Lake City-Ogden-Clearfield, UT*	5.56	0.52	5.64	27.7	231.3	75.6	22	55	9	13	44	1,115
San Antonio, TX	5.95	0.37	6.01	26.7	161.3	77.5	20	45	10	25	22	1,334
San Diego-Carlsbad-San Marcos, CA	5.22	0.26	5.26	28.7	512.3	66.4	42	52	3	3	67	3,254
San Jose-San Francisco-Oakland, CA*	5.41	0.12	5.42	28.1	552.3	67.7	34	56	5	5	67	10,044
Seattle-Tacoma-Olympia, WA*	5.48	0.35	5.53	27.9	304.7	72.6	27	56	5	12	47	7,629
St. Louis-St. Charles-Farmington, MO-IL*	5.95	0.25	5.99	27.1	188.9	75.2	23	45	7	25	27	1,696
Tampa-St. Petersburg-Clearwater, FL	5.79	0.37	5.84	27.8	204.6	75.2	22	50	11	18	33	4,210
Tucson, AZ	5.76	0.36	5.81	27.2	204.2	73.0	27	49	7	17	29	934
Tulsa-Bartlesville, OK*	5.95	0.41	6.01	27.4	156.6	78.5	18	46	9	27	27	335
Virginia Beach-Norfolk-Newport News, VA-NC	5.74	0.55	5.82	27.8	247.1	73.2	23	54	9	14	37	1,875
Washington-Baltimore-Northern Virginia, DC-MD-VA-WV*	5.75	0.57	5.84	28.1	372.2	70.6	29	53	6	12	33	14,158

Taken from the Federal Housing  
Finance Board

Exhibit

3

CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM

DIAMOND TITLE SERVICES, LIMITED PARTNERSHIP  
A MINNESOTA LIMITED PARTNERSHIP  
("DIAMOND" OR THE "PARTNERSHIP")

7777 Washington Avenue South  
Edina, Minnesota 55439  
(612) 829-0899

35 LIMITED PARTNERSHIP INTERESTS  
\$500.00 PER INTEREST

Number: 2

Offeree: \_\_\_\_\_

The Date Of This Memorandum Is January 25, 1999.

# CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM DIAMOND TITLE SERVICES, LIMITED PARTNERSHIP

All limited partnership interests (the "Interests"), offered hereby are being offered by Diamond Title Services, Limited Partnership, a Minnesota limited partnership ("Diamond" or the "Partnership") solely to Minnesota residents who are full-time professional real estate service providers with at least two years experience ("Qualified Investors"). There is no public market for the Interests. The capital contribution for the interests was determined by Diamond and is not based upon the net worth or earnings of the Partnership.

The Interests offered by this Prospectus are speculative and involve a degree of risk and should be purchased only by Qualified Investors who can afford the loss of their entire Capital Contribution. Qualified Investors should be particularly aware of the following risks:

- The Partnership has no operating history.
- The Partnership may experience losses from errors and omissions and there may not be adequate insurance to cover these losses.
- The Partnership and its members must comply strictly with the Real Estate Settlement Procedures Act and other federal and state laws. These laws and applicable regulations promulgated thereunder are subject to legislative modification and to interpretation by enforcing agencies.
- The title insurance business is highly competitive.
- Limited Partners do not have a role in managing the Partnership.
- Restriction on transfer of Partnership Interests.

Also see "Risk Factors" beginning on page 5.

**THESE SECURITIES HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSIONS, BUT ARE OFFERED PURSUANT TO CLAIMED EXEMPTIONS FROM REGISTRATION PROVIDED BY THE ACT AND APPLICABLE STATE EXEMPTIONS. THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION NOR HAS THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS MEMORANDUM. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.**

	Capital Contribution from Qualified Investors	General Partner's Capital Contribution <sup>(2)</sup>	Total Capital Contributions <sup>(4)</sup>
Per Interest <sup>(1)</sup>	\$500	\$125	\$625
Total Interests (35 Interests) <sup>(3)</sup>	\$17,500	\$4,375	\$21,875

- (1) The Interests are being offered solely to Minnesota Residents who are full-time professional real estate service providers with at least two years experience. ("Qualified Investor"). The Partnership is not offering to sell any Interests hereunder to any party other than Qualified Investors.
- (2) The General Partner shall make a contribution equal to 20% of all contributions by Qualified Investors.
- (3) The Partnership will accept subscriptions until the maximum number of subscriptions offered hereby has been accepted or until this offering is terminated, whichever is earlier.
- (4) Before deducting offering expenses payable by the Partnership, estimated at approximately \$1,000 including legal and filing fees and printing and related expenses.

The date of this Prospectus is January 25, 1999



THE INTERESTS MAY BE PURCHASED BY AN UNLIMITED NUMBER OF "ACCREDITED INVESTORS" WITHIN THE MEANING OF THE ACT, SUBJECT TO PRIOR SALE, WITHDRAWAL, CANCELLATION OR MODIFICATION OF THE OFFER WITHOUT NOTICE, AND ACCEPTANCE OF THE SUBSCRIPTIONS, DELIVERY OF THE CERTIFICATES AND CERTAIN FURTHER CONDITIONS. THE COMPANY RESERVES THE RIGHT TO WITHDRAW, CANCEL OR MODIFY SUCH OFFER AND TO REJECT SUBSCRIPTIONS IN WHOLE OR IN PART FOR THE PURCHASE OF ANY OF THE INTERESTS OFFERED. IN ADDITION, THE RIGHT IS RESERVED TO CANCEL ANY SALE IF SUCH SALE, IN THE OPINION OF THE COMPANY, WOULD VIOLATE FEDERAL OR STATE SECURITIES LAWS.

OFFEREEES AND SUBSCRIBERS ARE URGED TO READ THIS MEMORANDUM CAREFULLY. ALL OFFEREEES AND SUBSCRIBERS WILL BE OFFERED AN OPPORTUNITY TO TALK WITH OFFICERS OF THE COMPANY TO VERIFY ANY OF THE INFORMATION INCLUDED HEREIN AND TO OBTAIN ADDITIONAL INFORMATION REGARDING THE COMPANY. THIS MEMORANDUM CONTAINS SUMMARIES OF CERTAIN DOCUMENTS. ADDITIONAL MATERIALS WILL BE MADE AVAILABLE TO PROSPECTIVE INVESTORS FOR INSPECTION DURING NORMAL BUSINESS HOURS UPON REASONABLE REQUEST TO THE COMPANY.

THE DELIVERY OF THIS MEMORANDUM, ATTACHMENTS OR MATERIALS AVAILABLE ON REQUEST AT ANY TIME DOES NOT IMPLY THAT THERE HAS BEEN NO CHANGE IN THE INFORMATION SINCE THE DATE HEREOF.

THE OFFEREE, BY ACCEPTING DELIVERY OF THIS MEMORANDUM, AGREES TO RETURN THIS MEMORANDUM AND ALL ENCLOSED DOCUMENTS TO THE COMPANY IF THE OFFEREE DOES NOT UNDERTAKE TO PURCHASE ANY OF THE INTERESTS OFFERED HEREBY.

ANY REPRODUCTION OR DISTRIBUTION OF THIS CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM, IN WHOLE OR IN PART, OR THE DIVULGENCE OF ANY OF ITS CONTENTS WITHOUT THE PRIOR WRITTEN PERMISSION OF THE COMPANY IS PROHIBITED. THIS CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM IS FURNISHED FOR THE SOLE USE OF THE OFFEREE AND FOR THE SOLE PURPOSE OF PROVIDING INFORMATION REGARDING THE SECURITIES PROPOSED TO BE SOLD BY THE COMPANY. NO OTHER USE OF THIS INFORMATION IS AUTHORIZED.

EXCEPT AS HEREIN DISCUSSED, NO PERSON HAS BEEN AUTHORIZED BY THE COMPANY TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATION CONCERNING THE COMPANY OTHER THAN THOSE CONTAINED IN THIS OFFERING MEMORANDUM IN CONNECTION WITH THE OFFERING DESCRIBED HEREIN AND, IF GIVEN OR MADE, SUCH OTHER INFORMATION OR REPRESENTATION MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE COMPANY. IN MAKING AN INVESTMENT DECISION INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED.

## TABLE OF CONTENTS

	PAGE
SUMMARY OF THE OFFERING.....	1
Qualified Investors.....	1
Diamond Title Services.....	1
The Limited Partnership Agreement.....	2
The General Partner.....	2
The Limited Partners.....	2
Number of Limited Partnership Interests Offered; Duration of the Offering.....	3
Capital Contribution.....	3
Use of Proceeds.....	3
Investor Qualification Requirements.....	3
Compliance with RESPA.....	3
Reports to Partners.....	4
Allocation of Income, Losses and Distributions Among Partners.....	4
Generation of Passive Income and Losses.....	4
 RISK FACTORS.....	 5
 USE OF PROCEEDS.....	 10
 CAPITALIZATION.....	 12
 DILUTION.....	 12
 BUSINESS OF THE LIMITED PARTNERSHIP.....	 13
General.....	13
Overview of Title Insurance Industry.....	14
Title Policies.....	14
The Closing Process.....	14
Issuing the Policy: Direct vs. Agency.....	15
Premiums.....	15
Business of the Partnership.....	15
Operating Experience of the General Partner.....	16
Employees.....	17
Competition.....	17
Federal Regulation.....	17
State Regulations.....	19
Marketing.....	19
Facilities.....	19
Litigation.....	19

MANAGEMENT .....	
General Partner.....	20
Duties of the General Partner.....	20
Fiduciary Responsibility of the General Partner.....	20
CONFLICTS OF INTEREST .....	
Possible Conflicts of Interests.....	21
<i>Multiple Interests of the General Partner</i> .....	21
<i>Contracts with General Partner and Affiliates</i> .....	21
ORGANIZATION, STRUCTURE AND OPERATION OF THE PARTNERSHIP .....	
Summary of Limited Partnership Agreement .....	22
DESCRIPTION OF INTERESTS OFFERED .....	
The Interests .....	26
Limitations on Resale.....	26
Record of Interests .....	26
OFFERING AND SALE OF INTERESTS .....	
Plan of Distribution.....	27
Investor Qualification Requirements.....	27
Subscription for the Interests .....	28
SUMMARY OF CERTAIN FEDERAL INCOME TAX MATTERS .....	
Classification as a Partnership .....	28
Use of Deductions .....	28
Taxation of Income .....	29
Audit and Administrative Matters .....	29
ATTACHMENTS.....	30
ADDITIONAL MATERIALS AVAILABLE ON REQUEST .....	30
ATTACHMENT A	LIMITED PARTNERSHIP AGREEMENT
ATTACHMENT B	GENERAL PARTNER FINANCIAL STATEMENT
ATTACHMENT C	SUBSCRIPTION AGREEMENT
ATTACHMENT D	FORM OF RESPA DISCLOSURE
ATTACHMENT E	NOTICE OF RIGHT TO RESCIND

## SUMMARY OF THE OFFERING

*The following summary is qualified in its entirety by reference to the more detailed information appearing elsewhere in the Prospectus. Each Qualified Investor is urged to read this Prospectus in its entirety.*

### Qualified Investors

Qualified Investors are Minnesota residents who are experienced full-time professionals with at least two years of experience in the real estate services business, such as licensed real estate brokers or agents, mortgage loan brokers, real estate builders and developers, and title service professionals.

### Diamond Title Services, Limited Partnership

Diamond Title Services, LP was established on January 25, 1999, as a Limited Partnership under Minnesota law. Universal Partnerships, Inc. ("Universal" or the "General Partner") is the sole general partner of the Partnership. The General Partner is organized in Minnesota and is a wholly owned subsidiary of Universal Title Company. Universal Title Company is a title insurance underwriter licensed to do business in Minnesota.

