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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

A.D. ALBERTON AND MARK C. KESSLER,
on behalf of themselves and
all others similarly situated,

CASE NO. 06-3755

Plaintiffs,

v.

FILED

CLASS ACTION

MAR 13 2008

COMMONWEALTH LAND TITLE
INSURANCE COMPANY,

MICHAEL E. RUIZ, Clerk

By [Signature] Dep. Clerk

Defendant.

SECOND AMENDED COMPLAINT

Plaintiffs A.D. Alberton and Mark C. Kessler (“Plaintiffs” or “Alberton” and “Kessler”), by their attorneys, pursuant to this Court’s Class Certification Order dated January 31, 2008, and this Court’s scheduling orders dated February 13, 2008 and March 3, 2008, submit this Second Amended Complaint on behalf of themselves and all others similarly situated against Defendant Commonwealth Land Title Insurance Company (“Commonwealth” or “Defendant”).

I. BACKGROUND

1. For years, Defendant has wrongfully pocketed enormous unearned profits at the expense of its customers by charging them far more for title insurance than Defendant is permitted to charge pursuant to its schedule of rates filed with and approved by the Pennsylvania Insurance Department pursuant to applicable Pennsylvania law. Defendant knowingly overcharged customers for title insurance in violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Act, 73 Pa. C.S. §§ 201-1 *et seq.*, and Pennsylvania Common Law, misrepresenting to these customers that the inflated amounts charged are correct and in

conformance with applicable law, and failing to disclose to these customers that they are entitled to hundreds of dollars in savings when they purchase title insurance in connection with obtaining an original or re-financed mortgage on real property.

2. Title insurance is an inevitable and unavoidable cost of obtaining an original or re-financed mortgage on real property. Lenders--who are beneficiaries of title insurance policies--generally require that title insurance be purchased in order to protect their collateral if a title challenge arises. Without title insurance, lenders generally will not provide a loan to finance or re-finance a residential mortgage.

3. As a title insurance company selling title insurance in Pennsylvania, Defendant is obligated not to "charge any fee for any policy or contract of title insurance except in accordance with filings or rates which are in effect for said title insurance company." 40 P.S. 910-37(h).

4. Defendant has received approval for its rates as a member of the Title Insurance Rating Bureau of Pennsylvania ("TIRBOP"). TIRBOP is licensed by the Pennsylvania Insurance Department. TIRBOP has filed its title insurance rates in the Title Insurance Rate Manual of the Commonwealth of Pennsylvania ("TIRBOP Manual"). A copy of the TIRBOP Manual as amended through April 1, 2003 is attached hereto as Exhibit A. The TIRBOP Manual sets forth the schedule of rates for members of TIRBOP. Plaintiff and the Class do not challenge the title insurance premium rates approved by the Pennsylvania Insurance Department.

5. Unknown to most customers is that in light of the rate schedules filed by title insurers including Defendant in Pennsylvania and approved by the Pennsylvania Insurance Department in accordance with The Insurance Company Law of 1921, 40 P.S. § 910-41, Pennsylvania law imposes a mandatory multi-tiered pricing structure on the title insurance

industry. The following rates, as set forth in the Rate Manual, and which are binding on defendant and its agents, are relevant to this litigation:

- (a) “Basic Rate”: The rate to be charged to a purchaser of title insurance who does not otherwise qualify for a special rate (e.g., Reissue Rate or Refinance Rate). See Exhibit A, Rate Manual, Section 5.50.
- (b) “Reissue Rate”: The rate to be charged for title insurance where the policy is purchased in connection with the real property that has been previously insured within 10 years from the date the insured’s transaction closes. See Exhibit A, Rate Manual, Section 5.3. The “Reissue Rate shall be 90% of the Basic Rate for all units of insurance or fraction thereof up to and including \$2,000,000.” Exhibit A, Rate Manual, Section 5.50.
- (c) “Refinance Rate”: The rate to be charged to a purchaser of title insurance where the policy is purchased in connection with a refinance or substitution loan within three years from the date of closing of the same property. See Exhibit A, Rate Manual, Section 5.6. The Refinance Rate “shall be 80% of the Reissue Rate.” Id.

6. The underlying intention of the Reissue Rate discount and Refinance Rate discount is to limit the cost of title insurance when the risk insured against is almost precisely the same as that involved in the previous transaction

7. The Reissue Rate/Refinance Rate is significantly lower than the Original Rate/Basic Rate because title insurance companies perform less work in preparing a Reissue/Refinance policy and insurance companies insure against less risk. Reissue/Refinance

transactions generally occur when there has been no change in ownership of a property and/or a short period of time has elapsed between the purchase of the original policy and the time a new policy is purchased in connection with obtaining a new mortgage (due to a purchase of the property or a refinance of the prior mortgage). As a result, title insurers typically rely on the comprehensive title search conducted at the placement of the original policy, and spend considerably less time and money conducting an updated title search for placement of a Reissue or Refinance policy. Additionally, Reissue and Refinance policies only insure policyholders for title-related claims that arise from the short period of time in between placement of the original and Reissue/Refinance policies. Therefore, a Reissue or Refinance policy insures against less risk than an originally-placed policy.

8. There have been reports that since at least the mid-1990s, the title insurance industry, including Defendant, has overcharged individual homeowners hundreds of dollars for title insurance by failing to apply the statutorily-mandated Reissue/Refinance Rate discounts in connection with residential refinance transactions; Defendant Commonwealth was aware of these reports.

9. There have been reports that the overcharging and non-disclosure of Reissue rate and Refinance Rate discounts by title insurers is not an isolated occurrence. Indeed, the Executive Vice President of the sole national trade association, the American Land Title Association (“ALTA”), of which Defendant Commonwealth is a member, has acknowledged publicly that “[w]e know not everyone is familiar” with refinance rate discounts, and “[w]e know [overcharging] is a problem.” Kenneth R. Harney, *Refinancers Should Seek Lower Rate on Title Insurance*, The Baltimore Sun, April 13, 2003, at 1 L. Defendant Commonwealth was aware of these reports.

10. There have been reports that the title insurance industry, including Defendant, has profited handsomely by disregarding the law and overcharging homeowners. For example, with interest rates in the past few years at a 40-year low, eager homeowners have lined up to refinance their existing home loans. There have been reports that in 2002, Americans paid approximately \$11 billion, up from \$7.8 billion in 2000, for title insurance and related services. Ruth Simon, *Good Deeds: Refinancing Boom Puts New Pressure on Title Industry*, The Wall Street Journal, Dec. 18, 2002. Defendant Commonwealth was aware of these reports.

11. Furthermore, there have been reports that title insurance companies have so grossly inflated the cost of title insurance that they only pay out five to ten cents in claims for every dollar in premiums they collect. Melynda Dove Wilcox, *Home Buyers Beware*, Kiplinger's Oct. 2001, at 96-100. The reports reflect that this is in sharp contrast to other insurance industries, such as property and casualty insurers, that pay out ninety cents for every dollar in premiums collected. Defendant Commonwealth was aware of these reports.

12. One of the two major home mortgage financiers, Fannie Mae, has noted publicly the financial drag that the industry's exorbitant pricing places on homeowners. Fannie Mae's vice president for credit policy has stated, "[i]t's safe to say that prices [of title insurance], in many respects, are higher than they ought to be." Simon, *supra*, page 4. There have been reports that the other major financier, Freddie Mac, went so far as to meet with title insurance executives seeking that they disclose the refinance rate to their customers so that the customers could benefit from the potentially huge savings. Kenneth R. Harney, *Refinancing's Magic Words*, The Washington Post, June 8, 2002, at HO 1. Defendant Commonwealth was aware of these reports. Nonetheless, Commonwealth continued to charge customers inflated rates for title insurance.

13. There have also been reports, as set forth below, that customers in the Commonwealth of Pennsylvania also have fallen victim to these unlawful industry-wide policies and practices. Defendant Commonwealth was aware of these reports.

II. THE PARTIES

14. Plaintiff A.D. Alberton is an individual who resides at 601 Benson Lane, Chester Springs, Pennsylvania 19401. He previously resided at 901 Kings Arm Drive, Downingtown, PA 19335 (the "Alberton Property").

15. Plaintiff Mark C. Kessler is an individual who resides at 1105 West Fir Drive, Latrobe, PA. 15650 (the "Kessler Property").

16. Defendant Commonwealth is a title insurance company under Pennsylvania law, 40 P.S. § 910- 1(3). During the time relevant to the claims alleged in this Complaint it was incorporated in Pennsylvania and regularly conducted business in Pennsylvania with its registered agent in Philadelphia, Pennsylvania.

III. JURISDICTION AND VENUE

17. This Court has jurisdiction pursuant over the subject matter and parties herein. During the time relevant to the claims alleged in this Complaint Defendant Commonwealth was a Pennsylvania Corporation, Plaintiffs and most members of the proposed class are Pennsylvania residents, the properties (of Plaintiff and all members of the proposed class) at issue are located in Pennsylvania, and all claims arise under Pennsylvania law. Because Commonwealth changed its state of incorporation to Nebraska shortly before it was filed in the Philadelphia Court of Common Pleas, Commonwealth removed this case to this Court pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d)(2)

18. Venue is proper in this District because during the time relevant to the claims alleged in this Complaint Commonwealth has registered agents in this District, and regularly conducts business here.

IV. CLASS ALLEGATIONS

19. This action is brought and may properly be maintained as a class action pursuant to Pa. R.C.P § 1701 *et seq.*

20. This class action is brought on behalf of the Plaintiffs and the Class members (defined below) to recover for the harm caused by the Defendant's unlawful conduct.

21. Throughout the Class Period (defined below), Defendant engaged in deceptive acts and practices and defrauded members of the Class (defined below) by charging rates for title insurance in excess of the statutorily-mandated rate and/or by failing to disclose to consumers of title insurance that they were entitled to reduced title insurance premiums. Rather than abiding by the statutorily-mandated rates, Defendant affirmatively and deliberately overcharged these consumers to the detriment of Plaintiff and the other members of the Class.

22. The acts, practices and conduct of which Plaintiff complains commonly affect a class. Pursuant to this Court's January 31, 2008 Class Certification order, the class shall consist of all persons or entities who, from July 25, 2000 until August 1, 2005, paid premiums for the purchase of title insurance from defendant Commonwealth Title Insurance Company, in connection with a refinance of a mortgage or fee interest with respect to real property located in Pennsylvania that was insured by a prior title insurance policy within ten years of the refinance transaction, and were not charged the applicable Reissue Rate or Refinance Rate discount for title insurance on file with the Pennsylvania Insurance Commissioner. The class shall be divided into two sub-classes. Subclass A (represented by Plaintiff Alberton) shall include all class

members whose purchase of insurance from Commonwealth was made within the three years of the prior purchase of title insurance. Subclass B (represented by Plaintiff Kessler) shall include all class members whose purchase of insurance from Commonwealth was made more than three years but within ten years of the date of the prior purchase of title insurance.

23. The Class, as defined above, is identifiable and unambiguous based on objective information and criteria.

24. The Plaintiff is a member of the Class.

25. The members of the Class are so numerous that joinder is impractical. Upon information and belief, the Class is comprised of thousands of individuals.

26. There are questions of law and fact common to the members of the Class, which questions predominate over any individual issues.

27. The claims and defenses of Plaintiffs are typical of the claims of all members of the Class. By proving their cases, the Plaintiffs will simultaneously prove the case of the members of the Class.

28. The Plaintiffs will fairly and adequately represent the Class. Plaintiffs are willing and able to serve as representatives of the Class, and have no knowledge of any possible divergent interest between or among Plaintiffs and any member of the Class. Plaintiffs have retained highly competent counsel experienced in class actions and complex litigation to provide representation on behalf of the Plaintiffs and the Class.

29. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for Defendant.

30. The prosecution of separate actions would also create a substantial risk of adjudications with respect to individual members of the Class, which would, as a practical matter, be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

31. Questions of law and fact common to members of the Class predominate over any questions affecting individual members. The determinative facts and legal principles apply universally among Plaintiffs and the members of the Class. Indeed, the predominant legal issue in this case, which cuts across the entire Class, is whether Defendant breached a legal duty universally owed to the Plaintiff and the members of the Class in failing to charge the correct discounted refinance rate or a Reissue Rate and/or failing to disclose the existence of the discounted refinance rate or a Reissue Rate. If liability against Defendant is established on the basis of the common facts applied to universally-applicable principles of law, then damages can be precisely calculated based on objective data.