Diamond is a title insurance agency that provides title and real estate closing services primarily to Diamond home buyers and sellers in the Minneapolis and St. Paul metropolitan area and surrounding counties. In its capacity as a title insurance agent, Diamond performs all the functions and services necessary to obtain an underwritten commitment for a title policy. Diamond conducts the title exam, determines the insurability of title to particular parcels of property, prepares title commitments, resolves any underwriting obligations or conditions prior to issuance of the policy and issues the final policy. If necessary, Diamond orders abstracts from a number of different vendors. The title premium is paid by the insured for the title insurance policy and Diamond retains a portion of the premium as a fee for its services. The remaining portion of the premium is paid to the title insurance underwriter. Diamond currently serves as an agent for First American under the terms of an Agency Contract which is terminable by either party on 30 days written notice.

Diamond contracts with Universal Title Company, a wholly owned subsidiary of First American Title Insurance Company, a national title insurance company ("First American"), for closing services pursuant to a Title and Closing Services Agreement. Diamond also contracts with other contractors to provide a variety of other ancillary real estate services, including abstracting, name searches, plat drawings and real estate assessments. Diamond passes the outside contractor's invoice for these services rendered to Universal Title Company, who collects the fees at closing and without mark-up, forwards such fees to the outside contractors for their services.

The General Partner is currently serving as the general partner in approximately 18 other limited partnerships. These limited partnerships have been established to serve as vehicles for

delivering title services to home buyers, who often rely on a recommendation from a real estate agent or mortgage loan officer to select a provider of title and related real estate services. The General Partner believes that title agencies such as the Partnership can deliver quality title services to the clients of real estate agents and mortgage loan officers and other real estate professionals and that such persons are the best means of educating the consumers of such services and about the services to be offered by the Partnership.

The Partnership's offices currently are located at 7777 Washington Avenue South, Edina, Minnesota 55439 and its telephone number is (612) 829-0899.

### The Limited Partnership Agreement

Diamond Title Services, Limited Partnership is governed by the Limited Partnership Agreement substantially in the form attached as Attachment A hereto (the "Partnership Agreement").

### The General Partner

The General Partner is a wholly-owned subsidiary of Universal Title Company. Commencing upon the sale of the Interests offered hereby, and at all times thereafter, the General Partner will own a twenty percent (20%) interest in Diamond based on an initial and subsequent capital contributions which at all times will represent 20% of all capital contributions made to Diamond. See "Dilution." The Partnership Agreement provided that the General Partner shall manage the Partnership. See "Organization, Structure and Operation of the Partnership." The Balance Sheet of the General Partner is attached to this Prospectus as Attachment B.

Universal Title Company serves as a general partner in approximately 18 other limited partnerships that operate as title agencies in Minnesota, including the Minneapolis and St. Paul metropolitan area, St. Cloud and Duluth. See "Relationships Among Certain Parties."

### The Limited Partners

Qualified Investors who purchase limited partnership interests in the Partnership ("Interests") will become Limited Partners under the Partnership Agreement. Limited Partners will collectively own an 80% interest in the Partnership, which will be shared among all Limited Partners pro rata in accordance with the amount of their capital contributions. Limited Partners will not participate in the management or control of the Partnership and do not have the right or authority to act for or bind the Partnership. See "Organization, Structure and Operation of the Partnership." Limited Partners may, but are not required to, refer potential clients to the Partnership for title and closing services. PARTNERS ARE REQUIRED AT ALL TIMES TO STRICTLY COMPLY WITH THE RULES AND REGULATIONS OF THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ("HUD") AND THE REAL ESTATE SETTLEMENT PROCEDURES ACT ("RESPA"), INCLUDING PROPER AND TIMELY DISCLOSURE OF THE PARTNERS' OWNERSHIP INTEREST IN THE PARTNERSHIP.

## Number of Limited Partnership Interests Offered; Duration of the Offering

A maximum of 35 Interests are being offered to Qualified Investors. Payment for Interests purchased must be made in full at the time of subscriptions. Qualified Investors must complete and sign the Subscription Agreement enclosed herein as Attachment C, and make a check payable to "Diamond Title Services, Limited Partnership" for the subscription amount and mail the Subscription Agreement and check to: Diamond Title Services, Limited Partnership, 7777 Washington Avenue South, Edina, Minnesota 55439.

The offering of Interests will terminate on the earlier of the following: (a) the sale of the maximum number of Interests; or (b) on any date prior to completion of the offering as the General Partner deems appropriate.

## Capital Contribution

The Partnership is offering Interests for a \$500 capital contribution per Interest. The General Partner will not, under any circumstances, accept subscriptions for a fraction of an Interest.

## Use of Proceeds

The Partnership plans to use the proceeds from this offering for working capital. The maximum offering is expected to provide sufficient initial working capital to operate the business of the Partnership.

## Investor Qualification Requirements

Investors must be residents of the state of Minnesota and must not have a present intention to be a resident of any other state.

Investors must be Qualified Investors, as defined on Page 1 "Prospectus Summary" and as further set forth in paragraphs 2 through 5 of the Subscription Agreement.

## Compliance with RESPA

The Partnership is subject to RESPA, administered by HUD.

Although RESPA does not apply to all real estate transactions, it is the Partnership's policy to require that all Limited Partners adhere strictly to the requirements of RESPA. "See Business - Federal Regulation."

## Reports to Partners

Limited Partners have the right to inspect, examine and copy certain books and records of the Partnership. Annual reports prepared by the General Partner will be delivered to each Limited Partner at the end of the Partnership's fiscal year. In addition, the Partnership will provide Limited Partners with monthly profit and loss statements and Partnership minutes each quarter.

## Allocation of Income, Losses and Distributions Among Partners

Income and losses of the Partnership each year will be allocated among all the Partners in proportion to such Partners' respective ownership interests in the Partnership. The Partnership will distribute each year an amount estimated by the General Partner to be sufficient to pay federal and state income taxes on each Partner's share of Partnership income which will be included in the Partner's income for income tax purposes for such fiscal year. UNDER NO CIRCUMSTANCES WILL THE PARTNERSHIP DIRECTLY OR INDIRECTLY COMPENSATE OR OTHERWISE REWARD INDIVIDUAL LIMITED PARTNERS BASED ON THE VOLUME OF THEIR REFERRALS TO THE PARTNERSHIP.

## Generation of Passive Income and Losses

Under the Tax Reform Act of 1986 (the "1986 Act") investors generally may not offset losses from passive activities (i.e., activities in which the investor does not materially participate) against nonpassive income of the investor. Material participation (generally defined by the IRS as 500 hours of participation in a year) would cause net income and net loss to be nonpassive. However, significant participation (defined by the IRS as 100 hours of participation in a year) by an investor would cause net income to be nonpassive, but net loss to be passive.

If the Partnership generates losses, such losses should be passive losses to Limited Partners since the Limited Partners will materially participate in the Partnership's business. For years in which the Partnership produces net income, such income should generally be passive income unless the Limited Partner materially or significantly participates in the Partnership's business.



## RISK FACTORS

*Purchasing an Interest in the Partnership is speculative, involves a high degree of risk and is not an appropriate use of funds for persons who cannot afford the loss of their entire Capital Contribution. Qualified Investors should be particularly aware of the following risk factors and should review carefully the information contained elsewhere in this Prospectus.*

A. Limited Operating History and No Assurance that Partnership will be Profitable. The Partnership was recently formed for the purpose of providing title services. However, the General Partner's parent company, Universal Title Company, has many years of experience in the title services business and the General Partner has formed and currently manages other limited partnerships similar to this Partnership. There is no assurance that the Partnership will be profitable and continue to operate as a going concern. Two limited partnerships similar to this Partnership were not profitable and as a result were dissolved.

The Partnership has entered into an Agency Contract with First American and a Title and Closing Services Agreement with Universal Title Company. The Partnership believes such agreements will provide the Partnership with all of the necessary support to conduct its operations. However, both agreements may be terminated by either party upon 30 and 90 days' notice respectively, and such termination could have a material adverse effect on the Partnership and its operations.

B. Errors and Omissions Insurance. The Partnership has purchased errors and omissions insurance to protect the Partnership against mistakes in examining title which could render the Partnership liable to the beneficiaries for whom the Partnership has procured the insurance policies. However, this errors and omissions insurance does not protect the Partnership against willful or dishonest conduct by its employees. The Partnership believes it has minimized this risk by hiring a competent, qualified and experienced title examiner. However, there is no assurance that the errors and omissions coverage will be adequate to cover any and all claims or that insurance premiums will not increase in the future as a consequence of conditions in the market.

C. RESPA Requirements. The U.S. Department of Housing and Urban Development ("HUD") published final regulations under the Real Estate Settlement Procedures Act ("RESPA") on November 2, 1992 and published certain revisions on March 26 and June 7, 1996. RESPA is a federal law designed to reduce inflated and unwarranted title insurance and settlement costs, to give consumers a better understanding of the home purchase and settlement process; and to allow the consumer adequate opportunity to shop for real estate services, including title services. In addition, this law is designed to prevent kickbacks and fee splitting by the parties which are involved in providing services relating to home purchases and the settlement process. RESPA is enforced by HUD, which has the power (i) to seek an injunction against violators; (ii) to seek a \$10,000 fine against any entity or individual involved in a violation of RESPA; (iii) to seek criminal penalties of up to one year imprisonment against violators; (iv) to seek restitution for the home buyer of an amount up to three times the settlement charge resulting from the unlawful activity; (v) to recover all profits made as a result of the



illegal activity; (vi) to ban any person involved in any illegal activity under RESPA from further participation in any FHA program; (vii) to impose civil penalties of double damages, plus \$5,000 for false statements or claims in connection with any FHA mortgage insurance issued in violation of RESPA; and (viii) to withdraw FHA approved mortgagee status for any mortgage brokers or other lenders who violate RESPA.

Although RESPA does not apply to all real estate transactions, it is the Partnership's policy to require that all Limited Partners adhere strictly to the requirements of RESPA because the situations in which RESPA will not apply are expected to be rare and difficult to ascertain with any certainty.

The Partnership intends to comply with the applicable requirements of RESPA by, inter alia, (1) requiring Qualified Investors to provide the requisite controlled business disclosure statement to clients referred to the Partnership, a current form of which is attached to this Prospectus as Attachment D, (2) prohibiting Qualified Investors from requiring that clients use any particular provider of settlement services, including the Partnership, and (3) providing that the only financial benefits which Qualified Investors will receive from the Partnership are profits to be distributed pro rata, strictly in accordance with the Partners' respective ownership interests outstanding from time to time, regardless of how much business has been referred by each partner receiving a distribution. In addition, the Partnership will not adjust a partnership interest in any fashion to reflect the amount of business referred by a partner. The Partnership's policy regarding the Limited Partners' compliance with RESPA is that Limited Partners are not required to refer clients to the Partnership for title services, and that in the event a Limited Partner refers a client to the Partnership, the Limited Partner is required first to disclose his/her interest in the Partnership in the manner required by RESPA.

Although the Partnership believes it is in compliance with applicable RESPA rules, there is no assurance that it in fact is in total compliance with such rules or that it will continue to be in compliance in the future. See "Business -- Federal Regulations."

D. Competition. The title insurance business is highly competitive. However, unlike many industries, where consumers have a wealth of information to make choices among services providers, the title insurance industry competes by obtaining client recommendations from different sources in the real estate industry. Home buyers and sellers often use a particular title company because of a recommendation from their real estate agent or mortgage loan officer, and they typically follow this recommendation. Relatively few consumers actively comparison shop for a title company based upon price and service. As a result, the Partnership's success is highly dependent upon generating recommendations from sources in the real estate industry. There is no assurance that the Partnership will be able to generate sufficient recommendations to be profitable.

The title closing and insurance underwriting services offered by First American and Universal Title Company, which companies are the Partnership's sole vendors of such products and services, will compete with many other title insurance underwriters and service providers in the Minneapolis-St. Paul metropolitan area. Many of these companies are affiliated with local

real estate companies that are able to refer customers to such title companies for title services. The Partnership's major competitors in the Twin Cities include Burnett Title, Edina Title, Chicago Title Insurance Company, Old Republic Title Insurance Company and ATI Title Company. These competitive providers may be successful in attracting business from the clients of the Partnership's members notwithstanding the member's referral of their clients to the Partnership.

E. Factors Which May Affect Limited Partners' Limited Liability: Control by General Partner. A Limited Partner of the Partnership will not be liable for debts or obligations of the Partnership in excess of his or her capital contribution. A Limited Partner may, however, be liable for the full amount of his or her capital contribution even if part of that contribution has been returned by way of distributions. Distributions to Limited Partners may be subject to return to the Partnership upon action by creditors if after such distributions the Partnership's liabilities exceed its assets.

The Limited Partners of the Partnership are prohibited by the Partnership Agreement from participating in the management of the Partnership (and under Minnesota law such participation, with certain exceptions, would eliminate the limitations on the liability of such Limited Partners for Partnership obligations), and thus must rely exclusively on the management abilities and decisions of the General Partner.

F. Restrictions on Transfer of the Interests. The Interests offered hereby have not been registered under the Securities Act of 1933, as amended (the "Act") or any state securities or Blue Sky laws (the "Laws") and may be sold only pursuant to registration or exemption from such registration under the Act and Laws. The Partnership Agreement restricts the transfer of the Interests and gives the Partnership an option to purchase the Interests at book value in the event of any attempted transfer. Book value is the Partnership's net worth (as determined in accordance with generally accepted accounting principles, multiplied by the percentage interest to be purchased from a Limited Partner. See "Organization, Structure and Operation of the Partnership" and "Description of Interests Offered -- Limitations on Resale."

There was no market for the Interests prior to this offering and there will be no market for the Interests subsequent to this offering. The purchase of the Interests should therefore be viewed as a long-term, illiquid investment.

G. Tax Risks. The Partnership was formed as a limited partnership under Minnesota law in order to eliminate "double taxation" of the Partnership's income to its Partners. See "Summary of Certain Federal Income Tax Matters." The Partnership will not apply for a ruling from the Internal Revenue Service ("IRS") to the effect that it will be classified as a limited partnership rather than as an organization taxable as a corporation for federal income tax purposes. If the Partnership were to be taxed as a corporation, the overall profits available for distribution to its partners would be diminished by the extent of the corporate tax applied to such profits. It is not the Partnership's purpose to create losses or other deductions for its partners, but to operate profitably so that partners will realize a share in such profits. However, there is no assurance that the Partnership will be able to operate profitably, and any losses which are passed

through to the partners will most likely be deemed to be "passive losses" under the Internal Revenue Code. The deductibility of passive losses is severely limited. Each respective partner is urged to consult with his or her own tax advisor with respect to the federal, state, and local tax consequences arising from acquisition of a partnership interest in the Partnership.

H. Possible Conflicts of Interests of the General Partner, Contracts with General Partner and Affiliates.

Other Limited Partnerships. The General Partner serves as a general partner for approximately 18 other limited partnerships, all of which conduct the same business as proposed to be conducted by Diamond. The General Partner expects to facilitate formation of other such limited partnerships in the future. Investors in this offering are not eligible to participate in any other limited partnership in which the General Partner participates. The General Partner endeavors to provide the same assistance to all the limited partnerships which it serves as general partner, but there is no assurance that all limited partnerships will actually receive the same assistance or that all limited partnerships will actually incur the same benefits from such assistance.

Contracts With General Partner. Universal Title Company, the General Partner's parent company, has entered into a Title and Closing Services Agreement with the Partnership to provide real estate and mortgage closing services for the Partnership at the same market rate as provided to others. This agreement may be terminated at any time by either party upon 90 days' written notice. The Partnership has entered into an Agency Contract with First American, whereby the Partnership agrees to prepare and issue title insurance commitments and final policies on behalf of the General Partner for properties located in Minnesota, including the Minneapolis and St. Paul metropolitan area and surrounding counties. The Partnership receives a commission equal to 75% of the rate charged for policies issued on behalf of the General Partner. The Agency Contract is terminable upon 30 days' written notice by either party. The rates for title insurance policies to be quoted and charged are the rates currently approved by the State of Minnesota. In the event that a special risk endorsement is issued, the commission on the rate is negotiated by the Partnership and the General Partner. The General Partner receives no fees, or other compensation directly or indirectly for its role as a General Partner, other than its 20% ownership interest in the Partnership, the market rate fees charged under the Agency Agreement, and the market rate fees received by Universal Title Company under the Title and Closing Services Agreement. The termination of one or both of these agreements would have a material adverse effect on the Partnership and its operations.

I. State Licensing Requirements. In the State of Minnesota each title agency is required to be licensed to issue title insurance. In addition, the State of Minnesota through the Department of Commerce (the "Department") requires that an individual acting for each agency be licensed. The underwriter appoints an individual as an authorized agent able to conduct business on behalf of the underwriter. The Partnership is a licensed title agency by the State of Minnesota and also employs a properly licensed staff person. The failure to maintain such licenses would have a material adverse effect on the Partnership.

J. Limitation on Liability of the General Partner to the Limited Partnership: Indemnification of General Partner. While the General Partner of the Partnership is required to act in good faith and with integrity in managing the affairs of the Partnership, the Partnership Agreement provides that the General Partner will not be liable to the Limited Partners for any act or omission, except in the event of fraud, intentional wrongdoing, or gross negligence. The Partnership Agreement requires the Partnership to indemnify the General Partner against any expenses (including reasonable attorneys' fees), claims or liability incurred by the General Partner in connection with the business of the Partnership.

K. Dependence of the Partnership on General Partner. The General Partner will have responsibility for the oversight of the Partnership. The loss of the services of General Partner, for whatever reason, would adversely affect the business operation conducted by the partnership.

L. Capital Contribution. The capital contribution required for the Interests has been established by the General Partner based on its estimate of Partnership capital requirements. There is no assurance that the Partnership will not need additional capital to conduct its operations.

M. Government Regulation. The title services industry in which the Partnership conducts its operations, is subject to extensive and rigorous government regulation. The Partnership is subject to the laws of the United States and Minnesota and the rules and regulations promulgated and enforced by various government departments and agencies, including HUD.

There is no assurance that the Congress of the United States will not enact amendments to RESPA that would adversely affect the Partnership and its operations. Similarly, there is no assurance that HUD, which has the authority to promulgate administrative rules and regulations interpreting RESPA, will not adopt rules and regulations or interpretations of RESPA that would adversely affect the Partnership and its operations. In addition, a court of law or administrative judge may interpret RESPA, and the administrative rules and regulations governing RESPA, in a way that may adversely affect the Partnership and its operations.

## USE OF PROCEEDS

The proceeds to the Partnership from the sale of the Maximum number of Interests offered hereby, including the General Partner's capital contribution, will be approximately \$21,875, less approximately \$1,000 in expenses. The Partnership intends to use the proceeds from this Offering as initial working capital to operate the Partnership. Based on the experience of the General Partner and the General Partner's parent Company, Universal Title Company, the General Partner believes that the maximum proceeds are sufficient to allow the Partnership to operate its business.

	<u>Maximum</u>	
	<u>Amount</u>	<u>Percentage of Gross Proceeds</u>
Gross Offering Proceeds	\$21,875	100%
Less Expenses:		
Organizational and offering expenses	\$1,000	4.5%
Net Offering Proceeds	\$20,875	95.5%
Less fees paid to General Partner or others to set up business (1)	—	—
Reserves	—	—
Amount Available for Investment	<u>\$20,875</u>	95.5%

- (1) The General Partner pays certain fees and expenses for services rendered to organize the Partnership. Such fees and expenses are recovered by the General Partner from its 20% interest in the profits of the Partnership, but are not paid from the capital of the Partnership or from proceeds of this Offering.

The General Partner will have authority to vary such expenditures without approval of the variances from the Partners. Pending utilization of the proceeds of this Offering, the General Partner may invest such proceeds on behalf of the Partnership in short-term investment grade securities.

# GENERAL PARTNER COMPENSATION TABLE

This table discloses all the compensation the General Partner or its affiliates may be paid directly or indirectly.

Name of Entity Receiving Compensation	Amount of Compensation and Services Provided
General Partner	Reimbursement for organization and offering expenses \$1,000
General Partner	20% of distributions based on 20% ownership interest in Partnership.
Universal Title Company	Market rate fees charged for providing closing services pursuant to the Title and Closing Services Agreement. Universal Title Company charges the same rates as it charges to others, including other limited partnerships.
First American	First American receives 25% of underwriting commissions charged for issuing title insurance commitments and policies. The commissions charged are rates authorized and approved by the State of Minnesota. The 75% balance of such commissions is retained by the Partnership.

## CAPITALIZATION

The following table summarizes the Partnership's General Partners and Limited Partners' Interests currently outstanding and as adjusted for the sale of all of the Interests offered hereby:

	<u>Actual</u>	<u>As adjusted for Offering(1)</u> <u>Maximum</u>
General Partner's Capital Contribution	\$4,375	\$ 4,375
Limited Partners' Capital Contributions (\$500 per Interest)	-0-	17,500
Total Capitalization	<u>\$4,375</u>	<u>\$21,875</u>

- (1) Does not include expenses the Partnership may incur in conducting the offering, including attorney fees, printing expenses and registration fees estimated to be approximately \$1,000.

## DILUTION

The Partnership Agreement provides that the General Partner shall maintain a 20% ownership interest in the Partnership. The General Partner will make an additional capital contribution to the Partnership each time a new Limited Partner is admitted, equal to 20% of the capital contribution from the new Limited Partner. In like manner, the General Partner will receive a distribution of 20% of the redemption payment to each limited partner who withdraws from the Partnership, in order to maintain a 20% interest in the Partnership at all times. Limited Partners are not obligated to make additional contributions to the Partnership, except as the General Partner and Limited Partners agree in writing.

## BUSINESS OF THE LIMITED PARTNERSHIP

### General

Diamond Title Services, Limited Partnership was established on January 25, 1999, as a Limited Partnership under Minnesota law. Universal Partnerships, Inc. ("Universal" or the "General Partner") is the sole general partner of the Partnership. The General Partner is incorporated in Minnesota and is a wholly owned subsidiary of Universal Title Company. Universal Title Company is a title insurance underwriter licensed to do business in Minnesota.

Diamond is a title insurance agency that provides title and real estate closing services primarily to residential home buyers and sellers in the Minneapolis and St. Paul metropolitan area and surrounding counties. In its capacity as a title insurance agent, Diamond performs all the functions and services necessary to obtain an underwritten commitment for a title policy. Diamond conducts the title exam, determines the insurability of title to particular parcels of property, prepares title commitments, resolves any underwriting obligations or conditions prior to issuance of the policy and issues the final policy. If necessary, Diamond orders abstracts from a number of different vendors. The title premium paid by the insured for the title insurance policy and Diamond retains a portion of the premium as a fee for its services. The remaining portion of the premium is paid to the title insurance underwriter. Diamond currently serves as an agent for First American under the terms of an Agency Contract which is terminable by either party on 30 days written notice.

Diamond contracts with Universal Title Company, a wholly owned subsidiary of First American Title Insurance Company, a national title insurance company ("First American") for closing services pursuant to a Title and Closing Services Agreement. Diamond also contracts with other contractors to provide a variety of other ancillary real estate services, including abstracting, name searches, plat drawings and real estate assessments. Diamond passes the outside contractor's invoice for these services rendered to Universal Title Company, who collects the fees at closing and without mark-up, forwards such fees to the outside contractors for their services.

The General Partner is currently serving as the general partner in approximately 18 other limited partnerships. These limited partnerships serve as vehicles for delivering title services to home buyers, who often rely on a recommendation from a real estate agent or mortgage loan officer to select a provider of title and related real estate services. The General Partner believes that title agencies such as the Partnership, can deliver quality title services to the clients of real estate agents and mortgage loan officers and other real estate professionals and that such persons are the best means of educating the consumers of such services and about the services to be offered by the Partnership.

### Overview of Title Insurance Industry

Title insurance has become increasingly accepted as the most efficient means of determining title to, and the priority of interests in, real estate in nearly all parts of the United



States. Today, most real property mortgage lenders require their borrowers to obtain a title insurance policy at the time a mortgage loan is made.