32. A class action provides a fair and efficient method for the adjudication of this controversy for the following reasons:

- a. The common questions of law and fact set forth above predominate over any questions affecting only individual class members;
- b. The class is so numerous that joinder is impracticable. However, the Class is not so numerous as to create manageability problems. Nor are there any legal or factual issues which would create manageability problems;
- c. Prosecution of separate actions by individual members of the class would create a risk of inconsistent and varying adjudications against Commonwealth;

- d. Adjudications with respect to individual members of the Class could, as a practical matter, be dispositive of any interest of other members not parties to such adjudications, or substantially impair their ability to protect their interests;
- e. Plaintiffs are unaware of any other litigation in Pennsylvania challenging Commonwealth's wrongful conduct as alleged herein;
- f. Commonwealth is responsible for collecting the improper premiums charged to Plaintiffs in Pennsylvania, and/or receives the benefit of such improper premiums, making this forum appropriate for the litigation of the claims of the Class.

33. Moreover, the claims of the individual class members are small in relation to the expenses of litigation, making a class action the only procedure in which class members can, as a practical matter, redress their grievances. However, the claims of individual class members are large enough to justify the expense and effort in maintaining a class action.

34. Plaintiffs' designation in this Second Amended Complaint of two subclasses is made pursuant to this Court's January 31, 2008 Class Certification Decision and is made without prejudice to the position set forth in the First Amended Complaint and the Motion for Class Certification that certification of a unified class represented by Plaintiff Alberton was proper.

V. FACTUAL ALLEGATIONS

35. Title insurance is an essential part of virtually every real estate transaction. Title insurance guarantees that the owner's or lender's interest in the property is free of all liens and encumbrances except as specifically disclosed in the title policy.

36. The most common types of title insurance policies are owner's policies, which protect the owner of the property being insured, and lender's policies, which protect lenders making loans secured by the property being insured.

37. Title insurance is purchased from a title insurer authorized by law to issue title insurance in Pennsylvania. An owner purchases his or her owner's policy directly from a title insurer through the title insurer's agent and, although a lenders policy insures the lender, the owner typically purchases the lenders policy for the benefit of the lender directly from the title insurer.

38. Title insurance is required in the overwhelming majority of mortgage transactions. Commonwealth states on its website that "[y]our mortgage lender will **require** a loan policy of title insurance to protect their interest in the value of your property." [emphasis added]. In addition, Commonwealth's website encourages individuals to purchase an owners policy when they buy a home in order to protect their interest in the property.

39. Lenders need title insurance for any mortgage that they intend to sell in the secondary market. For decades, Fannie Mae and Freddie Mac have listed title insurance in their requirements for including loans in the mortgage pools purchased for the secondary market.

40. The process by which a title insurer, like Commonwealth, issues a title insurance policy is the same in almost every case. Generally, the underwriting and issuance of a title insurance policy includes the functions of searching and examining the chain of title and liens on the property, conducting the closing and collecting and disbursing funds, recording the appropriate documents and insuring the condition of the title to real property.

41. The process of conducting the title search discloses to Commonwealth or its agent the liens and encumbrances on the property. Thus, as a result of the process of underwriting and

issuing a title insurance policy in connection with a refinancing transaction, Commonwealth becomes aware of the existence of a prior title insurance policy and/or has information sufficient to enable it to identify or request a copy of said prior policy, so as to allow it to apply the proper charge and collection of the appropriate premium.

42. Pursuant to 40 P.S. § 910-37(a), a title insurer must file with the Insurance Commissioner “every manual of classifications, rules, plans, and schedules of fees and every modification of any of the foregoing relating to the rates which it proposes to use.”

43. Pursuant to 40 P.S. § 910-37(h), “no title insurance company or agent of a title insurance company shall charge any fee for any policy or contract of title insurance except in accordance with filings or rates which are in effect for said title insurance company or such agent of a title insurance company”

44. Pursuant to 40 P.S. § 910-39(b), rates should not be “excessive,” and pursuant to § 910-39(c), “[i]n ascertaining what is a reasonable profit [for providers of title insurance]... the commissioner shall give due consideration to the following matters: (1) The average rates of profit after payment of taxes on all income earned by other industry generally...”

45. The TIRBOP Manual establishes “Basic” rates and discounted “Reissue” and “Refinance” rates.

46. Defendant’s rates as described above were approved by the Pennsylvania Insurance Commission, which also approved identical rates for other entities authorized to provide title insurance in Pennsylvania during the relevant time, and Defendant never received any authorization for the Commission to deviate from such rates.

The Alberton Refinance Transaction

47. In 1996, Plaintiff Alberton purchased the Alberton property.

48. In connection with the 1996 purchase Plaintiff Alberton obtained a mortgage and purchased title insurance.

49. On or about July 26, 2001, Plaintiff Alberton refinanced the mortgage on the Alberton Property and in connection with that refinance purchased title insurance from Old Republic Title. He was entitled to, and did in fact receive, the Reissue rate for title insurance in connection with that transaction.

50. A true and correct copy of the HUD-1 Settlement Statement for the 2001 refinance transaction is attached hereto as Exhibit B.

51. On or about April 8, 2003, Plaintiff Alberton again refinanced the Alberton Property (the "Alberton Refinance Transaction"). In connection with that refinance transaction, Plaintiff Alberton was not only entitled to the Reissue Rate discount, but also the Refinance Rate Discount. Nonetheless, Defendant charged Plaintiff \$ 1,155.38—the Reissue Rate—and did not provide Plaintiff with the additional Refinance Rate discount of an additional 20%, or \$234.08, which would have resulted in a total price of \$924.30 for title insurance.

52. The Refinance Transaction took place at the offices of Defendant's agent Camelot Abstract Incorporated ("Camelot") at 423 Main Street, Doylestown, Pa.

53. In connection with the Alberton Refinance Transaction, the HUD-1---which was prepared by Defendant and/or its agent--reflects that Defendant charged and collected from Plaintiff Alberton \$1,155.38 for title insurance.

54. A true and correct copy of the HUD-1 Settlement Statement prepared in connection with the Alberton Refinance Transaction is attached hereto as Exhibit C.

The Kessler Refinance Transaction

55. In 1987, Plaintiff Kessler purchased the Kessler Property.

56. In connection with the 1997 purchase Plaintiff Kessler obtained a mortgage and purchased title insurance.

57. On or about January 28, 1993, Plaintiff Kessler refinanced with the mortgage on the Kessler Property with a new mortgage from GMAC Mortgage Corp. and in connection with that refinance transaction purchased title insurance.

58. On or about June 6, 2001, Plaintiff Kessler again refinanced the Kessler Property (the “Kessler Refinance Transaction”). In connection with that refinance transaction, Plaintiff Kessler was entitled to the Refinance Rate Discount. Nonetheless, Defendant charged Plaintiff Kessler \$ 918.75—the Basic Rate—and did not provide Plaintiff Kessler with the Reissue Rate discount of an additional 10%, or \$ 91.875, which would have resulted in a total price of \$ 823.875 for title insurance.

59. The Kessler Refinance Transaction took place at the offices of Defendant’s agent Broker’s Settlement Services, located at 1501 Reedsdale Street, Pittsburgh, Pa.

60. In connection with the Kessler Refinance Transaction, the HUD-1--which was prepared by Defendant and/or its agent--reflects that Defendant charged and collected from Plaintiff Kessler \$918.75 for title insurance.

61. A true and correct copy of the HUD-1 Settlement Statement prepared in connection with the Kessler Refinance Transaction is attached hereto as Exhibit D.

62. In connection with the Alberton and Kessler Refinance Transactions (collectively “Refinance Transactions”), Defendant performed an underwriting which necessarily included a search for a prior mortgages and deeds in the chain of title for the Property. That underwriting

disclosed the prior mortgages and title searches for the Alberton Property in 1996 and 2001, and the Kessler Property in 1987 and 1993, and that the Refinance Transactions were Refinance transactions. Accordingly, Defendants had actual knowledge that Plaintiff Alberton qualified for the Refinance Rate discount and Plaintiff Kessler qualified for the Reissue Rate Discount. Indeed, Pennsylvania law specifies that no policy of title insurance shall be written until the title insurance company, either directly or through its agent, has conducted a reasonable examination of the record title or has caused a reasonable examination of title to be conducted, which examination would yield the information necessary to make a title insurance company such as Commonwealth aware of a prior title insurance policy. In this regard, Commonwealth is responsible for the acts and conduct of its agents and responsible with respect to the nature and extent to which it delegates functions to its agents and the extent to which it compensates its agents or splits any fees for title insurance with its agents.

63. In fact, in the August 2005 revisions to the Rate Manual, TIRBOP members, including Commonwealth, made clear that that a title insurer must rely on the recording of a deed to a bona fide purchaser for value or an unsatisfied mortgage to an institutional lender in determining whether a discounted rate should apply.

64. Nonetheless, Defendant and/or its agents Camelot and Broker's Settlement Services (collectively "Agents") prepared the HUD-1 Settlement Statements that falsely and deceptively listed the undiscounted Reissue Rate/Basic Rate as the "actual" charge for title insurance when, in fact, pursuant to the rates filed by Defendant via TIRBOP and approved by the Pennsylvania Insurance Department, and applicable Pennsylvania law, Defendant was prohibited from charging Plaintiff Alberton for the Reissue Rate and was only permitted to

charge the additionally-discounted Refinance Rate, and was prohibited from charging Plaintiff Kessler the Basic Rate and was only permitted to charge him the Reissue Rate.

65. In connection with the closing of the Refinance Transactions, Defendant, through its Agents, (a) concealed from the Plaintiffs that they qualified for and were entitled to receive the Refinance Rate discount and Reissue Rate Discount; (b) deceptively listed the undiscounted Reissue Rate and Basic as the "actual" charge for title insurance; (c) failed to disclose that they were prohibited by law from charging and collecting from Plaintiffs the Reissue Rate and refinance Rate without the additional 20 % Refinance Rate deduction and 10 % Reissue Rate discount, and (d) supplied false, misleading, inaccurate and incomplete information about the applicable rate for title insurance by charging the Plaintiff the Reissue Rate, \$1,155.38 for title insurance when Plaintiff in fact was entitled to the Refinance Rate (\$ 924.30). The Defendant's non-disclosures and false, misleading, inaccurate, deceptive and incomplete statements were material to the Transaction.

66. Plaintiffs actually and reasonably relied on Defendant's representations in the HUD-1 Settlement Statement regarding the true and accurate charge for title insurance.

67. In the Refinance Transactions, and in comparable transactions involving each member of the Class and the Sub-Classes, Plaintiffs and the Class members qualified for and were entitled to receive a Refinance Rate discount or Reissue Rate discount because the transactions involved a refinance loan made to the same borrower on the same property as a prior mortgage, or because the previous owner owned the property continuously and had purchased title insurance less than ten years earlier.

68. As set forth above, Defendant was required to give the Refinance Rate discount or Reissue Rate discount to Plaintiffs and to class members in connection with their purchase of

title insurance. Furthermore, the fact that the Plaintiffs and class members qualified for such discounts was reflected in the chain of title and closing documents for the Plaintiffs' and the Class members' purchase/mortgage/refinancing of the properties and, therefore, as part of their underwriting for title insurance, Defendant and/or its agents necessarily knew or should have known that Plaintiffs and the Class members qualified for, and were entitled to receive, the Refinance Rate discount or Reissue Rate discount.

69. Defendant, however, failed to give the full Refinance Rate discount or Reissue Rate discount to Plaintiffs or the Class members to which they were entitled or to inform Plaintiffs or the Class members that they qualified for such fully-discounted rates. Instead, in violation of 40 P.S. §§ 910-37, 910-39 and 910-42, Defendant charged the Plaintiffs and Class members premium rates in excess of the Refinance Rate discount or Reissue Rate discount rates, resulting in financial harm to the Plaintiffs and Class members.

70. Defendant has maintained, and continues to maintain, a common, routine and customary business practice of: (a) overcharging consumers by failing to charge refinance or Reissue rates to numerous residential customers who qualify for such rates in connection with purchase or refinance transactions; and (b) failing to inform such customers that they qualify for such rates.

71. These deceptive practices are not the result of Defendant's ignorance and mistake. Rather, (a) pursuant to their investigation to underwrite title insurance; (b) pursuant to information learned in connection with other similar litigation regarding overcharges for title insurance (*e.g. Patterson v. Fidelity National Title Ins.*, G.D. 03-21176 (Allegh. Co. Pa.), *Smajlaj v. First American Title Ins. of New York*, Index No. 23997-2002 (Bronx Co. N.Y.), *In re Coordinated Title Ins. Cases*, 2004 WL 690380 (N.Y. Sup. Ct. Nassau Co. Jan. 8, 2004)); (c)

pursuant to membership in organizations such as ALTA and the Title Insurance Rating Bureau of Pennsylvania (“TIRBOP”); (d) as reflected by the press reports and statements of various officials cited above; (e) based on information learned from audits of their business and audits and monitoring of Defendants’ agents; (f) based on reports and data collected by their agents on the types of each policy sold, the dollar amount of such policies, the actual premium charged, and whether the policy was charged at the Basic, Reissue or Refinance Rate; and (g) based on knowledge of general business conditions; (h) and based on the unusual and excessively low payouts per dollar of premium collected in comparison with other types of insurance; Defendants knew or should have known that they were deceptively and illegally overcharging class members for title insurance by inaccurately listing the Basic Rate as the “actual” cost of title insurance in line 1108 of class members’ HUD-1 Statements. Indeed, on its face, the percentage of policies for which Defendants charged the Basic Rate as opposed to the discounted Reissue or Refinance Rates, made obvious the fact that Defendants were overcharging for title insurance.