### *Title Policies*

Title insurance policies are insured statements of the condition of title to real property, showing priority of ownership as indicated by public records, as well as outstanding liens, encumbrances and other matters of record, and certain other matters not of public record. Title insurance policies are issued on the basis of a title report, which is prepared after a search of the public records, maps, documents and prior title policies to ascertain the existence of easements, restrictions, rights of way, conditions, encumbrances or other matters affecting the title to, or use of, real property. In certain instances, a visual inspection of the property is also made. To facilitate the preparation of title reports, copies of public records, maps, documents and prior title policies may be compiled and indexed to specific properties in an area. This compilation is known as a "title plant."

The beneficiaries of title insurance policies are generally real estate buyers and mortgage lenders. A title insurance policy indemnifies the named insured and certain successors in interest against title defects, liens and encumbrances existing as of the date of the policy and not specifically excepted from its provisions. The policy typically provides coverage for the real property mortgage lender in the amount of its outstanding mortgage loan balance and for the buyer in the amount of the purchase price. Coverage under a title insurance policy issued to a real property mortgage lender generally terminates when the mortgage loan is repaid. Coverage under a title insurance policy issued to an owner generally terminates upon the sale of the insured property unless the owner carries back a mortgage or makes certain warranties as to the title.

Unlike other types of insurance policies, title insurance policies do not insure against future risk. Before issuing title policies, title insurers seek to limit their risk of loss by accurately performing title searches and examinations. The major expenses of a title company relate to such searches and examinations, the preparation of preliminary reports or commitments and the maintenance of title plants, and not from claim losses as in the case of property and casualty insurers.

### *The Closing Process*

Title insurance is essential to the real estate closing process in most transactions involving real property mortgage lenders. In a typical residential real estate sale transaction, title insurance is generally ordered on behalf of an insured by a real estate broker, lawyer, developer, lender or closer involved in the transaction. Once the order has been placed, a title insurance company or an agent conducts a title search to determine the current status of the title to the property. When the search is complete, the title company or agent prepares, issues and circulates a commitment or preliminary title report ("commitment") to the parties to the transaction. The commitment summarizes the current status of the title to the property, identifies the conditions, exceptions and/or limitations that the title insurer intends to attach to the policy and identifies items appearing on the title that must be eliminated prior to closing.

The closing function is often performed by an independent real estate closer, an attorney or by a title insurance company or agent (such person or entity, the "closer"). Once documentation has been prepared and signed, and mortgage lender payoff demands are in hand, the transaction is "closed." The closer records the appropriate title documents and arranges the transfer of funds to pay off prior loans and extinguish the liens securing such loans. Title policies are then issued insuring the priority of the mortgage of the real property mortgage lender in the amount of its mortgage loan and the buyer in the amount of the purchase price. The time lag between the opening of the title order and the issuance of the title policy is usually between 60 and 90 days.

#### *Issuing the Policy: Direct vs. Agency*

A title policy can be issued directly by a title insurance underwriter or indirectly on behalf of a title insurance underwriter through agents which are not themselves licensed as insurers. Where the policy is issued by a title insurance underwriter, the search is performed by or at the direction of the underwriter, and the entire premium is collected and retained by the underwriter. Where the policy is issued by an agent, the agent performs the search, examines the title, issues the final policy, collects the premium and retains a portion of the premium. The remainder of the premium is remitted to the underwriter as compensation for bearing the risk of loss in the event a claim is made under the policy. The percentage of the premium retained by an agent varies from region to region. A title insurance underwriter is obligated to pay title claims in accordance with the terms of its policies, regardless of whether it issues its policy directly or indirectly through an agent.

#### *Premiums*

The premium for title insurance is due and earned in full when the real estate transaction is closed. Premiums are generally calculated with reference to the policy amount. The premium charged by a title insurance underwriter or an agent is subject to regulation in most areas. Such regulations vary from state to state.

Because the policy insures against matters that have occurred prior to its issuance (rather than future occurrences, as with most other types of insurance), the major portion of the premium is related to the service performed in ascertaining the current status of title to the property.

#### Business of the Partnership

Diamond is a title insurance agency that provides title and real estate closing services primarily to residential home buyers and sellers in the Minneapolis and St. Paul metropolitan area and surrounding counties and St. Cloud and Duluth. In its capacity as an agent for a title insurance underwriter, the Partnership provides the following services for customers who select the Partnership as their title insurance agency:

- Diamond opens an order for the title policy and requests the necessary abstract or

search information. It orders these services from a variety of licensed independent contractors.

- Diamond examines the abstract and other title information furnished by the contractor and any other title information available to the Partnership's examiner.
- Diamond examines title according to customary practices and procedures and in compliance with First American's instructions concerning safe underwriting practices.
- Diamond issues title commitments and final policies of title insurance based on its examinations.
- Diamond contracts with Universal Title Company to furnish necessary closing services.

Diamond collects the title premium paid by the insured for the title insurance policy and retains a portion of the premium as a fee for its services. The remaining portion of the premium is paid to the title insurance underwriter. Diamond currently serves as an agent to First American under the terms of an Agency Contract which may be terminated by either party on 30 days written notice. In addition to the Title Insurance premium, Diamond charges the customer an examination fee for performing the title exam.

Diamond contracts with Universal Title Company for closing services pursuant to a Title and Closing Services Agreement. Diamond also contracts with other contractors to provide a variety of other ancillary real estate services, including abstracting, name searches, plat drawings and real estate assessments. Diamond passes the outside contractor's invoice for title services rendered to Universal Title Company, who collects the fees at closing and without mark-up, passes such fees to the outside contractors for their services.

#### Operating Experience of the General Partner

First American formed the first title services limited partnership in 1994. Universal Title Company, a wholly owned subsidiary of First American, formed and served as the general partner in subsequent limited partnerships. The General Partner, a wholly owned subsidiary of Universal Title Company, has assumed Universal Title Company's position as the general partner in all the other limited partnerships and currently serves as general partner in approximately 18 other limited partnerships. These limited partnerships have been established to serve as vehicles for delivering title services to home buyers, who often rely on a recommendation from a real estate agent or mortgage loan officer to select a provider of title and related real estate services. The General Partner believes that title agencies, such as the Partnership, can deliver quality title services to the clients of real estate agents and mortgage loan officers and other real estate professionals and that such persons are the best means of educating the consumers of such services and about the services to be offered by the Partnership.

### Employees

The Limited Partnership employs a full-time title examiner. The title examiner performs the core title services and is responsible for managing the daily operations of the Partnership. If needed, additional staff will be hired as appropriate, including a title agency production assistant and title agency clerk.

### Competition

The title insurance business is highly competitive. However, unlike many industries, where consumers have a wealth of information to make choices among services providers, the title insurance industry competes by obtaining client recommendations from different sources in the real estate industry. Home buyers and sellers often use a particular title company because of a recommendation from their real estate agent or mortgage loan officer, and they typically follow this recommendation. Relatively few consumers actively comparison shop for a title company based upon price and service. As a result, the Partnership's success is highly dependent upon generating recommendations from sources in the real estate industry. There is no assurance that the Partnership will be able to generate sufficient recommendations to be profitable.

The Partnership will compete with many other title insurance companies in the Minneapolis, St. Paul metropolitan area. Many of these companies are affiliated with local real estate companies that are able to refer customers to such title companies for title services. The Partnership's major competitors in the Twin Cities include Burnett Title, Edina Title, Chicago Title Insurance Company, Old Republic Title Insurance Company and ATI Title Company.

### Federal Regulation

The Department of Housing and Urban Development published final regulations under the Real Estate Settlement Procedures Act ("RESPA") on November 2, 1992 and published certain revisions on March 26 and June 7, 1996. RESPA is a federal law designed to reduce inflated and unwarranted title insurance and settlement costs, to give consumers a better understanding of the home purchase and settlement process; and to allow the consumer adequate opportunity to shop for real estate services, including title services. In addition, this law is designed to prevent kickbacks and fee splitting by the parties which are involved in providing services relating to home purchases and the settlement process. RESPA is enforced by the Department of Housing and Urban Development, which has the power (i) to seek an injunction against violators; (ii) to seek a \$10,000 fine against any entity or individual involved in a violation of RESPA; (iii) to seek criminal penalties of up to one year imprisonment against violators; (iv) to seek restitution for the home buyer of an amount up to three times the settlement charge resulting from the unlawful activity; (v) to recover all profits made as a result of the illegal activity; (vi) to ban any person involved in any illegal activity under RESPA from further participation in any FHA program; (vii) to impose civil penalties of double damages, plus \$5,000 for false statements or claims in connection with any FHA mortgage insurance issued in violation of RESPA; and (viii) to withdraw FHA approved mortgagee status for any mortgage brokers or other lenders who violate RESPA.

Although RESPA does not apply to all real estate transactions, it is the Partnership's policy to require that all Limited Partners must adhere strictly to the requirements of RESPA because the situations in which RESPA will not apply are expected to be rare and difficult to ascertain with any certainty.

The basic prohibition contained in RESPA is very broad:

"No person shall give and no person shall accept any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or part of real estate settlement services involving a federally related mortgage loan shall be referred to any person . . . . a payment or thing of value includes any payment, advance, fund, loan, service or other consideration [and may] take many forms, including, but not limited to monies, things, discounts, salaries, commissions, fees, duplicate payments of a charge, stock, dividends, distributions of partnership profits, franchise royalties, credits representing monies that may be paid at a future date, the opportunity to participate in a money-making program, retained or increased earnings, increased equity in a parent or subsidiary entity, special bank deposits or accounts, special or unusual banking terms, services of all types at special or free rates, sales or rentals at special prices or rates, lease or rental payments or reduction in credit against an existing obligation".

Notwithstanding the foregoing prohibitions, RESPA establishes a permitted form of "controlled business arrangement" under which service providers may own an equity interest in an entity which furnishes title, settlement or other services to a customer if the following requirements are satisfied:

1. Any person who makes a recommendation to a company in which the person has an equity ownership interest must disclose that relationship in writing.
2. The customer cannot be required to use any particular provider of insurance or other settlement services.
3. The only value that may be received from the entity is bona fide dividends or other equity distributions related to the ownership interests. No payments may be made to such equity owners if there is no apparent business motive for such payment other than distinguishing among recipients on the basis of the amount of their actual, estimated or anticipated recommendations, or if such payments vary according to the relative amount of recommendations by the different recipient, or if the payment is based on any adjustment in the ownership interest which has occurred based on previous relative recommendations by the recipients.

The Partnership believes it has complied with applicable RESPA requirements by providing that the only financial benefits which Qualified Investors will receive from the Partnership are profits to be distributed pro rata, strictly in accordance with the Partners'

respective ownership interests outstanding from time to time, regardless of how much business has been referred by each partner receiving a distribution. In addition, under no circumstances will the Partnership directly or indirectly adjust a partnership interest or otherwise reward or compensate a Limited Partners in any fashion to reflect the amount of business referred by a Limited Partner.

#### State Regulations

In the State of Minnesota each title agency is required to be licensed to issue title insurance. In addition, the Department requires that an individual for each agency be licensed. This permits the title agent to sell title insurance. The underwriter appoints an individual as an authorized agent able to conduct business on behalf of the underwriter. The Partnership is a licensed title agency by the State of Minnesota. The Partnership also employs a properly licensed staff person.

The premium rates for First American title insurance policies must be filed with and approved with the State of Minnesota's title insurance regulatory authority from time to time. After approval, only then can the Partnership charge the approved premium rates.

#### Marketing

The Partnership does not conduct any form of advertising. Since it primarily relies on recommendations from real estate agents, mortgage loan officers and other real estate professionals, the Partnership focuses its attention on developing and maintaining relationships with such persons.

#### Facilities

Based upon the General Partner's experience as the general partner of 17 other limited partnerships, the General Partner anticipates that the Partnership will lease approximately 800 square feet of office space at a cost no greater than \$1,000 per month, including expenses. The office space will be strategically located to be accessible to its limited partners and clients and will be large enough to accommodate up to three staff persons.