72. Alternatively, to the extent that Defendant’s practices of overcharging class members who qualified for the Refinance Rate discount or Reissue Rate discount resulted from ignorance and mistake, it was Defendant and/or its agents who had the requisite responsibility and knowledge to avoid such mistakes and such mistakes were the result of the negligence and gross negligence of Defendant and its agents.

73. Plaintiffs and class members placed a special trust and confidence in Defendant and its agents and delegated to them responsibility for structuring the purchase of title insurance, for computing the applicable rate and charge for title insurance, and for accurately listing the “actual” charge for title insurance on line 1108 of their HUD-1 Statements. Defendant structured

transactions with class members in a manner to list and charge a higher rate than they were legally permitted to charge. By structuring the transactions in this manner, Defendant abused its position of trust.

74. As a result of the foregoing business practices, numerous customers who qualify for refinance rates, such as Plaintiffs and the Class members, do not receive the full Refinance Rate discount or Reissue Rate discount to which they are entitled.

75. Plaintiffs and members of the class received no additional coverage or benefits by virtue of paying a higher rate than Defendant was permitted to charge under applicable law.

76. Defendant engages the services of various local title companies or agents such as Camelot to provide assistance in procuring title insurance policies on behalf of owners and lenders. To compensate local title companies or agents, Defendant splits the premiums paid for the title insurance between themselves and their agents. Upon information and belief, Defendant will pay the local title companies or agents, as compensation and as a referral fee, a significant percentage of the premium collected from the borrowers.

77. Plaintiffs and the members of the Class seek, *inter alia*, damages representing the difference between the amount of premium for title insurance charged by Defendant without the fully-applicable Refinance Rate discount or Reissue Rate discount and the amount of premium for title insurance that should have been charged if the Refinance Rate discount or Reissue Rate discount had been provided by Defendants as required by law.

COUNT I
(Breach of Express Contract)

78. Plaintiffs replead and reallege the allegations in the prior paragraphs as if set forth in full.

79. Defendant, through its authorized agents, entered into express contracts for the purchase and sale of title insurance (hereinafter the “Express Contract”) with Plaintiffs and each member of the Plaintiff Class. Plaintiffs and members of the Class purchased title insurance for the benefit of their lenders. Commonwealth issued lenders’ title insurance policies to lenders in return for payment by Plaintiffs and the Class, made at the closing for the loan being insured.

80. The terms of the Express Contract are reflected in the HUD-1 Settlement Statements from the Refinance Transactions attached hereto and materially identical HUD-1 Settlement Statements signed by each and every member of the Plaintiff Class. Additional terms of the contract are set forth in the rate schedule filed by Defendant/TIRBOP with the Pennsylvania Insurance Department, which are incorporated by law into the contract.

81. Plaintiffs (as well as the members of the Plaintiff Class) and Defendant mutually assented to the terms of the Express Contract.

82. The terms of the Express Contract were that, in exchange for payment of the correct premium as set forth in the rate schedule filed with the Insurance Department, Defendant would (a) conduct a title search and provide title insurance; (b) prepare the HUD-1 Settlement Statement; (c) enter “actual” or true and accurate charges on line 1108 of the HUD-1 Settlement Statement (including charges in conformity with the Reissue and Refinance discounts as applicable; and (d) charge a true and accurate amount for title insurance.

83. As to Plaintiffs and each member of the Plaintiff Class, Defendant materially breached the Express Contract by (a) failing to prepare true and accurate HUD-1 Settlement Statement, (b) stating false and inaccurate charges for title insurance on the HUD-1 Settlement Statement, and (c) charging an amount for title insurance that was not true and accurate as it was not the rate mandated by Defendant’s filing with the Insurance Department.

84. Defendant owed Plaintiffs and the Plaintiff Class members a duty of good faith and fair dealing in connection with the performance of their obligations under the Express Contract.

85. Defendant breached its duty of good faith and fair dealing arising under the Express Contract by charging and collecting premiums from Plaintiffs and the Plaintiff Class members that were not calculated in accordance with the rate schedule filed with the Insurance Department.

86. As a result of Defendant's breaches of the Express Contract, Plaintiffs and the Plaintiff Class have suffered damages.

COUNT II
(Breach of Implied Contract)

87. Plaintiffs replead and reallege the allegations in the prior paragraphs as if set forth in full.

88. Pursuant to the terms set forth in the HUD-1 and with the TIRBOP rate schedule filed with the Insurance Department, Defendant entered into implied contracts (the "Implied Contract") with Plaintiffs and the members of the Plaintiff Class for the purchase and sale of title insurance.

89. Plaintiff (as well as the members of the Plaintiff Class) and Defendants mutually assented to the terms of the Implied Contract.

90. The terms of the Implied Contract are set forth in the HUD-1 Settlement Statement and materially identical HUD-1 Settlement Statements signed by each and every member of the Plaintiff Class, and the rate schedule filed with the Insurance Department.

91. The terms of the Implied Contract were that, in exchange for payment of the correct premium as set forth in the rate schedule filed with the Insurance Department, Defendant

would (a) conduct a title search and provide title insurance; (b) prepare the HUD-1 Settlement Statement; (c) enter "actual" or true and accurate charges on line 1108 of the HUD-1 Settlement Statement (including charges in conformity with the Reissue and Refinance discounts as applicable); and (d) charge a true and accurate amount for title insurance.

92. As to Plaintiffs and each member of the Plaintiff Class, Defendant materially breached the Implied Contract by failing to (a) prepare true and accurate HUD-1 Settlement Statement, (b) stating false and inaccurate charges for title insurance on the HUD-1 Settlement Statement, and (c) charging an amount for title insurance that was not true and accurate as it was not the rate mandated in the Manual.

93. Defendant owed Plaintiffs and the Plaintiff Class members a duty of good faith and fair dealing in connection with the performance of its obligations under the Implied Contract.

94. Defendants breached its duty of good faith and fair dealing arising under the Implied Contract by assessing premiums for Plaintiffs and the Plaintiff Class members that were not calculated in accordance with the Manual.

95. As a direct and proximate result of Defendants' breaches of the Implied Contract, Plaintiffs and the Plaintiff Class members have suffered damages.

COUNT III
(Money Had and Received)

96. Plaintiffs replead and reallege the allegations in the prior paragraphs as if set forth in full.

97. As set forth above, Defendant assessed and collected premiums for title insurance in amounts exceeding the rates that were filed with the Pennsylvania Insurance Department.

98. By doing so, Defendant has come into the possession of money in the form of premium payments for title insurance that it had and has no right to at law or in equity.

99. It would be inequitable for Defendant (or its agents) to retain any such monies that they had no legal right to charge.

100. As a consequence, Plaintiffs and the members of the Class have been damaged.

COUNT IV
(Pennsylvania Unfair Trade Practices Act and Consumer Protection Law)

101. Plaintiffs replead and reallege the allegations in the prior paragraphs as if set forth in full.

102. At all relevant times the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 Pa. Cons. Stat. § 201-1 *et seq.* (“UTPCPL”) was applicable to the transactions at issue in this Complaint.

103. Plaintiffs and members of the proposed class purchased title insurance from Defendants primarily for personal, family or household purposes within the meaning of 73 Pa. C.S.A. § 201-9.2.

104. Defendant has regularly been engaged, as part of their general business practices, in a scheme of: (a) wrongfully misrepresenting the applicable rate for title insurance by failing to inform customers who qualify for the Refinance Rate discount or Reissue Rate discount that they qualify for such rates; (b) wrongfully making such misrepresentations for the purpose of obtaining an increased premium for the policies from the Plaintiffs and the Class members; and (c) wrongfully charging Plaintiffs and the Class members a higher rate than defendant was permitted to charge pursuant to 40 P.S. §§ 910-37, 910-39, 910-42, and the TIRBOP rate schedule filed by Defendant.

105. Defendant used and employed unfair methods of competition and/or unfair or deceptive acts or practices within the meaning of 73 Pa. C.S.A. §§ 201-2 and 201-3. Such unfair methods of competition and/or unfair or deceptive acts or practices include, but are not limited to the following:

- a. Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods and services pursuant to § 201-2(4)(ii) (Defendant caused the likelihood of confusion or misunderstanding that the rates they charged had the sponsorship, approval and certification of Pennsylvania law when in fact those rates did not);
- b. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that person has a sponsorship, approval, status, affiliation or connection that he does not have under § 201-2(4)(v) (Defendant charged Plaintiff and the Class members a higher rate than Defendant was permitted to charge pursuant to 40 P.S. §§ 910-37, 910-39, 910-42, and the TIRBOP rate schedule filed by Defendant, and further represented it had sponsorship and approval under applicable Pennsylvania law when it did not);
- c. Representing that goods or services are of a particular standard, quality or grade or that goods are of a particular style or model, if they are of another under § 201-2(4)(vii) (Defendant represented that the title insurance paid for by class members was an “Original Rate” or “Basic Rate” (or even the

discounted “Reissue Rate”) policy when in fact it was a Refinance Rate discount or Reissue Rate discount policy);

- d. Failing to comply with any written guaranty or warranty given to the buyer at, prior to or after a contract for the purchase of goods or services made under § 201-2(4)(xiv) (Defendant failed to charge class members the “actual” rate mandated under applicable law as guaranteed and/or warranted in the relevant documents); and
- e. Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding under § 201-2(4)(xxi) (Charging class members a higher rate than defendant was permitted to charge pursuant to 40 P.S. §§ 910-37, 910-39, 910-42, and the TIRBOP rate schedule filed by Defendant.

106. In addition, Defendants’ failure to comply with 40 P.S. §§ 910-37, 910-39 and 910-42 constitutes a *per se* violation of the UTPCPL.

107. Defendant’s misrepresentations, concealment, omissions, deceptions and conduct were likely to deceive and likely to cause misunderstanding and/or in fact caused Plaintiffs and other members of the Class to be deceived and to misunderstand that they were paying the legally-prescribed rates for title insurance when in fact they were paying the higher “Original Rate” or “Basic Rate” (or even the discounted “Reissue Rate”) policy price when in fact under applicable Pennsylvania law Defendants were required to only charge and class members were only required to pay the lower Refinance Rate discount or Reissue Rate discount policy price to purchase title insurance.

108. Defendant intended that Plaintiffs and Class members would rely on their misrepresentations, concealment, deceptions and/or omissions as that they were correctly charging the legally prescribed rate for title insurance when in fact they were not. By paying the higher original or Basic Rate (or even the discounted "Reissue Rate"), Plaintiffs and all members of the class have in fact relied on Defendant's misrepresentations and omissions.

109. Defendants' violations of the UTPCPL caused the damages suffered by Plaintiffs and members of the class because no class member would have knowingly paid a premium for title insurance that was higher than the discounted premium to which they were entitled pursuant to Pennsylvania law and the TIRBOP Manual.

110. Defendant's actions, which were willful and wanton, or at least reckless, constitute violations of the UTPCPL.

111. Plaintiffs and other members of the Class have been damaged as a proximate result of Defendant's violations of the UTPCPL and have suffered actual, ascertainable losses, in that they paid the higher "Original Rate" or "Basic Rate" policy price when in fact under applicable Pennsylvania law Defendant was required to only charge the lower Refinance Rate discount or Reissue Rate discount policy price to purchase or title insurance.

112. As a direct and proximate result of Defendant's violations of the UTPCPL as set forth above, Plaintiffs and the members of the class have suffered an ascertainable loss of money and are therefore entitled to relief, including damages, plus triple damages, under UTPCPL § 201-9.2.

COUNT V
(Fraudulent Misrepresentation)

113. Plaintiffs hereby incorporate by reference each and every allegation contained in the prior paragraphs of this Complaint as if set forth in full herein.