#### Litigation

There are no legal proceedings pending or, to the best of the General Partner's knowledge, threatened to which the Partnership is or may be a party. See "Risk Factors - Government Regulations."

## MANAGEMENT

### General Partner

The General Partner of the Partnership is Universal Partnerships, Inc., a wholly owned subsidiary of Universal Title Company, which is a wholly-owned subsidiary of First American. First American believes it is one of the largest title insurance underwriters in the United States based on gross title fees. Universal Title Company traces its title services business in Minnesota to the late 1970s. Universal Title Company has long established relationships with many lending institutions, law firms, real estate companies, home builders, and real estate developers, as well as other independent closing companies.

### Duties of the General Partner

The General Partner's duties include: (i) coordinating this Offering; (ii) executing the Partnership Agreement and filing the Partnership Agreement with the State of Minnesota; (iii) locating suitable office space in the community for lease by the Partnership (which is separate from the space utilized by the General Partner for its own business; (iv) securing the necessary licensing and errors and omissions insurance; (v) obtaining necessary outside accounting services (which are different from the services utilized by the General Partner for its own business); and (vi) interviewing and causing the Partnership to hire its initial staff. The General Partner supervises the Partnership's staff to maintain an efficient, well-managed operation and acts as a liaison between the Partnership and its vendors, including the underwriter. The General Partner also facilitates the monthly profit distributions; convenes quarterly Limited Partner meetings; and provides examiner training and continuing education sessions to the Partnership's staff.

Although the General Partner performs the foregoing management functions, the day-to-day operations of the Partnership and all core title services functions are conducted by the Partnership's employed staff.

### Fiduciary Responsibility of the General Partner

The General Partner is accountable to each Limited Partner as a fiduciary, which means that the General Partner is required to exercise good faith and integrity in dealings with respect to Partnership affairs. This is in addition to the several duties and obligations of the General Partner set forth in the Partnership Agreement. See "Relationships Among Certain Parties." Each Limited Partner may inspect the Partnership books and records at any time during normal business hours upon notice to the General Partner.

The General Partner may not be liable to the Partnership or the Limited Partners for certain acts and omissions to act, since provision has been made for such liability in the Partnership Agreement only to the extent of fraud, intentional wrongdoing and gross negligence. With respect to acts and omissions which do not amount to fraud, intentional wrongdoing or gross negligence, the Partnership Agreement provides for indemnification of the General Partner (and its officers and directors). Insofar as indemnification for liabilities arising under the



Securities Act of 1933, as amended (the "Act") may be provided to the General Partner pursuant to the language of the Partnership Agreement, or otherwise, the General Partner has been advised that in the opinion of the U.S. Securities Exchange Commission (the "Commission") such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable.

It should be noted that the matter of remedies available under state and federal law to limited partners for breach of fiduciary duty by general partners is a rapidly developing and changing area of law. Any Limited Partner who believes that a breach of fiduciary duty by the General Partner has occurred should consult counsel as to the status of the law at such time.

Notwithstanding the fiduciary relationship between the General and Limited Partners, the General Partner has broad discretion and power under the terms of the Partnership Agreement and Minnesota law to manage exclusively the affairs of the Partnership. Generally, the Partnership Agreement provides that the General Partner shall manage the affairs of the Partnership, which are not subject to vote or review by the Limited Partners, except to the limited extent provided in the Partnership Agreement and under Minnesota or other applicable law. An attempt on the part of one or more Limited Partners to exercise substantial influence over the management of the business of the Partnership (other than as permitted under Minnesota law) may result in the loss of that Partner's limited liability. A loss of limited liability would make a Limited Partner jointly and severally liable for the liabilities of the Partnership with the General Partner. See "Organization, Structure and Operation of the Partnership."

## CONFLICTS OF INTEREST

### Possible Conflicts of Interests

#### *Multiple Interests of the General Partner*

The General Partner serves as a general partner for approximately 18 other limited partnerships, all of which conduct the same business as proposed to be conducted by Diamond. The General Partner expects to facilitate formation of other limited partnerships in the future. Investors in this offering are not eligible to participate in any other limited partnership in which the General Partner or its affiliates participates. The General Partner endeavors to provide the same assistance and advice to all the limited partnerships. There is no assurance that all limited partnerships will actually receive the same assistance or that all limited partnerships will actually incur the same benefits from such assistance.

#### *Contracts with General Partner and Affiliates*

The General Partner's parent company, Universal Title Company, has entered into a Title and Closing Services Agreement with the Partnership to provide real estate and mortgage closing services for the Partnership at the same market rate as provided to others. This agreement may be terminated at any time by either party upon 90 days written notice. The Partnership has entered into an Agency Contract with First American, whereby the Partnership agrees to prepare



and issue title insurance commitments and final policies on behalf of First American for properties located in Minnesota, including the Minneapolis and St. Paul metropolitan area and surrounding counties. The Partnership receives a commission equal to 75% of the rate charged for policies issued on behalf of First American. The Agency Contract is terminable upon 30 days' written notice by either party. The rates for title insurance policies to be quoted and charged are the rates currently approved by the State of Minnesota. In the event that a special risk endorsement is issued, the commission on the rate is negotiated by the Partnership and First American. The General Partner receives no fees, or other compensation for its role as a General Partner, other than its 20% ownership interest in the Partnership and market rate fees charged under the Title and Closing Services Agreement. The termination of one or both of these agreements would have a material adverse effect on the Partnership and its operations.

## ORGANIZATION, STRUCTURE AND OPERATION OF THE PARTNERSHIP

### Summary of Limited Partnership Agreement

The following is a summary of certain provisions of the Limited Partnership Agreement, the form of which is included as Attachment A. In the event of a conflict or apparent conflict between such description and the full text of the Limited Partnership Agreement, the full text will control. References are to Articles of the full Limited Partnership Agreement.

(a) Partnership Interests. The General Partnership Interest of the Partnership shall represent a 20% Percentage interest in the Partnership at all times. The Limited Partnership Interests of the Partnership shall represent a 80% Percentage interest in the Partnership. See Article 2.1(a).

(b) Capital Contributions. The General Partner has made a capital contribution to the Partnership in exchange for a 20% General Partner Interest. A Limited Partner's capital contribution is made in exchange for a Limited Partnership Interest. The General Partner shall contribute additional capital to the Partnership from time to time as may be necessary to maintain a minimum balance in its capital account at least equal to 20% of the sum of the total positive capital account balances of all Partners of the Partnership. See Article 2.3(b). The Limited Partners shall never be obligated to make additional contributions to the Partnership except as the General Partner and all the Limited Partners may agree in writing. See Article 2.3(c).

(c) Distributions. The Partnership will make distributions at such times and amount as determined from time to time by the General Partner. The General Partner will distribute each year an amount estimated by the General Partner to be sufficient to pay federal and state income taxes on each Partner's share of the Partnership income which will be included in the Partner's income for income taxes for such fiscal year. See Article 2.4.

(d) Allocation and Distribution of Cash, Profits, Income and Losses. For income tax purposes and financial accounting purposes all items of income, gain, receipt,

loss, deduction, and credit of the Partnership for each fiscal year shall be allocated among all the Partners in proportion to such Partners' respective Percentage Interests. See Article 3.1(a). Any economic losses sustained by the Partnership shall be borne by the Partners, to the extent of their respective Percentage Interests. See Article 3.4.

(e) Limited Partners' Liability. Under no circumstances shall any Limited Partner be required to make any additional capital contributions to the Partnership or be personally liable for any liabilities of the Partnership, except to the extent of their respective capital contributions. See Article 3.4.

(f) General Partner's Liability. The General Partner has a fiduciary responsibility to the Partnership for the safekeeping and use of all funds and assets of the Partnership. The General Partner shall not be liable to a Limited Partner for any act or omission performed or omitted, except only in the event of fraud, intentional wrongdoing, or negligence by the General Partner. If certain conditions are met, the Partnership shall indemnify the General Partner against any expenses (including reasonable attorney's fees), claims or liabilities incurred by the General Partner in connection with its duties as the General Partner. See Article 5.12.

(g) Books, Records, and Financial Statements. The General Partner shall maintain accurate and complete books and records of the Partnership at the Partnership's specified office. The Limited Partners shall have the right to inspect, examine, and copy such books and records at any reasonable time. Accurate and complete financial statements shall be prepared promptly as of the end of each fiscal year and copies shall be delivered to the Limited Partners. See Article 4.

(h) Partnership Management. The general management of the Partnership business shall be conducted by the General Partner. See Article 5.1. The Limited Partners have no authority or power to interfere in any manner with the management, conduct or control of the Partnership and have no right or authority to act for or bind the Partnership in any transaction or agreement. Each Limited Partner irrevocably appoints the General Partner such Partner's true and lawful attorney-in-fact with the power of substitution to execute, deliver and file (i) any new amended or restated certificate of limited partnership; (ii) any fictitious names or assumed name certificate; (iii) instruments required to qualify the Partnership to do business in any state other than Minnesota; (iv) any documents necessary to effectuate continuation of the business of the Partnership; and (v) any cancellation of any certificate, instrument or amendment required to be filed. See Article 5.11.

(i) Restrictions on Transferability of Interests. Except as provided in Article 7 of the Limited Partnership Agreement, a Limited Partner may not assign, transfer, or otherwise dispose of any Partnership Interest in the Partnership without prior consent of the General Partner. Article 7.1 provides for the transfer of a Partnership Interest upon the death of a partner. Article 7.4 allows a Partner to transfer his interest, without obtaining prior written consent of the General Partner to such disposition, provided that

such transferring Partner shall first give notice to the General Partner of the transferring Partner's intention. The Partnership shall then have an option to purchase all of the transferring Partner's interest in the capital, income, profits, and assets of the Partnership at book value. Book value means the Partnership's net worth (as determined by generally accepted principles) multiplied by the percentage interest to be purchased from a Limited Partner. The decision of whether this option is to be exercised shall be made by the General Partner. If the Partnership does not exercise this option during the period ending 60 days after the General Partner shall have received such notice, the transferring Partner may, at any time within 90 days after the expiration of the 60-day period following delivery of such notice, transfer such interest in the manner and on the terms set forth in the notice given to the General Partner, subject to the federal and state securities laws. Article 7.5 provides for the transfer of a Partnership interest in the event of (i) the insolvency of a Partner, (ii) a Partner's interest in the Partnership is foreclosed upon or sold pursuant to any collateral agreement or otherwise, or (iii) any Partnership interest owned by a Partner is transferred to the Partner's spouse as a part of a divorce settlement agreement. In such event the Partnership shall have the option to purchase the Partnership's interest.

(j) Partnership Option to Purchase Limited Partner's Interests. The Partnership has a continuing option to purchase all, but not part, of a Limited Partner's Interests at book value. Book value means the Partnership's net worth (as determined by generally accepted principles) multiplied by the percentage interest to be purchased from a Limited Partner. The decision as to whether the option is to be exercised is made by the General Partner, in its sole discretion, and no reason need be given or cause shown for exercise of the option. Without limiting the generality of the foregoing, the General Partner may exercise the option if the General Partner determines that a Limited Partner has violated the rules and regulations of RESPA, that the Limited Partner is not a resident of the state of Minnesota; that a Limited Partner is not engaged full-time as a real estate professional; or that the Limited Partner has a conflict of interest with the Partnership. See Article 7.3.

(k) Withdrawal by a Limited Partner. A Partner shall have a continuing right to withdraw from the Partnership. Upon notice of withdrawal, the Partnership shall purchase all of the withdrawing Partner's interest in the capital, income, profits, and assets of the Partnership for book value, unless the General Partner, within 90 days of notice, determines that the Partnership shall dissolve and immediately thereafter elects to wind up and liquidate the Partnership. Book value means the Partnership's net worth (as determined by generally accepted principles) multiplied by the percentage interest to be purchased from a Limited Partner. If the General Partner elects to dissolve the Partnership, settlement shall be made as if the withdrawing Partner had remained a Partner. See Article 7.2.