114. In connection with the closing of the Refinance Transactions and comparable transactions involving each member of the Class, Defendant, through its agents, supplied false, misleading, inaccurate and incomplete information about the applicable rates for title insurance, and overcharged Plaintiffs, by charging Plaintiffs Alberton the Reissue Rate and Plaintiff Kessler the Basic Rate for title insurance when Plaintiff Alberton in fact was entitled to receive the even lower Refinance Rate and Plaintiff Kessler was entitled to receive the lower Reissue Rate for title insurance pursuant to the rate schedule filed by Defendant/TIRBOP with the Pennsylvania Insurance Department. This false, misleading, inaccurate and incomplete information was material to the transaction.

115. Defendant had the means to know and knew that the Plaintiffs and Class members qualified for and were entitled to receive a Refinance Rate discount or Reissue Rate discount in connection with their mortgage transactions, and that the information it supplied about the applicable rates for title insurance was false, misleading, inaccurate and incomplete.

116. Although Defendant had a duty to charge the statutorily-mandated rates, Defendants failed to inform Plaintiffs and each member of the Class that they qualified for and were entitled to receive the Refinance Rate discount or Reissue Rate discount in connection with their mortgage transactions. These undisclosed facts were material to the transactions.

117. Defendant's misrepresentation of the applicable rates for title insurance, Defendant's failure to inform Plaintiffs and each member of the Class that they qualified for and were entitled to receive a Refinance Rate discount or Reissue Rate discount, and Defendant's overcharging for title insurance were in violation of 40 P.S. §§ 910-37 and 910-39. Defendant intentionally failed to disclose such facts with the intent to induce Plaintiffs and the members of

the Class into relying on such misrepresentations and nondisclosures and paying rates that were higher than the Refinance Rate discount or Reissue Rate discount rates.

118. Defendant affirmatively misrepresented on the HUD-1 that the premium amount listed on line 1108 was the “actual” cost for title insurance when in fact it was not.

119. Plaintiffs and the Class members reasonably and justifiably relied on Defendant’s misrepresentations and non-disclosures to their detriment.

120. As a direct and proximate result of Defendant’s fraudulent misrepresentations and non-disclosures, Plaintiffs and the Class members have suffered damages in an amount to be proved at trial.

121. Defendant acted wantonly, intentionally and with actual malice and/or with reckless indifference for the rights of Plaintiffs and the Class members, thereby entitling Plaintiffs and the Class members to recover punitive damages.

COUNT VI
(Negligent Misrepresentation)

122. Plaintiffs hereby incorporate by reference each and every allegation contained in the prior paragraphs as if fully alleged herein.

123. Defendant knew or should have known that Plaintiffs and each member of the Class qualified for, and were entitled to receive, a Refinance Rate discount or Reissue Rate discount in connection with their mortgage transactions.

124. In connection with the closing of the Transaction, and comparable transactions involving each member of the Class, although Defendant had a duty to charge the statutorily-mandated refinance rates, Defendant (a) concealed from the Plaintiffs that they qualified for and was entitled to receive the Refinance Rate discount or Reissue Rate discount, and (b) supplied

false, misleading, inaccurate and incomplete information about the applicable rates for title insurance by charging rates in excess of the Refinance Rate or Reissue Rate. These undisclosed facts and false, misleading, inaccurate or incomplete statements were material to the transactions and were made for the guidance of Plaintiffs.

125. Defendant affirmatively misrepresented on the HUD-1 that the premium amount listed on line 1108 was the “actual” cost for title insurance when in fact it was not.

126. Defendant failed to exercise reasonable care in communicating accurate and complete information about the applicable rates for title insurance.

127. Defendant knew or should have known that its statements were untrue and inaccurate and that they failed to charge the legally-mandated rate for title insurance.

128. The misrepresentations concerned material facts with respect to the relationship between Plaintiffs and Defendant.

129. Plaintiffs and the Class members reasonably and justifiably relied on Defendant’s false misrepresentations and omissions to their detriment and paid rates higher than the Refinance Rate or Reissue Rate.

130. The reasonable reliance by the Plaintiffs and the Class members on the misrepresentations of Defendant was a substantial factor in causing their damages.

COUNT VII
(Negligent Supervision)

131. Plaintiffs repeat, re-allege and incorporate herein by reference each and every allegation contained above in this of this Complaint as if set forth fully herein.

132. Count VII is brought as a class action to recover the excessive and unlawful title insurance premiums paid by Plaintiffs and the Class and received by Defendant as a result of Defendant’s negligent supervision of its employees and agents.

133. Upon information and belief, Commonwealth has entered into agency contracts with its title agencies, including, among others, Camelot and Broker's Settlement Services. As part of the contracts, Commonwealth's agents are authorized to, among other things, conduct closings and/or settlements of refinance transactions on behalf of Commonwealth, prepare closing- and settlement-related documents on behalf of Commonwealth, and collect money on behalf of and for the benefit of Commonwealth.

134. Upon information and belief, as part of that same agency contract, Commonwealth, has the right to and does audit and review the closings and settlements, related documents, and monies received and collected on its behalf by its agents.

135. In turn, Commonwealth's agents hire and employ title clerks to physically conduct the closings or settlements.

136. Commonwealth negligently failed to adequately supervise the conduct of its title agents and employees and negligently entrusted those same agencies and employees with undue and improper discretion in the charging of title insurance premiums.

137. Commonwealth failed to properly train and/or monitor its respective agents and employees with respect to the legal and permitted title insurance premiums, and thereby negligently allowed the collection of improper title insurance premiums from Plaintiff and the Class.

138. Commonwealth's negligent supervision of its agents and employees is in violation of Pennsylvania law.

139. Commonwealth's negligent supervision was the proximate cause of the title insurance premium overcharges to Plaintiffs and the Class.

140. As a direct and proximate result of Commonwealth's negligent supervision regarding the proper title insurance premium rates, Plaintiffs and the Class have suffered foreseeable damages in an amount to be proved at trial.

COUNT VIII
(Accounting)

141. Plaintiffs repeat, re-allege and incorporate herein by reference each and every allegation contained above as if set forth fully herein.

142. Count VIII is brought as a class action for an accounting of all monies Commonwealth collected from Pennsylvania consumers by charging and collecting title insurance premiums in excess of the discounted title insurance premium rates permitted by the Rate Manual.

143. Commonwealth has acted improperly and in a manner designed to collect monies from Plaintiffs and the Class to which they were not legally entitled.

144. By charging improper title insurance premiums to Pennsylvania consumers, Commonwealth has made substantial profits at the expense of Plaintiffs and the Class.

145. Commonwealth has been unjustly enriched from its improper conduct, and therefore, should account for their profits by separating legitimate profits from those monies obtained through improper title insurance premiums.

COUNT IX
(Unjust Enrichment, Pled in the Alternative)

146. Plaintiffs hereby incorporate by reference each and every allegation contained in the prior paragraphs as if fully alleged herein.

147. Defendant has benefited by charging, collecting and retaining title insurance premiums in excess of the discounted rates to which the Plaintiffs and the Class members were entitled.

148. Defendant through its wrongful conduct described above has or will reap substantial profits and/or cost savings that would not have occurred by further wrongful and unlawful conduct.

149. In equity and in good conscience, it would be unjust and inequitable to permit Defendant to enrich itself at Plaintiffs' and class members' expense and to retain the benefits conferred due to its inequitable conduct.

150. The value of title insurance for which the Basic Rate (or even the Reissue Rate) was charged is exactly the same as the value of title insurance for transactions where the legally-mandated discounted Reissue or Refinance Rate applies

151. Accordingly, Defendant has been unjustly enriched by its unlawful and wrongful conduct and should not be able to retain the benefits conferred upon them -- at the expense of Plaintiffs and members of the class.

152. As a direct and proximate result of Defendant's charging, collection, and retention of the excessive rates, Plaintiffs and the Class members have suffered damages in an amount to be proved at trial.

153. By charging and collecting title insurance premiums in excess of that permitted by law, Defendant has acted extra-contractually and obtained benefits and enrichment well beyond that permitted by any agreements between Class members and Defendant. In fact, there was no agreement between Plaintiffs (or Class members) and Defendant which permitted Defendant to charge Plaintiffs or other Class members the excessive title insurance premiums.

154. A constructive trust should be established over the funds created by the aforementioned payments, fees, charges, interest and benefits generated in connection with the improper title insurance premiums. The funds are clearly identifiable for each Class member and for the Class as a whole. Accordingly, restitution and disgorgement of such amounts should be decreed.

WHEREFORE, Plaintiff prays for a judgment:

1. An order (i) that this case be maintained and certified as a Class Action under Rule 1701 *et seq.*, of the Pennsylvania Rules of Civil Procedure; (ii) appointing the named Plaintiffs as representatives of the Class; (iii) appointing Plaintiffs' counsel as counsel for the Class; and (iv) requiring that Commonwealth provide appropriate notice of certification to the Class as well as incurring all notice costs of class certification;
2. Declaring that: (a) Plaintiffs and the Class members qualified for the Refinance Rate discount or Reissue Rate discount in connection with their purchase of title insurance from Defendants; (b) Defendant was obligated to give the Refinance Rate discount or Reissue Rate discount to Plaintiffs and the Class members, and to inform Plaintiffs and the Class members that they qualified for such discounted rates; and (c) Defendant violated Pennsylvania law by failing to charge Plaintiffs and the Class members the Refinance Rate discount or Reissue Rate discount price and by failing to inform Plaintiffs and the Class members that they qualified for such discounted rates;
3. Declaring Defendant's conduct to be in violation of the Unfair Trade Practices and Consumer Protection Law as alleged above and awarding actual damages and/or minimum statutory damages of \$100 per class member where appropriate, triple damages, counsel fees, expert fees, cost of suit, and any other relief deemed appropriate by the Court;

4. For Commonwealth's breach of contract, breach of express and implied warranty, negligent misrepresentation, and negligent supervision, compensatory damages on behalf of Plaintiffs and the Class in an amount to be proven at trial;

5. For unjust enrichment, compensatory damages in an amount to be proven at trial as well as an order requiring Commonwealth to forfeit and disgorge all fees and profits it received as a result of their wrongful conduct and requiring restitution in the amount of the unjust title insurance premium unlawfully collected from Pennsylvania consumers;

6. An accounting of all monies Commonwealth collected and/or received from Pennsylvania consumers for title insurance premiums in excess of those permitted under the Rate Manual;

7. For Money Had and Received, an order requiring Defendant to refund the illegal amounts charged to Plaintiffs and the Class members;

8. On all counts, such attorneys' fees and costs as permitted by law and this Court, pre-judgment interest and post judgment interest from the date of entry until the date of satisfaction at the highest rates allowable by law; and

9. Awarding compensatory damages on behalf of Plaintiffs and the Class members in an amount to be proved at trial;

10. For such other and further relief as allowed by law and/or as is equitable under the circumstances.

**MANUAL OF
TITLE INSURANCE RATING
BUREAU OF PENNSYLVANIA**

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NOTICE

**THIS RATE MANUAL HAS BEEN APPROVED BY THE
PENNSYLVANIA INSURANCE DEPARTMENT
AS AMENDED THROUGH APRIL 1, 2003.**

**TITLE INSURANCE RATE MANUAL
COMMONWEALTH OF PENNSYLVANIA**

This Manual sets forth the definitions, general rules, rating systems, coverages, schedule of rates and Charges, and approved policy forms, endorsements and other forms for use by members of and subscribers to the Title Insurance Rating Bureau of Pennsylvania ("TIRBOP").

TIRBOP is licensed by the Pennsylvania Insurance Department pursuant to Section 741 of The Insurance Company Law of 1921, Act of May 17, 1921, P.L. 682, 40 P.S. § 910-41 ("The Insurance Company Law of 1921").

This Manual and its contents have been filed with and approved by the Pennsylvania Insurance Department in accordance with The Insurance Company Law of 1921. The provisions of this Manual are binding upon all members and subscribers of TIRBOP and their agents and must be used on and after the effective date hereof unless a specific deviation from this Manual has been filed by an individual member or subscriber company with, and approved by, the Pennsylvania Insurance Department.

MEMBERS OF TIRBOP AS OF THE MOST RECENT AMENDMENT DATE ARE:

American Pioneer Title Insurance Company
Chicago Title Insurance Company
Commerce Title Insurance Company
Commonwealth Land Title Insurance Company
Commonwealth Land Title Insurance Company of New Jersey
Fidelity National Title Insurance Company of New York
Fidelity National Title Insurance Company
First American Title Insurance Company
Guarantee Title and Trust Company
Guardian National Title Insurance Company
Industrial Valley Title Insurance Company
Investors Title Insurance Company
Lawyers Title Insurance Corporation
Manito Title Insurance Company
National Land Title Insurance Company
National Title Insurance Company of New York
Old Republic National Title Insurance Company
Southern Title Insurance Corporation
Stewart Title Guaranty Company
T. A. Title Insurance Company
The Security Title Guarantee Corporation of Baltimore
Ticor Title Insurance Company
Transnation Title Insurance Company
United General Title Insurance Company
Westcor Land Title Insurance Company

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10. SUPPLEMENTAL FORMS

CLOSING SERVICE LETTER - TIRBOP PA CSL (10/01/00)
TIRBOP - 31 PA Code § 126.1 Waiver of Owner's Title Insurance (01/01/02)

1. DEFINITIONS

- 1.1 "Insured" is the party to whom coverage is extended by the terms of the policy.
- 1.2 "Insurer" is a title insurance company which is a member or subscriber of the Title Insurance Rating Bureau of Pennsylvania. Unless otherwise indicated, "Insurer" includes all who are expressly authorized to act on behalf of the Insurer, including its employees and Agents.
- 1.3 "Agent" is a person, firm, association, corporation, partnership, cooperative or joint stock company expressly authorized by written contract with an Insurer to solicit risks, collect fees, and prepare Commitments and/or title insurance policies on its behalf and certified by the Insurance Department of the Commonwealth of Pennsylvania ("Department").
- 1.4 "Approved Attorney" is an attorney admitted to practice in Pennsylvania who because of experience and knowledge of real estate law in Pennsylvania is approved by an Insurer and upon whose examination of title and report the Insurer or Agent may issue a policy of title insurance. Such Approved Attorney must take financial responsibility for the search, examination, closing, and the final certification of title to the Insurer or Agent in a real estate transaction. Such Approved Attorney may not also act as an employee of an Insurer, an Agent, or an employee or affiliate of an Agent in a transaction in which he or she acts as an Approved Attorney.
- 1.5 "Commitment", as used herein, is the agreement of an Insurer to issue its policy or policies of title insurance to a proposed Insured, as owner or mortgagee of an estate or interest in the land described therein, all subject to the provisions set forth in the Schedules and Conditions and Stipulations of said Commitment. The Commitment sets forth the requirements including payment of premium and Charges, that must be complied with prior to the issuance of the policy or policies.
- 1.6 "Charge(s)" used herein means "fee" as defined in Section 701 of The Insurance Company Law of 1921 and includes "premium, examination and settlement or closing fee and every other Charge" provided for in this Manual made by an Insurer, Agent or by Approved Attorney.

2. GENERAL RULES

- 2.1 All Charges for title insurance coverage provided by the approved policies and endorsements must be made as set forth in this Manual.

The Charge(s) set forth in this Manual include transmittal of documents and/or funds by first class U.S. mail, transfer of funds by the issuance of checks, the delivery of documents and checks for recording, and the delivery of documents and checks to the lender, purchaser, creditor and/or other person with an interest in the insured transaction (collectively "Interested Party") by first class U.S. mail and other means chosen by the Insurer or Agent.

The Charge(s) set forth in this Manual do not include the following:

- (a) document preparation, other than the commitment, closing statement and title insurance policy with endorsements;
- (b) government charges for recording documents;
- (c) overnight delivery requested by an Interested Party;
- (d) bank wire transfer of funds requested by an Interested Party; or
- (e) receipt and printing of documents (other than the commitment, closing statement and title insurance policy with endorsements) transmitted electronically by an Interested Party.

2.2 Insurer, upon notification to its applicant, may decline to search, examine, issue its Commitment or insure any title, or to issue any endorsement to a policy. Insurer may, at any time, in its sole discretion, refuse an application or cancel any unclosed application of the applicant, without liability on the part of Insurer.

2.3 Insurer may impose additional Charges in especially difficult title matters. Insurer may impose additional Charges for examination of title which may involve multiple chains of title, land under water, coal, oil, gas or mineral searches, railroad property searches, land in beds of streets, rights-of-way, driveways, foreclosures, tax sales, proceedings under federal bankruptcy or state insolvency related statutes, or which involve other unusual difficulties or unusual expenditures. There shall be a reasonable relationship between the services performed, expenses incurred and the amount charged by the Insurer or Agent.

These Charges will be filed with the Department each quarter by Insurer. Agents are responsible for the filing of this information with Insurer for inclusion in Insurer's quarterly report which will report on Charges collected both by Insurer and by the Agent under this Section of the Manual.

2.4 Nothing herein shall prohibit Insurer from charging an additional special fee for affirmative risk coverage(s) not contained in this Manual. These fees will be filed with the Department each quarter by Insurer. Agents are responsible for the filing of this information with Insurer for inclusion in the Insurer's quarterly report which will report on Charges collected both by Insurer and the Agent under this Section.

2.5 Insurer may withhold delivery of the policy of title insurance and have no liability until all applicable Charges, set forth in this Manual, have been paid in full and all conditions of the Insurer's Commitment satisfied.

2.6 All Charges made pursuant to this Manual must be paid at the time of closing, unless otherwise agreed to by Insurer or as otherwise set forth in this Manual.

2.7 No policy, endorsement or other coverage may be issued which varies the terms, conditions, stipulations or exclusions of a policy unless first approved by the Department. Approved policies and endorsements are for use by members and subscribers of TIRBOP as set forth in Sections 8 and 9 of this Manual.

3. RESERVED FOR FUTURE USE

4. RESERVED FOR FUTURE USE

5. POLICIES AND RATES

5.0 METHODS OF OPERATION

A. "Company or Agent Procedure". Under this procedure, the Insurer or Agent examines title and handles settlement and issues a Commitment and/or policy. The Charges for policies issued under this procedure are set forth in Section 5.50 of this Manual.

B. "Approved Attorney Procedure". Under this procedure, the Approved Attorney certifies the title to the Insurer or Agent on a preliminary report of title based upon the Approved Attorney's examination of title. "Examination" for the purpose of this section is the process of abstracting or searching or causing an abstract or search to be made of the appropriate public records for those matters affecting title to a specific parcel of land, examining the results thereof, and reporting such results and conclusions to the Insurer or its Agent in a preliminary report of title. The Insurer or its Agent, in reliance upon such report, may issue a Commitment and the Approved Attorney may conduct a settlement or closing based upon such report and Commitment. Subsequently, the title insurance policy shall be issued by the Insurer or Agent based upon the Approved Attorney's final certificate of title. In certain cases an Approved Attorney may submit only a final certificate of title to the Insurer or Agent, and based upon such certificate the Insurer or Agent may issue the title insurance policy. The Charge by the Insurer for policies issued under this procedure are set forth in Section 5.51 of this Manual.

C. The charge for the search, examination of title and the settlement by the Approved Attorney is not governed by this Manual.

5.1 OWNER'S TITLE INSURANCE

A. An owner's policy issued at the time of the purchase of the property shall be based on the full consideration, including the aggregate unpaid principal sum of any mortgage(s) or other liens, claims, taxes and any other municipal charge not being paid, and any amount in excess of the full consideration the purchaser may request. In a transaction involving the sale of real estate, an owner's policy must be issued unless the new owner has waived, in writing, the purchase of an owner's policy in accordance with 31 Title Pa. Code § 126.1. (See Supplemental Form TIRBOP - 31 PA Code § 126.1 Waiver of Owner's Title Insurance (01/01/02))

B. Where an owner desires that an owner's policy be issued after acquisition of title, the rate shall be based upon any amount the owner may request but not less than the present fair market value of the property as of the time the owner's policy is issued.

- C. When the lender insured under a loan policy acquires title to the land by foreclosure or by voluntary conveyance in extinguishment of the debt and requests owner's title insurance, such lender may be issued an owner's policy and the applicable Charge shall be based upon the fair market value of the property at the time the owner's policy is issued.

5.2 LEASEHOLD TITLE INSURANCE

When title insurance is issued for a leasehold estate by the issuance of an owner's policy and/or loan policy with Endorsement PA 1130 and/or Endorsement PA 1140 attached, the amount of insurance shall be equal to:

- (a) the aggregate of the total rentals payable under the lease; or
- (b) the aggregate of the total rents for the 6 years immediately following the settlement or closing of the lease transaction; or
- (c) a reasonable statement of estimated rents on percentage leases; or
- (d) the appraised value at the time of insuring the premises as established by an appraiser acceptable to the Insurer; or
- (e) the land and total projected costs of such proposed improvements in the case of proposed construction; or
- (f) the purchase price of the estate when insuring an assignment of a leasehold estate, including all obligations assumed.

The Charge for the issuance of an owner's policy with Endorsement PA 1130 attached or the issuance of a loan policy with Endorsement PA 1140 attached shall be the same Charge for the issuance of a policy insuring a fee simple estate under this Manual. Where an owner's policy and loan policy are issued simultaneously on the same property with Endorsements PA 1130 and PA 1140 respectively attached, they shall be treated as a single policy and the Charge shall be based on the policy with the highest limits.

Where a leasehold interest is to be insured simultaneously with the interest of an owner and/or mortgagee of the fee simple estate, the Charge shall be the applicable rate for owner and/or mortgagee plus 30% of the applicable Charge for the leasehold interest. The Charge for any insurance in excess of the face amount of such owner's and/or loan policy shall be determined under the applicable Schedule of Rates.

5.3 REISSUE RATE

A purchaser of a title insurance policy shall be entitled to purchase this coverage at the reissue rate if the real property to be insured is identical to or is part of real property insured 10 years immediately prior to the date the insured transaction closes when evidence of the earlier policy is produced notwithstanding the amount of coverage provided by the prior policy.

The Reissue Rate is set forth in Section 5.50 of this Manual.

The provisions of this Section are not applicable to the Approved Attorney Procedure.

5.4 SUBDIVISION OR CONDOMINIUM REGIMES

When title insurance has been issued to an operative builder and within 10 years of the issuance of the title insurance policy, the operative builder sells completed units out of the subdivision, planned unit development, cooperative or condominium, the Charge shall be 90% of the reissue rate when evidence of the earlier issued policy is produced. For the purpose of this Section, an "operative builder" shall mean one who assembles and sells:

- (a) group of at least five units on a single tract or series of contiguous tracts;
- (b) or a group of at least five units developed pursuant to the Pennsylvania Uniform Condominium Act or pursuant to a cooperative regime.

The provisions of this Section are not applicable to the Approved Attorney Procedure.

5.5 MORTGAGE TITLE INSURANCE

- A. A loan policy cannot be issued in an amount less than the full principal debt secured by real property unless it is issued in an amount equal to the fair market value of the real property securing the debt. A policy may be issued in an amount in excess of the debt where agreed to by the Insurer and the Insured.
- B. A loan policy insuring a mortgage on a loan which provides for negative amortization may not be issued in an amount less than the maximum principal amount (including interest which may be added to principal) which may be secured by such mortgage.
- C. When a loan policy insures a mortgage of real property, personal property and personal property affixed to the realty, the Charge shall be based on the amount of the mortgage loan attributable to real property and personal property affixed to the realty as certified by the mortgagee.
- D. Where a loan policy and owner's policy are issued simultaneously on the same property, they shall be treated as a single policy and the Charge shall be based on the policy with the highest limits.
- E. When separate loan policies are issued simultaneously, insuring two or more mortgages on the same property, there shall be one Charge for all policies which shall be determined by the aggregate liability of the policies.
- F. When more than one loan policy is issued simultaneously to insure multiple properties securing a single loan, the Charge for these policies shall be aggregated and based upon the amount of the loan.

5.6 REFINANCE AND SUBSTITUTION LOANS

When a refinance or substitution loan is made within 3 years from the date of closing of a previously insured mortgage or fee interest and the premises to be insured are identical to or part of the real property previously insured and there has been no change in the fee simple ownership, the Charge shall be 80% of the reissue rate. The provisions of this Section are not applicable to the Approved Attorney Procedure.

5.7 PERMANENT LOAN FOLLOWING A CONSTRUCTION LOAN

When a policy has been issued on a construction loan mortgage, and within 6 months from completion of the building, the same mortgagor executes a new mortgage, the Charge shall be 50% of the reissue rate provided that the new policy is being issued by the same Insurer which issued the previous construction loan policy.

The provisions of this Section are not applicable to the Approved Attorney Procedure.

5.8 ASSIGNMENT OF MORTGAGE

- A. When the mortgage being assigned was not previously insured, the Charge for a policy shall be based on the amount of the unpaid principal balance. There is no additional Charge when the mortgage or the assignment of mortgage is part of a single transaction being insured.
- B. When an assignee desires an endorsement to an existing policy changing the name of the Insured only and does not require a change in the effective date of the policy nor require that the assignment be included as an insured instrument, the Charge shall be \$25.00.
- C. Where the Insurer is being asked to insure an assignment of a previously insured mortgage and the assignment of mortgage is being made within 10 years from the date of the execution of the mortgage, the title must be certified down from the date of the recording of the mortgage, through the date of the recording of the assignment. A new policy or endorsement to the existing policy furnishing coverage up to and including the date of recording of the assignment shall be issued for 60% of the reissue rate provided that it is being issued by the same Insurer which issued the original policy.