(l) Dissolution, Winding Up, and Settlement. The Partnership shall not dissolve until December 31, 2047, unless (i) the Agreement specifically directs such result; (ii) the General Partner so determines; (iii) all of the Partners agree to dissolve and

wind up and terminate the Partnership; or (iii) an event of withdrawal occurs with respect to a General Partner and there are no remaining General Partners and no replacement General Partner is appointed to serve. See Article 9.1.

Upon an event of dissolution, the Partnership shall expeditiously wind up its affairs. The Partners shall continue to share income and losses during dissolution, including any gain or loss on disposition of Partnership properties in the process of liquidation. Partnership assets, including proceeds from liquidation, shall be applied in the following order of priority:

- (i) To Partnership liabilities owed to creditors other than Partners;
- (ii) To Partnership liabilities owed to Partners other than for their interests in capital and income;
- (iii) To the distribution to the Partners to the extent of any credit balance in the accounts (other than the capital accounts), if any, being maintained for financial accounting purposes for the Partners;
- (iv) To the distribution to the Partners to the extent of any credit balance of the capital accounts, if any, being maintained for financial accounting purposes for the Partners;
- (v) To the distribution to the Partners in proportion to their respective Percentage Interests in the Partnership. See Article 9.3.
- (m) Amendment of Partnership Agreement. A majority in interest of all of the General Partners of the Partnership shall have the authority to amend the Agreement in any and all respects from time to time by amendment to the Agreement duly executed by them. See Article 10.2.

## DESCRIPTION OF INTERESTS OFFERED

### The Interests

The Interests being offered constitute limited partnership interests in the Partnership. Investors will have all the rights and obligations of a limited partner as described in the Minnesota Uniform Limited Partnership Act and the provisions of the Partnership Agreement. Investors will have no right to participate in the management or conduct of the Partnership's business and they will have no right to cause the dissolution of the Partnership or to force its liquidation.

Each investor will be entitled to his or her share of profits and income of the Partnership and to his or her allocable share of all items of Partnership income, loss, deduction or credit as determined for income tax purposes as provided in the Partnership Agreement. Limited Partners are not liable to creditors of the Partnership beyond the amount of capital contributed to the Partnership. Investors are not required to make capital contributions in addition to their original subscription amounts.

### Limitations on Resale

The Interests are subject to substantial restrictions on transfer or sale as more fully described elsewhere in this Prospectus and the Partnership Agreement. See "Organization, Structure and Operation of the Partnership - Restrictions on Transferability of Interests."

In addition, persons acquiring Interests may not resell or transfer their Interests without registration or exemption from registration under the Act and Laws.

There has been no public market for the Interests prior to this Offering. Accordingly, the required capital contribution for the Interests offered hereby has been determined by the Partnership and should not be considered an indication of the actual value of the Interests. Further, no public market for the Interests will develop. Investors must either hold their Interests for an indefinite period of time or exercise the right of withdrawal as more fully described in this Prospectus and the Partnership Agreement. See "Organization, Structure and Operation of the Partnership - Withdrawal of Limited Partner."

### Record of Interests

The Partnership will maintain a register of the Interests at its offices, and will record all transfers of Interests thereon. The Limited Partners will be responsible for paying all costs incurred in connection with the transfer of their respective Interests.

## OFFERING AND SALE OF INTERESTS

### Plan of Distribution

The Partnership, through the General Partner, is offering to sell a maximum of 35 Limited Partnership Interests at a price of \$500 per Interest solely to Qualified Investors. See "Offering and Sale of Interests - Investor Qualification Requirements." Each subscriber's per Interest subscription will be due and payable at the time of delivery to the Partnership of an executed Subscription Agreement.

The General Partner is not licensed as a securities broker or dealer under state or federal law. The Partnership has not engaged in prior sales of the Partnership's securities other than the Interests. The General Partner will not receive commissions in connection with the sale of the Interests offered hereby. Persons authorized to solicit Qualified Investors for the Company must be licensed title insurance agents who (i) offer memberships only to persons who satisfy the Qualified Investors standard in this Prospectus and (ii) refrain from giving investment advice relative to any matter other than acquiring a membership interest in the Company.

The offering of Interests will terminate on the earlier of the following: (i) the sale of the maximum number of Interests; or (ii) on any date prior to completion of the offering as the General Partner deems appropriate.

The Partnership shall indemnify the General Partner against any expenses (including reasonable attorneys' fees), claims or liabilities incurred by the General Partner in performing its duties as General Partner, or in connection with the business of the Partnership; provided however, that such indemnification shall not apply in the event of fraud, intentional wrongdoing, or gross negligence by the General Partner.

### Investor Qualification Requirements

The Interests are being offered only to persons who are experienced full-time professional real estate services providers with at least two years of experience, such as licensed real estate brokers or agents, mortgage loan officers, real estate builders and developers, and title services professionals ("Qualified Investors"). The Interests are offered to Qualified Investors pursuant to an exemption from the registration provisions of the Act. Qualified Investors must be residents of the state of Minnesota and must not have a present intention to be a resident of any other state.

The Partnership may consider other criteria from time to time in determining eligibility for investing in the Partnership. The Partnership has no obligation to accept any particular person or persons into Partnership and may remove a Partner at any time subject to certain repurchase obligations. See "Organization, Structure and Operation of the Partnership - Summary of Limited Partnership Agreement."

Limited Partners must strictly adhere to the Partnership's policy with respect to RESPA, including disclosing his/her equity position in the Partnership when referring a client to the Partnership for title services.

#### Subscription for the Interests

Qualified Investors who meet all the qualifications described above and desire to purchase any Interests, must do the following:

- (i) complete and sign the Subscription Agreement including Investment Representations (the "Subscription Agreement");
- (ii) make a check payable to Diamond Title Services, Limited Partnership in the subscribed amount;
- (iii) send the check and executed Subscription Agreement to Diamond Title Services, Limited Partnership, c/o Universal Title Company, 7777 Washington Avenue South, Edina, Minnesota 55439.

The Interests offered hereby are offered by the Partnership, when, as, and if subscriptions are received and accepted by the Partnership and subject to certain other conditions. The General Partner reserves the right to withdraw, cancel or modify this offering and to reject any offer or order in whole or in part, in its sole discretion. In the event a Subscription Agreement is rejected by the General Partner, all funds delivered to the Partnership with such Subscription shall be returned to the subscriber as soon as practicable following rejection, without interest.

#### Right to Rescind

Investors have the right to rescind their investment in the Partnership, without costs within three business days from the date the Subscription Agreement is executed. See "Attachment E."

#### SUMMARY OF CERTAIN FEDERAL INCOME TAX MATTERS

It is impractical to comment in detail on all aspects of tax laws affecting the tax consequences of an investment in the Partnership and, consequently, each prospective investor should consult with such investor's tax advisor.

#### Classification as a Partnership

The General Partner believes that the Partnership will be classified as a partnership for tax purposes because it lacks at least two of the four corporate attributes set forth in applicable IRS regulations. However, the Partnership will not qualify for an IRS ruling as to its partnership classification. See "Risk Factors."



## Use of Deductions

Deductions allocated from the Partnership to a Partner may or may not be deductible on such Partner's individual tax return depending upon a number of circumstances, some relating to the Partnership and some relating to the individual Partner. For example, operations of the Partnership may produce portfolio-type income or passive activity-type income/loss depending upon the characterization by the IRS of the Partnership's activities and the relationship of the individual Partner to those activities. Furthermore, the individual circumstances of the Partners will determine whether they are better able to take tax advantage from a portfolio designation or from a passive activity designation.

The impact of a number of tax rules (including the passive activity rules described above, investment interest limitations, basis limitations and at-risk limitations) will severely limit deductible losses. Investors should assume, that during operation of the Partnership, they will be unable to deduct losses in excess of current Partnership income and, in virtually all events, deductible losses will never exceed an investor's cash investment in the Partnership. Furthermore, if any Limited Partner borrows to finance the purchase of a Limited Interest, interest expense incurred in connection with those borrowings will be subject to severe limitations on deductibility.

## Taxation of Income

Income of the Partnership will be taxed to the Partners without regard to whether cash is distributed. Accordingly, in certain circumstances, Partners may have tax liability without cash distributions. Investors should assume that all income arising from the activities of the Partnership will be taxed as ordinary income.

## Audit and Administrative Matters

The IRS has been giving increasing attention to the audit of limited partnerships. If the Partnership's returns are audited, the individual returns of the Partners are more likely to be audited and, thus, investment in the Partnership may increase the chance of audit of non-partnership items on the individual tax returns of Partners. With respect to Partnership items, audits are conducted at the Partnership level, for which the General Partner will have primary responsibility, although individual Partners will have certain rights to participate or seek review. A variety of penalties under the Code may apply to investment in the Interests if positions taken by the Partnership are successfully challenged by the IRS; these penalties, along with interest on any unpaid tax liability, may aggregate well in excess of 100% of the actual tax owed.



## ATTACHMENTS

The Attachments to this Confidential Offering Memorandum are deemed to be a part hereof. See "Additional Materials Available on Request" below for a summary of additional materials which will be made available to offerees, if they so desire, during the course of this offering.

### ADDITIONAL MATERIALS AVAILABLE ON REQUEST

The following items are considered material or informative with respect to the Interests being offered hereby, and, upon request made to the General Partner, specifying the items desired, will be made available to offerees during the course of this offering:

- 1.. Form of Agency Contract, between the Partnership and First American Title Insurance Company.
2. Form of Title and Closing Services Agreement, between the Partnership and Universal Title Company.

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Exhibit  
5

# *You have a right to* **BE MAD!**

**Given the astonishing number of controlled business relationships that currently exist between real estate companies and title companies, many real estate professionals are profiting unfairly from consumers' lack of knowledge of how much their closing should really cost.**

If your real estate professional directs you to an affiliated title company, he or she (or their firm) is likely to be financially rewarded. You will lose the benefit of open market service and pricing. You are also likely to pay \$200 – \$400\* more for your closing than you would with Title One.

Ask your real estate professional to help you shop and compare title companies. You'll find that Title One, the largest independent title company in the Twin Cities, provides the lowest prices, the best title insurance, the most attentive service and the most convenient and attractive offices — without any of the bad stuff. Quite honestly, we can't imagine doing business any other way.



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*\*on average*

## 6 CONVENIENT TWIN CITIES LOCATIONS

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(763) 421-3113

### BLOOMINGTON

(952) 806-6430

### BURNSVILLE

(952) 808-8660

### MAPLE GROVE

(763) 494-0099

### MINNETONKA

(952) 745-7890

### ROSEVILLE

(651) 636-9910

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# *You have a right to be* **OUTRAGED!**

It's no surprise that federal law prevents title companies from paying referral fees to real estate professionals. What may surprise and enrage you is that many legitimate title companies have created separate "partnerships" with real estate agents, loan officers and even builders in order to "legally" pay referral fees for directing clients to their company. To offset the expense of these fees, clients of these sham title companies generally pay more for their closings than they would with Title One.

Ask your real estate professional to help you shop and compare title companies. You'll find that Title One, the largest independent title company in the Twin Cities, provides the lowest prices, the best title insurance, the most attentive service and the most convenient offices — without any of the fake stuff. Quite honestly, we can't imagine doing business any other way.



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*\*Federal Real Estate Settlement Procedures Act (RESPA)*

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# *You have a right to* **INSIST!**

If you're buying or selling a home, you should know that Minnesota statute 507.45, Subd. 4, says: "no real estate salesperson, broker, attorney...builder, or other person...may require a person to use any particular...real estate closing agent in connection with a real estate closing."

So, armed with this knowledge, you can confidently insist that your real estate professional help you shop and compare prices from three independent title companies. And, because knowledge is power, you can also insist on choosing a title company that doesn't pay referral fees or other incentives. That's the only way to stop the real estate industry from taking advantage of their clients' trust.

If you feel you've been taken advantage of, send a note to [tellus@title-1.com](mailto:tellus@title-1.com) or fax 952-837-0717. We'd love to hear your story.