The provisions of Paragraph C of this Section are not applicable to the Approved Attorney Procedure.

5.9 EXTENSION OR MODIFICATION OF AN INSURED LOAN

- A. Where a mortgage which was previously insured is still in effect, and that mortgage is to be amended by an extension or modification agreement, an endorsement to the existing policy or a new policy may be issued by the same Insurer which covers the extension or modification agreement, after continuation searches have been obtained covering the period from the recording date of the mortgage through the recording date of the extension or modification agreement.

B. The Charge for a new policy or endorsement to an existing policy issued in conjunction with an extension or modification agreement, that does not increase the unpaid principal balance, shall be calculated on the basis of the unpaid principal balance in accordance with the following applicable rates:

- Up to 5 years 50% of reissue rate
- Over 5 years to 10 years..... 70% of reissue rate
- Over 10 years 100% of basic rate

C. The Charge for a new policy or endorsement to an existing policy issued in conjunction with an extension or modification agreement that increases the unpaid principal balance shall be calculated in two steps. First, the Charge for the new policy or endorsement that relates to the unpaid principal balance of the loan immediately prior to the increase shall be calculated as set forth above in paragraph B. Second, the Charge for the new policy or endorsement which relates to the increase in coverage amount, *i.e.*, the difference between the unpaid balance of the loan immediately prior to its increase and the new coverage amount, shall be 80% of the reissue rate.

Example: On January 1, 1997, owner modifies his mortgage loan (originally created in the amount of \$100,000 on January 1, 1991) by increasing the amount of the loan to \$150,000. The unpaid balance immediately prior to the modification is \$80,000. The Charge for the new policy or endorsement is calculated as follows: 70% of the reissue rate for \$80,000 of coverage to which is added the difference between (i) 80% of the reissue rate on an \$80,000 policy and (ii) 80% of the reissue rate on a \$150,000 policy.

D. If under a modification agreement, new property(ties) are added, 80% of the reissue rate shall be charged from dollar one based upon the value of the new property(ties), together with charging the applicable rate under paragraph B of this Section, based upon the unpaid principal balance of the loan. Any increases in the unpaid principal balance of the loan shall be charged the applicable rate under Paragraph C of this Section.

Example No. 1: On January 1, 1997, the owner and lender modify the mortgage loan (mortgage originally created in the amount of \$900,000 on January 1, 1993) by adding new property(ties) to the mortgage as collateral, pursuant to a mortgage modification agreement. The new property(ties) have a fair market value of \$200,000. The current unpaid principal balance of the loan secured by the mortgage is \$700,000. The Charge for the new policy or endorsement to the existing policy is calculated as follows:

- (i) 80% of reissue rate on \$200,000\$ 978.30; to which is added
 - (ii) 50% of reissue rate on \$700,000\$1,623.94
- Total Charge: \$2,602.24

Example No. 2: Same facts as Example #1 above and in addition, new monies are loaned in the amount of \$300,000, thereby increasing the unpaid principal balance of the loan to \$1,000,000. The Charge for the new policy or endorsement to the existing policy is calculated in the same manner as Example #1, to which is added \$810 (being the difference between (i) 80% of the reissue rate on a \$1,000,000 policy and (ii) 80% of the reissue rate on a \$700,000 policy); thus making for a total Charge of \$3,412.24.

- E. When a new policy is issued in connection with an extension or modification of a previously insured mortgage loan, the original policy must be returned for cancellation.

The provisions of this Section shall not be applicable to the Approved Attorney Procedure.

5.10 POSTPONEMENT OF ISSUANCE OF OWNER'S POLICIES

When an Owner acquires a premises and purchases title insurance and the Owner does not grant a mortgage on the premises at the time of the acquisition, at the written request of the Insured Owner, the issuance of an owner's policy may be postponed for a period not to exceed 12 months after the date of recording the deed. If during the 12 month period, the Insured Owner places a mortgage on the premises, no separate charge other than an additional Charge due for a loan policy in an amount in excess of the owner's policy, if any, shall be charged for the issuance of the owner's and loan policies. However, a work Charge for conducting the loan closing and issuance of an updated title Commitment, if required, may be made which shall not exceed 25% of the reissue rate for such increased loan policy. In no event shall the provisions of this Section apply beyond the 12 month period.

5.11 MECHANICS' LIEN INSURANCE

If it can be shown by reason of construction which has or is to occur that a statutory lien for labor or material may gain priority over the instrument being insured, an additional Charge shall be made as follows:

A. New Construction.

The minimum Charge for insurance covering unfiled mechanics' and materialmen's liens when improvements have been completed or new construction commenced within the statutory period prior to issuance of the policy shall be as follows:

1/2 of 1% of the amount of the policy up to and including \$50,000

1/4 of 1% of the amount of the policy on the excess over \$50,000 up to and including \$2,000,000

1/8 of 1% of the amount of the policy on the excess over \$2,000,000.

B. Alterations and Repairs.

The Charge for insurance covering mechanics' liens based on alterations and repairs shall be computed on the basis referred to in Paragraph A above on the cost of repairs or the amount of insurance, whichever shall be less.

C. Waiver of Charge.

The Insurer reserves the right to waive such additional Charge when, in its opinion, based upon the protective devices and procedures used in the transaction, the risk involved does not warrant payment thereof.

5.12 CHARGES FOR PROPERTIES COVERED BY THE COMMUNITY REINVESTMENT ACT

When title insurance is issued on a property that has been registered and identified by the insured lender as one participating in a program under the Community Reinvestment Act or under the Pennsylvania Housing Finance Agency Law and that program is designed either: (i) assist low and moderate income borrowers, or (ii) to assist economically distressed neighborhoods, a Charge of 75% of the basic rate will apply. This Charge is applicable only where a policy is issued in the amount of \$200,000 or less. If an owner's and loan policy are issued simultaneously, then the higher policy amount must be \$200,000 or less in order to qualify for this discount.

The provisions of this Section are not applicable to the Approved Attorney Procedure.

5.13 CO-INSURANCE - BASIS FOR CALCULATING CHARGE

In a transaction where the total liability is assumed by two or more Insurers with the liability being divided between the Insurers from the first dollar, the Charge for the liability assumed by each Insurer shall be calculated as though each Insurer was the primary insurer from the first dollar of its liability based upon the amount of liability assumed.

5.14 SHERIFF'S DISTRIBUTION POLICY

The Charge for Insurance under this Section shall be:

A. Fund Created at a Judicial Sale Other Than a Tax Sale

For distribution in amounts up to \$2,000.....	\$125.00
For amounts over \$2,000:	
\$2,001 to \$15,000 inclusive..... add \$5.00 per	\$1,000
\$15,001 to \$30,000 inclusive..... add \$4.50 per	\$1,000
\$30,001 to \$50,000 inclusive..... add \$4.00 per	\$1,000
\$50,001 to \$100,000 inclusive..... add \$3.50 per	\$1,000
\$100,001 to \$500,000 inclusive..... add \$3.00 per	\$1,000
\$500,001 to \$1,000,000 inclusive..... add \$2.50 per	\$1,000
\$1,000,001 to \$2,000,000 inclusive..... add \$2.00 per	\$1,000
\$2,000,001 and over..... add \$1.25 per	\$1,000
For each distribution endorsement.....	\$25.00

B. Fund created at a tax sale for distribution of the entire fund\$200.00

5.15 ALTA SHORT FORM RESIDENTIAL LOAN POLICY

The Charge for the ALTA Short Form Residential Loan Policy shall be \$125.00 in addition to the otherwise applicable Charge. This policy insures the lender making a mortgage loan on a 1 to 4 family residence or condominium unit. This policy is an abbreviated short form version of the current ALTA Loan Policy, incorporating all of the terms and provisions of the ALTA Loan Policy, which is designed to be delivered to the lender at closing. This policy contains blanket exceptions to taxes, covenants and restrictions, easements, reservations of minerals or mineral rights, and offers certain affirmative assurances with respect to these exceptions desired by lenders, including certain affirmative assurances with respect to survey matters. This policy also includes an Addendum, which can be used to set forth additional exceptions or to limit the affirmative assurances. This policy is designed so that certain ALTA endorsement forms may be specified, and thus incorporated, by checking appropriate boxes, and making the appropriate endorsement Charge(s) in accordance with this Manual. When this policy form is used, there can be no separate Charge for TIRBOP Endorsements PA 100 and PA 300.

5.16 RECORD OWNER AND LIEN CERTIFICATE

The basic liability hereunder shall be \$2,000.00. The Charge for the certificate which gives information about the state of title of the record owner shall be \$250.00 per chain of title. Insurer in its discretion may increase the basic liability limits, applying the basic rates for the amount of increased liability. When insurance is requested from the same Insurer upon the same property within 6 months from the date the certificate is issued, credit will be given against the Charge for the amount paid.

5.17 ENHANCED COVERAGE RESIDENTIAL POLICIES

- A. ALTA Homeowner's Policy of Title Insurance (For a One-to-Four Family Residence) (hereinafter the "Homeowner's Policy") provides coverage beyond that included in the ALTA Owner's Policy (10/17/92) and is often referred to as the "Enhanced Coverage Homeowner's Policy". The Homeowner's Policy may only be issued to a homeowner who will reside in premises improved by a one-to-four family residence. The Charge for the Homeowner's Policy is the Charge under the applicable Schedule of Rates for the stated amount of insurance in Schedule A, together with an additional 15% Charge which is to be calculated by applying that percentage to the Schedule of Rates - Company or Agent Procedure, and not the Schedule of Rates - Approved Attorney Procedure.
- B. ALTA Expanded Coverage Residential Loan Policy (For a One-to-Four Family Residence) (hereinafter the "Expanded Coverage Loan Policy") is the companion loan policy to the Homeowner's Policy. The Expanded Coverage Loan Policy incorporates the following endorsement coverages within its body by reference without the need to issue endorsements: ALTA Form 4.1 (Endorsement PA 810), ALTA Form 5.1 (Endorsement PA 820), ALTA Endorsement Form 6 (Endorsement PA 710), ALTA Endorsement Form 6.2 (Endorsement PA 710-6.2), ALTA Form 8.1 (Endorsement PA 900), and ALTA Form 9 (Endorsement PA 1030). The Charge for the Expanded Coverage Loan Policy is the Charge under the applicable Schedule of Rates for the stated amount of insurance in Schedule A, together with an additional 15% Charge, which is to be calculated by applying that percentage to the Schedule of Rates - Company or Agent Procedure and not the Schedule of Rates - Approved Attorney Procedure, and a flat endorsement fee of \$200. When this policy form is used, there can be no separate Charge for the endorsements described above or for Endorsement PA 100 and Endorsement PA 300.
- C. When the Homeowners Policy and the Expanded Coverage Loan Policy (collectively, hereinafter the "Enhanced Coverage Residential Policies") are simultaneously issued on the same property, they shall be treated as a single policy and the Charge shall be based on the applicable Schedule of Rates for the policy with the highest limits, together with an additional 15% Charge and a flat endorsement fee of \$200.00. This additional 15% Charge shall be calculated by applying that percentage to the Schedule of Rates - Company or Agent Procedure and not the Schedule of Rates - Approved Attorney Procedure.

When an Expanded Coverage Loan Policy is issued simultaneously with the ALTA Owners Policy (10/17/92), the Charge shall be based on the applicable Schedule of Rates for the policy with the highest limits, together with an additional 15% Charge and a flat endorsement fee of \$200.00. This additional 15% Charge shall be calculated by applying that percentage to the rate for the loan policy limit, based upon the Schedule of Rates - Company or Agent Procedure and not the Schedule of Rates - Approved Attorney Procedure. In the event that the calculated Charge for the Expanded Coverage Loan Policy exceeds the Charge for the issuance of the ALTA Owner's Policy (10/17/92), the Charge shall be based upon the Expanded Coverage Loan Policy, together with the flat endorsement fee of \$200.00 (see Example No. 2 below).

Example No. 1:

Simultaneous Reissue Policies	Insurance	Charge	+15%
ALTA Owner's Policy 10-17-92 -	\$200,000.00	\$1,222.88	
Enhanced Coverage Loan Policy -	\$150,000.00	<u>\$ 997.88</u>	\$1,147.56 + \$200.00

Since the \$1,222.88 is greater than the \$1,147.56, the Charge for this transaction is \$1,222.88, plus the flat endorsement fee of \$200.00.

Example No. 2:

Simultaneous Reissue Policies	Insurance	Charge	+15%
ALTA Owner's Policy 10-17-92 -	\$200,000.00	\$1,222.88	
Enhanced Coverage Loan Policy -	\$190,000.00	\$1,177.88	\$1,354.56 + \$200.00

Since the \$1,354.56 is greater than the \$1,222.88, the Charge for this transaction is \$1,354.56, plus the flat endorsement fee of \$200.00

Example No. 3:

Simultaneous Reissue Policies	Insurance	Charge	+15%
Homowner's Policy -	\$200,000.00	\$1,222.88	\$1,406.31
ALTA Loan Policy 10-17-92 -	\$190,000.00	\$1,177.88	

The Charge for this transaction is \$1,406.31, plus the Charge for any endorsements issued in connection with the loan policy.

- D. Whenever an Enhanced Coverage Residential Policy is issued under the Approved Attorney Procedure, the additional 15% charge shall be calculated by applying the specified percentage to the Charge under the Company or Agent Procedure, notwithstanding that the Charge made is under the Approved Attorney Procedure.
- E. Whenever Section 5.4, 5.6, 5.7, 5.8, 5.9, or 5.12 is applicable in conjunction with the issuance of an Enhanced Coverage Residential Policy(s), the Charge shall be calculated first in accordance with such Section, and then 15% of this amount will be added, together with the \$200 flat endorsement fee for the Expanded Coverage Loan Policy, if applicable.

F. When the Homeowner's Policy and the 1992 ALTA loan policy are simultaneously issued on the same property, they shall be treated as a single policy and the Charge shall be based on the applicable Schedule of Rates for the policy with the highest limits, together with an additional 15% Charge and any endorsement fees for the loan policy shall be charged in accordance with Section 6 of this Manual. The additional 15% Charge shall be calculated by applying that percentage to the Schedule of Rates - Company or Agent Procedure applicable to the amount of the Owner's policy and not the Schedule of Rates - Approved Attorney Procedure.

5.50 SCHEDULE OF RATES - COMPANY OR AGENT PROCEDURE

The Charge for Owners, Leasehold and Mortgage Insurance shall be:

<u>UNIT OF INSURANCE OR FRACTION THEREOF</u>	<u>BASIC RATE</u>	<u>REISSUE RATE</u>
\$ 0 to \$30,000	\$420.00	Reissue Rate shall be 90% of the Basic Rate for all units of insurance or fraction thereof up to and including \$2,000,000.
\$30,001 to \$45,000 Add per 1,000	\$7.25	See Addendum A for detailed schedule of rates.
\$45,001 to \$100,000 Add per 1,000	\$6.00	
\$100,001 to \$500,000 Add per 1,000	\$5.00	
\$500,001 to \$1,000,000 Add per 1,000	\$3.75	
\$1,000,001 to \$2,000,000 Add per 1,000	\$2.75	
\$2,000,001 to \$7,000,000 Add per 1,000	\$2.00	
\$7,000,001 to \$30,000,000 Add per 1,000	\$1.50	

5.51 SCHEDULE OF RATES - APPROVED ATTORNEY PROCEDURE

The Charge for Owners, Leasehold and Mortgage Insurance shall be:

UNIT OF INSURANCE
OR
FRACTION THEREOF

\$ 0 to \$30,000.....	\$125.00
\$30,001 to \$100,000	add \$3.25 per \$1,000 or fraction thereof
\$100,001 to \$500,000	add \$2.75 per \$1,000 or fraction thereof
\$500,001 to \$1,000,000	add \$2.50 per \$1,000 or fraction thereof
\$1,000,001 to \$2,000,000	add \$2.25 per \$1,000 or fraction thereof
\$2,000,001 to \$7,000,000	add \$2.00 per \$1,000 or fraction thereof
\$7,000,001 to \$30,000,000	add \$1.50 per \$1,000 or fraction thereof

6. ENDORSEMENTS AND RATES

The Charge for an endorsement set forth in this Manual shall be made each time an endorsement is attached to a policy regardless of the number of policies issued in a particular transaction; provided, however, a Charge for endorsements priced as a percentage shall only be made once in transactions where multiple loan policies are issued in accordance with Manual Rule 5.5(E) or (F). All Charges for endorsements priced as a percentage shall be calculated by applying the specified percentage to the Charge under the Company or Agent Procedure notwithstanding the fact that a particular policy is issued under the Approved Attorney Procedure.

6.1 TIRBOP - ENDORSEMENT PA 100 - WHERE THERE IS NO APPARENT VIOLATION OF RESTRICTIONS BY EXISTING CONSTRUCTION (Rev'd 03/01/00)

Loan Policy Only

This endorsement insures that the restrictions have not been violated and that a future violation thereof will not cause a forfeiture or reversion of title. The Charge for this endorsement is \$50.00.

6.2 TIRBOP - ENDORSEMENT PA 101 - WHERE RESTRICTIONS APPEAR TO BE VIOLATED BY EXISTING CONSTRUCTION (Rev'd 03/01/00)

Owner's and/or Loan Policy

This endorsement insures against loss or damage (loss of income or profit excluded) occasioned by the enforcement or attempted enforcement of said restrictions to remove the whole or any portion of the improvements now on the premises and/or to collect money damages in lieu thereof. The Charge for this endorsement is 10% of the applicable basic or reissue rate with a minimum Charge of \$75.00.

6.3 TIRBOP - ENDORSEMENT PA 102 - WHERE PROPOSED NEW CONSTRUCTION DOES NOT INDICATE THAT RESTRICTIONS WILL BE VIOLATED (Rev'd 03/01/00)

Owner's and/or Loan Policy

This endorsement insures that existing and/or presently contemplated construction on the described real estate will not violate the covenants, conditions and restrictions referred to in Schedule "B" of the title insurance policy. The Charge for this endorsement is 10% of the applicable basic or reissue rate with a minimum Charge of \$75.00.

6.4 TIRBOP - ENDORSEMENT PA 103 - WHERE PROPOSED CONSTRUCTION WILL APPARENTLY VIOLATE RESTRICTIONS (Rev'd 03/01/00)

Owner's and/or Loan Policy

This endorsement insures that the proposed new construction completed in strict accordance with plans and specifications filed with the Insurer will not violate the restrictions set forth in Schedule "B" of the policy, except to the extent set out on the endorsement. Thereafter, the policy will insure against loss or damage (loss of income or profit excluded) occasioned by the enforcement or attempted enforcement of said restrictions to require the removal of the whole or any portion of the improvements, then on the premises or proposed to be constructed in accordance with the said plans and specifications and/or collect money damages in lieu thereof. The Charge for this endorsement shall be as follows:

\$10.00 per	\$1,000 for the initial \$500,000 of coverage
\$5.00 per	\$1,000 for the next \$500,000 of coverage
\$2.50 per	\$1,000 for the next \$1,000,000 of coverage
\$1.25 per	\$1,000 for the excess over \$2,000,000 to \$30,000,000

- 6.5 TIRBOP - ENDORSEMENT PA 104 - WHERE THERE IS NO APPARENT VIOLATION OF RESTRICTIONS BY EXISTING CONSTRUCTION (Rev'd 03/01/00)

Owner's Policy Only

This endorsement offers the same coverage to an owner or lessee as TIRBOP Endorsement PA 100 offers to a mortgagee. The Charge for this endorsement is 10% of the applicable basic or reissue rate with a minimum Charge of \$75.00.

- 6.6 TIRBOP - ENDORSEMENT PA 300 - SURVEY EXCEPTION (03/01/95)

Loan Policy Only

This endorsement has the effect of insuring without exception for matters discoverable by survey (except as might be specifically noted) and will further insure against loss or damage by reason of encroachment (other than by party walls), whether by the building on the mortgaged premises encroaching upon adjacent property, or by any building on adjacent property encroaching on the mortgaged premises. The Charge for this endorsement is \$50.00.

- 6.7 TIRBOP - ENDORSEMENT PA 301 - SURVEY EXCEPTION (03/01/95)

Owner's Policy Only

This endorsement offers the same coverage to an owner or lessee as TIRBOP Endorsement PA 300 offers to a mortgagee. The Charge for this endorsement is 20% of the applicable basic or reissue rate.

- 6.8 TIRBOP - ENDORSEMENT PA 400 - (ALTA ENDORSEMENT 7) - MANUFACTURED HOUSING UNIT (10/1/99)

Owner's Policy and/or Loan Policy

This endorsement amends the definition of "land" in the policy to include a manufactured housing unit located on the land on the date of the policy. The Charge for this endorsement is \$50.00.

- 6.9 TIRBOP - ENDORSEMENT PA 500 - (ALTA ENDORSEMENT 11) - MORTGAGE MODIFICATION (10/1/99)

Loan Policy Only

This endorsement insures against loss arising from the invalidity of a lien of the insured mortgage resulting from modification to the insured mortgage. The Charge for this endorsement is set forth in Section 5.9 of this Manual.

- 6.10 TIRBOP - ENDORSEMENT PA 600 - FEDERAL HOME LOAN BANK
ENDORSEMENT (03/01/95)

Loan Policy Only

Where required by an office of the Federal Home Loan Bank, this endorsement may be issued. The Charge for this endorsement is \$25.00.

- 6.11 TIRBOP - ENDORSEMENT PA 710 (ALTA ENDORSEMENT 6) - RENEGOTIATED
INTEREST (03/01/95)

Loan Policy Only

Where required by a mortgagee, an Insurer may provide coverage under this endorsement to insure the priority of the lien of a mortgage that can by its terms be renegotiated as to its rate of interest. This coverage insures the priority of the lien through any number of renegotiated interest terms. The Charge for this endorsement is \$50.00.

- 6.12 TIRBOP - ENDORSEMENT PA 710-6.2 (ALTA ENDORSEMENT 6.2)
RENEGOTIATED INTEREST - NEGATIVE AMORTIZATION (03/01/95)

Loan Policy Only

Where required by a mortgagee, an Insurer may provide coverage under this endorsement to insure the priority of the lien of a mortgage that can by its terms be renegotiated as to its rate of interest. This coverage insures the priority of the lien through any number of renegotiated interest terms, including negative amortization. The Charge for this endorsement is \$50.00.

- 6.13 TIRBOP - ENDORSEMENT PA 810 (ALTA ENDORSEMENT 4.1) - CONDOMINIUM
ENDORSEMENT UNDER PA UNIFORM CONDOMINIUM ACT (03/01/95)

Owner's and/or Loan Policy

This endorsement affords multiple forms of coverage with respect to the Condominium Regime and Documentation, when affixed to a policy in which the insured land is a condominium unit together with its percentage interest in the common elements. The Charge for this endorsement is \$50.00.

- 6.14 TIRBOP - ENDORSEMENT PA 820 (ALTA ENDORSEMENT 5.1) - PLANNED UNIT
DEVELOPMENT ENDORSEMENT (Rev'd 10/01/99)

Owner's and/or Loan Policy

This endorsement affords multiple forms of coverage with respect to the Planned Unit Development Regime and Documentation, when affixed to a policy in which the insured land is a Planned Unit Development. The Charge for this endorsement is \$50.00.

6.15 TIRBOP - ENDORSEMENT PA 900 (ALTA ENDORSEMENT 8.1) - ENVIRONMENTAL PROTECTION LIEN ENDORSEMENT (03/01/95)

Loan Policy Only (Primarily Residential Property)

This endorsement provides coverage to a lender by insuring the lien priority of the insured mortgage over those environmental protection liens recorded in the land records except with respect to environmental protection liens provided for by certain statutes identified in the endorsement. The Charge for this endorsement is \$50.00.

6.16 TIRBOP - ENDORSEMENT PA 1000 - MANDATORY ADVANCE ENDORSEMENT (Rev'd 01/01/02)

Loan Policy Only

This endorsement provides limited insurance for loan advances, such as in a construction mortgage disbursement made subsequent to the date of the policy. Such advances must be made pursuant to the terms of the Loan Agreement and at all times during which the "Vestee" (person who is vested with title ownership of the land secured by the mortgage at the date of the policy) is the owner of the property. The endorsement insures the lien priority of such advances. The Charge for this endorsement is \$50.00.

6.17 TIRBOP - ENDORSEMENT PA 1010 - REVOLVING LINE OF CREDIT/OPEN END MORTGAGE ENDORSEMENT (Rev'd 01/01/02)

Loan Policy Only

This endorsement provides limited insurance for mandatory loan advances made pursuant to a mortgage that qualifies as an "Open End Mortgage" by statute. Such advances must be made pursuant to the loan agreement and subject to the requirements of the statute and at all times during which the "Vestee" (person who is vested with title ownership of the land secured by the mortgage at the date of the policy) is the owner of the property. The endorsement insures the lien priority of such advances. The Charge for this endorsement is \$50.00 when issued in connection with a policy on a 1 to 4 family residential property; when issued in connection with other property, the Charge is 10% of the applicable basic or reissue rate with a minimum Charge of \$50.00.