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# *You have a right to be* **OFFENDED!**

If a title company offers to match Title One's low closing prices, you may be impressed. But, before you accept, please ask, "If you find it so easy to reduce your prices, why not keep them low to begin with?" The real answer is that many title companies inflate their closing costs to offset referral fees or other incentives paid to real estate professionals for sending clients to them. Faced with direct competition, they'll usually match Title One's prices.

If you agree to the matched price, you'll pay less. But you'll also implicitly approve the practice of inflating prices and paying referral fees. Instead, please shop and compare 3 independent title companies—firms not affiliated with real estate or mortgage agencies. Firms that don't inflate their prices at your expense. People who aren't trying to influence or manipulate your legal right to choose your own title company.

If you're offended by unfair closing practices, send a note to [tellus@title-1.com](mailto:tellus@title-1.com) or fax 952-837-0717. We'd love to hear your story.



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# *You have a right to* **BE MAD!**

**Given the astonishing number of controlled business relationships that currently exist between real estate companies and title companies, many real estate professionals are profiting unfairly from consumers' lack of knowledge of how much their closing should really cost.**

If your real estate professional directs you to an affiliated title company, he or she (or their firm) is likely to be financially rewarded. You will lose the benefit of open market service and pricing. You are also likely to pay \$200 – \$400\* more for your closing than you would with Title One.

Ask your real estate professional to help you shop and compare title companies. You'll find that Title One, the largest independent title company in the Twin Cities, provides the lowest prices, the best title insurance, the most attentive service and the most convenient and attractive offices — without any of the bad stuff. Quite honestly, we can't imagine doing business any other way.



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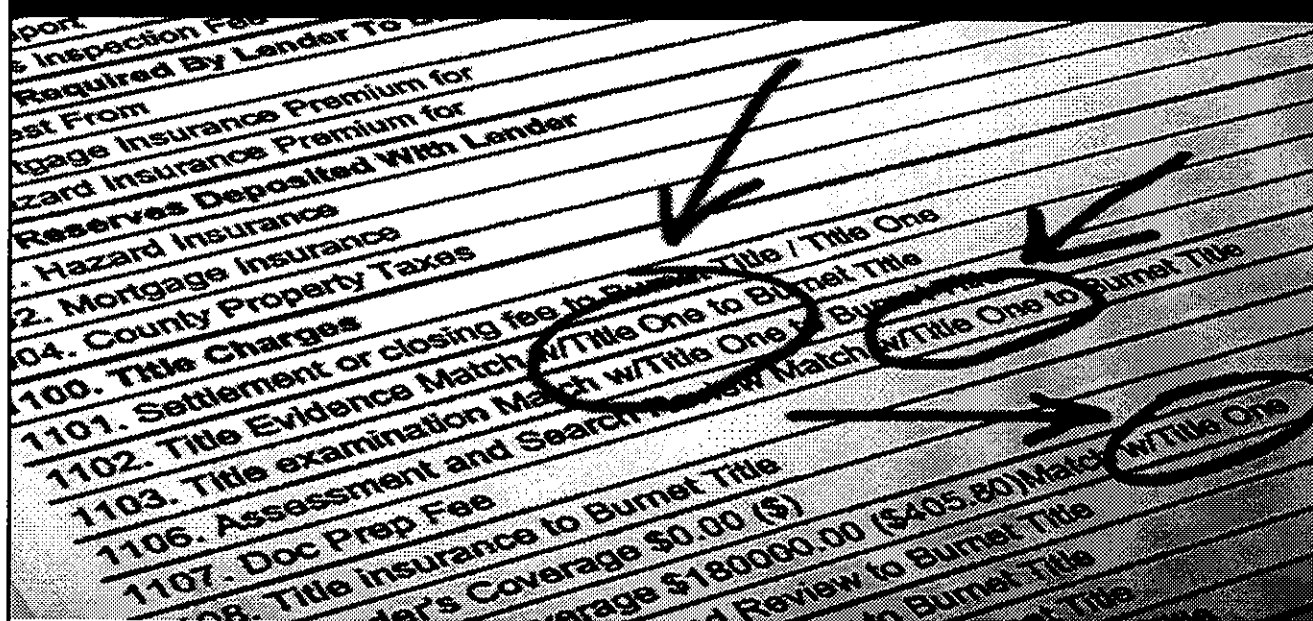
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If your title company didn't  
match **Title One's** *low fees*,  
call them and request a refund!



Burnet Title HUD-1 Settlement Statement, 5/05.

But if they did *match our low fees*,  
we want to know! Fax your HUD-1 Settlement Statement  
to 952-837-0712 *today!*

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**TITLE INSURANCE AND REAL ESTATE CLOSINGS**  
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# *You have a right to be* **DELIGHTED!**

If you're buying or selling a home, you deserve to be delighted at every step of the closing process. This means exercising your right to choose a title company that meets your needs—not your real estate professional's. We suggest shopping and comparing 3 independent title companies—firms not affiliated with real estate or mortgage agencies. Firms that don't pay referral fees or other incentives. People who know they need to earn your business.

Look for experienced closing professionals who will anticipate and manage every aspect of your transaction. Insist on the best title insurance from one of the strongest underwriters in the U.S. at the most reasonable premiums. Remember that you have the right to pay a fair price for your closing. A price that results from a competitive—not a captured—market. A price that's right in line with Title One's closing costs.

If you were delighted (or horrified) by a closing experience, send a note to [tellus@title-1.com](mailto:tellus@title-1.com) or fax 952-837-0717. We'd love to hear your story.



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[ TOUGH QUESTIONS TO ASK YOUR REAL ESTATE PROFESSIONAL ]

“Can you *match*  
Title One’s  
*closing costs?*”

**If you’re buying or selling a home,  
be sure to ask your loan officer and  
real estate agent if they can match  
Title One’s low closing costs.**

Even if the answer is yes, you owe it to yourself to ask why their original costs were so high. It may be because many real estate professionals are rewarded financially for directing clients to a particular title company — hence the higher prices. At Title One, we choose not to pay any kind of referral fees, so that we can maintain both our integrity and our consistently low prices. Quite honestly, we can’t imagine doing business any other way.



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[ TOUGH QUESTIONS TO ASK YOUR REAL ESTATE PROFESSIONAL ]

“Do you *receive*  
referral incentives  
from *your* title company?”

**If you're buying or selling a home, be sure to ask  
your loan officer and real estate agent if they receive  
referral incentives from their title company.**

From there, it's your choice whether you want to pay the high cost of working with people who offer financial rewards for directing clients to their title company. As one of the Twin Cities' only independent title companies, we choose not to pay any kind of referral incentives to real estate professionals, so that we can keep our relationships honest and our prices low. At Title One, we can't imagine doing business any other way.



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[ TOUGH QUESTIONS TO ASK YOUR REAL ESTATE PROFESSIONAL ]

“Will you *object* if  
I choose my own  
title company?”

**If you're buying or selling a home, be sure to  
ask your loan officer and real estate agent if they  
will object if you choose your own title company.**

Depending on their response — and also their body language — you may wonder whether they receive financial incentives for directing clients to a particular title company. As one of the Twin Cities' only independent title companies, we choose not to pay any kind of referral incentives to real estate professionals, so that we can keep our relationships honest and our prices low. At Title One, we can't imagine doing business any other way.



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[ TOUGH QUESTIONS TO ASK YOUR REAL ESTATE PROFESSIONAL ]

“What does the  
*Affiliated Business  
Disclosure* form really  
mean?”

**If your loan officer or real estate agent presents  
you with an Affiliated Business Disclosure form,  
be sure to ask for an explanation before you sign it.**

As you'll discover, this form is used to notify consumers of a business relationship between a real estate professional and a title company that may result in financial or other benefits. At Title One, we believe this also results in higher prices for the consumer. As one of the Twin Cities' only independent title companies, we choose not to pay any kind of referral fees so that we can keep our relationships honest and our prices low. At Title One, we can't imagine doing business any other way.



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[ TOUGH QUESTIONS TO ASK YOUR REAL ESTATE PROFESSIONAL ]

Are *you*  
affiliated with a  
title company?

**If you're buying or selling a home,  
be sure to ask your loan officer and real estate agent  
if they're affiliated with a title company.**

If the answer's yes, it means that your loan officer or real estate agent is rewarded — often financially — for directing clients to that title company. It also means that you'll pay \$200 – \$400\* more for your closing than you would with Title One. As one of the Twin Cities' only independent title companies, we choose not to pay referral fees, so that we can keep our relationships honest and our prices low. At Title One, we can't imagine doing business any other way.



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*\*On average*

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[ TOUGH QUESTIONS TO ASK YOUR REAL ESTATE PROFESSIONAL ]

“How much *more*  
will **I** pay if I use your  
in-house title company?”

**If your loan officer or real estate agent  
recommends a title company other than Title One,  
be sure to ask how much *more*  
you'll pay for your closing.**

Depending on the value of your property, you'll pay \$200 – \$400\* more for a closing with an in-house title company than you would with Title One. As one of the Twin Cities' only independent title companies, we choose not to pay referral fees or incentives to real estate professionals so that we can keep our relationships honest and our prices low. At Title One, we can't imagine doing business any other way. For a price comparison and free quote, visit [title-1.com](http://title-1.com) today.



**TITLE INSURANCE & REAL ESTATE CLOSINGS**

*We make closing a real pleasure!*

*\*On average*

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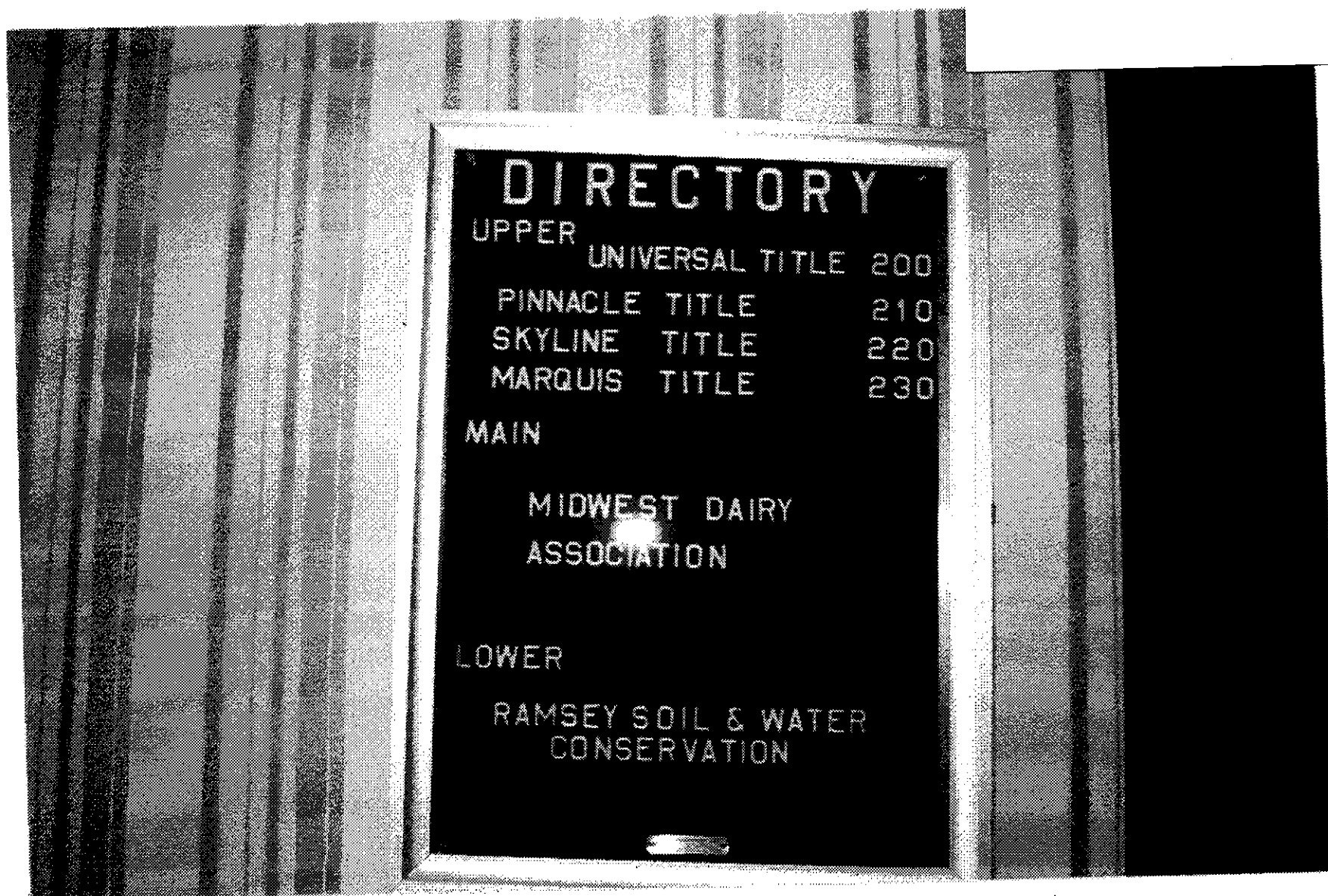


**TITLE INSURANCE AND REAL ESTATE CLOSINGS**  
*We make closing a real pleasure!*



Exhibit

6





## Legislative/Regulatory Record On Behalf of Affiliated Businesses

- **Employee Compensation:** Successfully supported a 1992 HUD RESPA rule to allow employers to compensate their own employees for cross-marketing performance with affiliated companies, and obtained a moratorium (still in effect) on the implementation of a 1996 HUD rule to overturn the 1992 regulation.
- **"Safe Harbor" for Affiliated Businesses:** Successfully supported a HUD RESPA rule to create a "safe harbor" for "affiliated businesses" under RESPA, as opposed to a "rebuttable presumption" that they are illegal.
- **Consumer Discounts:** Successfully advocated a HUD RESPA rule to allow settlement service providers to offer consumers discounts when they purchase affiliated services.
- **Eliminate "Controlled Business" Terminology:** Successfully advocated 1996 legislation to replace the negatively-charged RESPA term "controlled business" with the term "affiliated business".
- **"Affiliated Business" Disclosures:** Successfully advocated legislation enabling affiliated businesses to more efficiently provide the RESPA-required "affiliated business" disclosure by mail, telephone, and electronic means.
- **Affinity Marketing Legislation:** Successfully opposed federal legislation to allow payments to affinity marketers for referrals of settlement service business, while leaving all other providers and marketing strategies subject to RESPA's referral fee prohibition.
- **Consensus Position on "Packaged Services" Legislation:** The only trade association to develop a cross-industry consensus position on "packaged services" legislation, which is based on the premise that all settlement service providers (i.e., real estate broker-owners, mortgage lenders, home builders, title companies) should be able to offer packaged services directly to the consumer, regardless of their industry or affiliation.
- **Mortgage Broker Compensation:** Convinced HUD to drop its longstanding policy of discriminating against "affiliated" mortgage brokers (those affiliated with real estate, home building, or other settlement service providers) in its regulatory treatment of lender-paid mortgage broker compensation.

- ***"Percentage Caps" on Affiliated Title Business Referrals:*** Convinced the National Association of Insurance Commissioners (NAIC) to eliminate a recommended "percentage cap" on the amount of business a title agency can receive from an affiliated real estate, mortgage, or home builder in its State Model Title Agency Code, in favor of an NAIC optional approach toward state affiliated title business regulation.
- ***High Cost Mortgage Legislation:*** Convinced drafters of 2000 federal legislation to lower "high cost" thresholds in the Home Equity Ownership Protection Act (HOEPA) to drop discriminatory language that would not count title and other closing fees towards the "high cost" threshold *unless* the fees are paid to an affiliate. The original language would have made it easier for mortgage originators who use affiliated companies for closing services to meet the "high cost" threshold and be subject to federal term restrictions.
- ***FHA Rehabilitation Loans:*** Convinced the U.S. House of Representatives to amend legislation that would have prevented any mortgage originator from making an FHA rehabilitation loan if an affiliated real estate agent, property inspector, or appraiser is involved in the transaction.
- ***Resource For State "Affiliated Business" Battles:*** Developed and maintain a comprehensive library of empirical studies, favorable statements by public policymakers, and model state testimony on the consumer benefits of affiliated businesses (one-stop shopping) in the home buying industry for use by RESPRO® members in their state battles against affiliated business restrictions.

Exhibit  
8

NATIONAL ASSOCIATION OF  
EXCLUSIVE BUYER AGENTS

*The Buyer's Voice. The Buyer's Choice.*

To: House Financial Services Committee  
Sub Committee on Housing and Community Opportunity

The National Association of Exclusive Buyer Agents (NAEBA) joins those who oppose controlled business arrangements (CBA) when promoted by many of the mega Broker as an additional choice for consumers.

Regardless of the service provided by the CBA whether it be Title Insurance, Mortgage Brokerage, Home Inspection, Home Warranty, or any one of the ancillary services provide by those involved in the real estate transaction, providing more choice is not the reason for its existence. The CBA is created as a profit center – PERIOD.

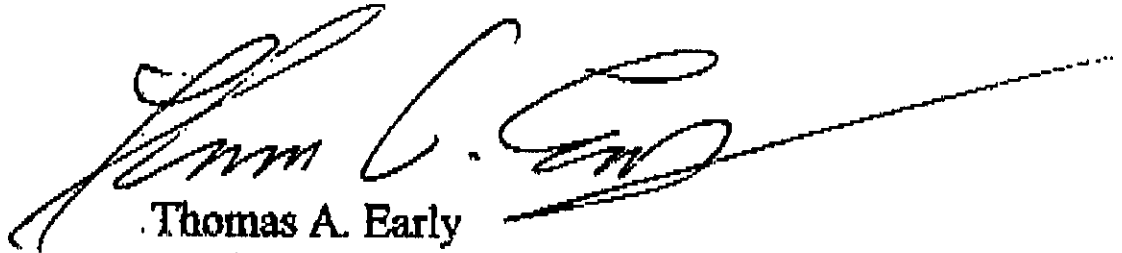
In the past Title Insurance representatives and other service providers have been allowed full access to the sales staff of most brokerages. That meant the representative could stop into any office and speak freely to any agent within the brokerage. This put into play the natural forces projected on an open market place. These representatives were forced to be competitive in both pricing and the level of service provided.

Once a CBA is put in place by a brokerage, the outside unaffiliated service provider, no matter what service they are providing or the cost of such service, is stopped at the reception desk and told they can no longer visit with the agents of the brokerage. This has the effect of narrowing the choices and in fact declaring the service provider which is approved by the brokerage owner for use by the agents within the brokerage.

This happens with every CBA put in place no matter what the service is. Incentives, in one way or another, are in place to make sure the CBA is in fact used by the majority of the agents working for the brokerage as independent contractors. Agents with long tenure and high production levels do not see the pressure to use the CBA in the same way a new agent will feel it. Most new agents are told that if they are going to support the Brokerage they work for, they will use the CBA companies' services. For a brokerage owner who has set up a CBA to say differently stares in the face of reality.

**If an agent is in fact acting as a fiduciary, it would be self dealing and an obvious breach of fiduciary duty to accept pressure or incentives in the selection of a Title Company or any other service provider.**

**These CBA's are set up as profit centers and do NOT encourage competition when in fact the policy adopted by the brokerage cuts off the competition at the front door.**

A handwritten signature in black ink, appearing to read 'Thomas A. Early', with a long horizontal line extending to the right.

**Thomas A. Early  
President, NAEBA**

Exhibit  
9

OFFICE OF THE ATTORNEY GENERAL

State of Minnesota

ST. PAUL 55155

May 12, 2004

MIKE HATCH  
ATTORNEY GENERAL

Mr. Douglas R. Miller  
President  
Title One, Inc.  
601 Carlson Parkway, Suite 1140  
Minnetonka, MN 55305

Dear Mr. Miller:

I thank you for your e-mail correspondence to Assistant Attorney General Prentiss Cox dated April 21, 2004.

You are the President of Title One, Inc. ("Title One"), an independent title insurance company and residential closer. You believe that various title companies have formed "sham" partnerships with independent real estate agents and loan officers as a means to pay those persons a referral fee in violation of the Real Estate Settlement Procedures Act ("RESPA"). You also believe that various corporations which own both title companies and real estate and/or mortgage affiliates pressure their employees to refer business to the in-house title company and/or provide compensation which essentially amounts to a referral fee for such business.

In your February 13 letter to me on these topics, you asked to have a "round table discussion" with this Office. Mr. Cox and Solicitor General Lori Swanson thereafter met with you on March 10, 2004, and you subsequently spoke with Mr. Cox by telephone. I understand that Mr. Cox and Ms. Swanson encouraged you to pursue your concerns with the federal Housing and Urban Development agency ("HUD") and the state Commerce Department, the two primary regulators in this area. In your April 21 e-mail, you asked for an "official" explanation of why this Office made those recommendations.

This Office has undergone extensive budget cuts. Indeed, it was approximately fifty percent larger in 1999. The vast majority of the lawyers in this Office are required to provide legal assistance to State agencies, and the remaining lawyers (less than 20 percent of the complement) currently have very heavy caseloads trying to address lawsuits that don't relate to state agencies. Among other things, they are tied up trying to track down and civilly commit

Mr. Douglas R. Miller, President  
May 12, 2004  
Page 2

sexual predators who were erroneously released by the Department of Corrections. They are also attempting to recover money for senior citizens who have been defrauded by prescription drug companies, to save the homes of people who have been targeted by equity stripping schemes, to remove trustees who have pilfered charitable trusts of elderly citizens, to prosecute physical abuse of vulnerable adults, to enjoin the conduct of a manufacturer of defective bulletproof vests sold to police officers and to stop illegal pyramid schemes and other fraudulent sales. In addition, the Office is prosecuting approximately one dozen murder trials in rural Minnesota and about three dozen cases involving methamphetamine dealers. We are also involved in a variety of antitrust investigations on issues ranging from prescription drugs to software to timber sales.

As a result of our limited resources, this Office must prioritize its work. In doing so, we have encouraged constituents with industry grievances that are regulated by other agencies at the state or federal level to pursue them with those regulators. As you know, HUD is the federal agency which acts as the primary enforcer. I understand that you do not believe that HUD has been sufficiently zealous in its enforcement practices. I nevertheless encourage you to file a complaint with that agency as follows:

Minnesota Department of Housing and Urban Development  
Stephen J. Gronewold, Chief Counsel  
920 Second Avenue South  
Minneapolis, MN 55402  
Phone: (612) 370-3000  
E-mail: [www.hud.gov](http://www.hud.gov)

In addition, the Minnesota Department of Commerce is the primary regulator of title and mortgage companies in Minnesota. You indicate that you have not been impressed with the Commerce Department. Unlike this Office, the Commerce Department is funded and structured to receive and investigate complaints involving the real estate industry. Accordingly, I strongly encourage you to file a complaint with the Commissioner of Commerce, who may be reached as follows:

Commissioner Glenn Wilson  
Department of Commerce  
85 Seventh Place East, Suite 500  
St. Paul, MN 55101  
(651) 296-4026

Mr. Douglas R. Miller, President  
May 12, 2004  
Page 3

As you probably know, federal law does provide a private right of action for violations of RESPA's anti-referral fee provisions, and plaintiffs may receive damages of up to three times the amount of any improperly-paid amounts, together with costs and attorneys fees. I understand that you were represented at your meeting with Ms. Swanson and Mr. Cox by the law firm of Zimmerman and Reed, a well-known and capable class action litigation firm. At the meeting, your attorney indicated that he had commenced a private lawsuit in federal court involving some of the "sham" partnerships about which you complain, which lawsuit was apparently settled pursuant to a confidentiality order. In addition to filing complaints with the regulators identified above, you may wish to discuss with your attorney the feasibility of bringing another private lawsuit based upon the above allegations.

I thank you again for contacting this Office.

Very truly yours,



MIKE HATCH  
Attorney General  
State of Minnesota

MAH/tlh

cc: Solicitor General Lori Swanson  
Assistant Attorney General Prentiss Cox  
AG: #1223496-v1