6.18 TIRBOP - ENDORSEMENT PA 1015 - OPEN END MORTGAGE/CONSTRUCTION ENDORSEMENT (Rev'd 01/01/02)

Loan Policy Only

This endorsement provides limited insurance for construction loan advances made pursuant to a mortgage that qualifies as an "Open End Mortgage" by statute. Such advances must be made to pay toward or to provide funds to the mortgagor to pay toward all or part of the costs of completing any erection, construction, alteration, or repair of any part of the mortgaged premises which is the statutory requirement and made at all times during which the mortgagor of the insured mortgage is still the owner of the estate or interest covered by the

policy. The endorsement insures the lien priority of such advances. The Charge for this endorsement is 10% of the applicable basic or reissue rate with a minimum Charge of \$50.00

6.19 TIRBOP - ENDORSEMENT PA 1020 - FNMA BALLOON ENDORSEMENT (03/01/95)

Loan Policy Only

This endorsement insures a lender against the invalidity or unenforceability or loss of priority of the insured mortgage resulting from provisions which provide for a conditional right to refinance and a change in the rate of interest as set forth in the mortgage. The Charge for this endorsement is \$50.00.

6.20 TIRBOP - ENDORSEMENT PA 1030 (ALTA ENDORSEMENT 9) - SPECIAL RISKS (RESTRICTIONS, ENCROACHMENTS, MINERALS) (Rev'd 10/01/99)

Loan Policy Only

This endorsement offers the lender a variety of additional affirmative coverages including, but not limited to, insurance that there are no covenants, conditions or restrictions under which the lien of the mortgage can be divested, subordinated or extinguished, or its validity, priority or enforceability impaired; insurance against present violations of covenants, conditions or restrictions; and insurance against encroachments and against damage to existing improvements which encroach upon easement areas or damage resulting from the right to use the surface of the land for the extraction of minerals. The Charge for this endorsement is 10% of the applicable basic or reissue rate with a minimum Charge of \$75.00.

6.21 TIRBOP - ENDORSEMENT PA 1031 - (ALTA ENDORSEMENT 9.1) UNIMPROVED LAND (RESTRICTIONS, ENCROACHMENTS, MINERALS) (10/01/99)

Owner's Policy Only

This endorsement offers the Insured a variety of additional affirmative coverages including, but not limited to, insurance that there are no present violations on the land of covenants, conditions, restrictions or statutory setback requirements; insurance that there are no encroachments onto the land from adjoining land; insurance that there are no notices of environmental violation recorded; and insurance against damage to buildings constructed on the land after the date of the policy from the exercise of the right to extract or develop minerals. The Charge for the endorsement is 20% of the applicable basic or reissue rate unless it is issued with TIRBOP Endorsement PA 301 in which case it will be priced at 10% of the applicable basic or reissue rate; the minimum Charge is \$75.00.

6.22 TIRBOP - ENDORSEMENT PA 1032 - (ALTA ENDORSEMENT 9.2)
IMPROVED LAND (RESTRICTIONS, ENCROACHMENTS, MINERALS) (10/01/99)

Owner's Policy Only

This endorsement offers the Insured a variety of additional affirmative coverages including but not limited to, insurance that there are no present violations on the land of covenants, conditions, restrictions or statutory setback requirements; insurance that there are no encroachments onto the land from adjoining land; insurance that there are no notices of environmental violation recorded; and insurance against damage to existing buildings resulting from the exercise of a right of easement or a right to extract or develop minerals. The Charge for this endorsement is 20% of the applicable basic or reissue rate unless it is issued with TIRBOP Endorsement PA 301 in which case it will be priced at 10% of the applicable basic or reissue rate; the minimum Charge is \$75.00.

6.23 TIRBOP - ENDORSEMENT PA 1040 - FAIRWAY PARTNERSHIP (Rev'd 03/01/00)

Owner's Policy Only

This endorsement insures that the Insurer will not deny liability under the policy by reason of partners changing in a partnership. The Charge for this endorsement is \$500.00.

6.24 TIRBOP - Endorsement PA 1041 - Fairway LLC (03/01/00)

Owner's Policy Only

This endorsement insures that the Insurer will not deny liability under the policy by reason of members charging in a limited liability company. The Charge for this endorsement is \$500.00.

6.25 TIRBOP - ENDORSEMENT PA 1055 - NON-IMPUTATION ENDORSEMENT (01/01/02)

Owner's and/or Loan Policy

This endorsement insures that the Insurer will not deny liability to certain incoming parties as a result of the Insured having knowledge imputed to it in partnership, corporate or limited liability company transactions. The Charge for this endorsement is 20% of the applicable basic or reissue rate.

6.26 TIRBOP - ENDORSEMENT PA 1070 - GENERAL ENDORSEMENT (03/01/95)

This endorsement is to be used only for purposes of correcting and/or amending previously issued policies or for granting affirmative coverage not otherwise covered by the other endorsements set forth in this Manual.

This endorsement may not be used to provide the following coverages: Truth-in-Lending; Zoning; Creditors Rights; Doing Business; Usury; Tie-In Interstate; or Subdivision.

6.27 TIRBOP - ENDORSEMENT PA 1080 - ABBREVIATED FORM ENDORSEMENT(S) - RESIDENTIAL MORTGAGE (03/01/00)

Loan Policy Only

This endorsement incorporates by reference nine (9) other endorsements contained in this Manual. Each of the referenced endorsements, as requested by the lender, can be checked in the appropriate block. The Charge for each endorsement so checked shall be made in accordance with this Manual. There is no other Charge to be made for the use of this endorsement.

6.28 TIRBOP - ENDORSEMENT PA 1090 - INTER VIVOS TRUST (03/01/00)

Owner's Policy Only

This endorsement expands the definition of "Insured" in the Policy to include trustees under an inter vivos trust subject to certain conditions identified in the endorsement. The Charge for this endorsement is \$125.00.

6.29 TIRBOP - ENDORSEMENT PA 1100 - WAJVER OF ARBITRATION (03/01/00)

Loan Policy Only

This endorsement amends the 1992 ALTA Loan Policy by deleting Paragraph 13 of the Conditions and Stipulations Section of the policy, relating to arbitration. The Charge for this endorsement is \$100.00

6.30 TIRBOP - ENDORSEMENT PA 1110 - FIRST LOSS (03/01/00)

Loan Policy Only

This endorsement provides, under certain conditions, that the amount which the insurer shall be liable to pay under the policy shall be determined without requiring maturity of the indebtedness by acceleration or otherwise. The Charge for this endorsement is 10% of the applicable basic or reissue rate with a minimum Charge of \$500.00.

6.31 TIRBOP - ENDORSEMENT PA 1120 - LAST DOLLAR (03/01/00)

Loan Policy Only

This endorsement provides that if the insured lender applies all payments by the mortgages to the release of security other than the land insured under the policy (as shown on Schedule A), until such time as the aggregate principal indebtedness is reduced to the amount of the policy, coverage under the policy will not be reduced by such payment. The Charge for this endorsement shall be 10% of the applicable basic or reissue rate with a minimum Charge of \$500.00.

**6.32 TIRBOP - ENDORSEMENT PA 1130 - (ALTA ENDORSEMENT 13)
LEASEHOLD OWNERS ENDORSEMENT (07/01/02)**

Owner Policy Only

This endorsement may only be issued at the time of the issuance of the ALTA Owner's Policy (10/17/92). The endorsement sets forth how the leasehold estate is valued for purposes of a loss under the policy and the items covered by the issuance of the endorsement. The Charge for the issuance of the endorsement, together with the ALTA Owner's Policy (10/17/92), is set forth in Section 5.2 of this Manual.

**6.33 TIRBOP - ENDORSEMENT PA 1140 - (ALTA ENDORSEMENT 13.1)
LEASEHOLD LOAN ENDORSEMENT (07/01/02)**

Loan Policy Only

This endorsement may only be issued at the time of the issuance of the ALTA Loan Policy (10/17/92). The endorsement sets forth how the leasehold estate is valued for purposes of a loss under the policy and the items covered by the issuance of the endorsement. The Charge for the issuance of the endorsement, together with the ALTA Loan Policy (10/17/92), is set forth in Section 5.2 of this Manual.

7. SUPPLEMENTAL CHARGES

7.1 CANCELLATION CHARGE

If application is canceled after the Commitment is issued under Company or Agent Procedure, a minimum Charge of \$100.00 is to be made for such cancellation.

7.2 ESCROW SERVICE CHARGE

All escrows and escrow services shall be the subject of a written agreement when the Insurer or its Agent holds funds from a settlement or closing for disbursement at some later date. A minimum service Charge of \$25.00 shall be made for the first 6 months and a minimum Charge of \$25.00 shall be made for each year beyond the initial 6 month period for which the funds are held.

7.3 COMMITMENT ISSUED UNDER THE APPROVED ATTORNEY PROCEDURE

When under the Approved Attorney Procedure an Insurer issues a Commitment, the Charge for same shall be a minimum of \$25.00. The Charge may be applied as a credit toward the applicable rate for title insurance.

7.4 PASS-THROUGH CHARGES

Search and examination services are included in the basic and reissue rates for policies issued under the Company or Agent Procedure. Additional Searches and Certifications may be required in a particular closing. If so, they must comply with the following rules:

(a) The actual fee charged the appropriate party will not exceed the charge made by the issuing governmental agency for the Searches and Certifications shown below. When a HUD-1 Settlement Statement is used, these charges must be reported in the 1300 Section.

- (1) Real Estate Tax Searches and/or Certifications.
- (2) Water and Sewer Searches and/or Certifications.
- (3) Municipal Lien Searches and/or Certifications.
- (4) Domestic Relations and Support Lien Searches and/or Certifications.

(b) The actual cost of obtaining certain other Searches and Certifications shown below may be passed on to an Interested Party.

- (1) Corporate Lien Searches.
- (2) Corporate Good Standing Certificates.
- (3) Uniform Commercial Code Searches.

- (4) Condominium, Cooperative and Planned Community Certifications.

7.5 CLOSING SERVICE LETTER - TRANSACTION SPECIFIC

This letter, which is limited to a specific transaction, when requested provides a lender with certain protection against fraud, misapplication of funds or failure to follow written closing instructions by the Agent or Approved Attorney, subject to the provisions contained herein. The Charge for the issuance of this letter shall be \$35.00, and it shall be remitted in its entirety to the Insurer (which for purposes of this Section does not include Agent or Approved Attorney). (See Supplemental Form Closing Service Letter - TIRBOP PA CSL (10/01/00))

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PAGE 02

A. SETTLEMENT STATEMENT

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

OMB NO. 2507-0265



D. TYPE OF LOAN 1. <input type="checkbox"/> FHA 2. <input type="checkbox"/> FIMA 3. <input type="checkbox"/> Conv. Unit. 4. <input type="checkbox"/> Conv. Ins. 5. <input type="checkbox"/> VA 6. <input type="checkbox"/> Conv. Ins.		6. FILE NUMBER UH6495		7. LOAN NUMBER 8023541		8. MORTGAGE INS CARF NUMBER	
C. HUD: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "IPDC" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.							
D. NAME AND ADDRESS OF BORROWER Anthony D. Alberton and Lisa Alberton, Husband and Wife			E. NAME AND ADDRESS OF SELLER			F. NAME AND ADDRESS OF LENDER Wells Fargo Home Mortgage, Inc	
G. PROPERTY LOCATION 901 Kings AVE W. Union, PA Chester County, Pennsylvania			H. SETTLEMENT AGENT West Ridge Abstract PLACE OF SETTLEMENT 313 West Ridge Pike Limerick, PA 19440			I. SETTLEMENT DATE July 26, 2001	
J. SUMMARY OF BORROWER'S TRANSACTION				K. SUMMARY OF SELLER'S TRANSACTION			
100. GROSS AMOUNT DUE FROM BORROWER				400. GROSS AMOUNT DUE TO SELLER			
101. Contract Sales Price				401. Contract Sales Price			
102. Personal Property				402. Personal Property			
103. Settlement Charges to Borrower (line 100) 119,140.00				403.			
104. Payoff 1st mortgage to Wells Fargo 178,150.84				404.			
105.				405.			
Adjustments for items paid by Seller in advance				Adjustments for items paid by Seller in advance			
106. Imp/Borg Taxes to				406. Imp/Borg Taxes to			
107. County Taxes to				407. County Taxes to			
108. School Taxes to				408. School Taxes to			
109.				409.			
110.				410.			
111.				411.			
112.				412.			
120. GROSS AMOUNT DUE FROM BORROWER 106,000.00				420. GROSS AMOUNT DUE TO SELLER 0.00			
L. AMOUNTS PAID BY OR IN BEHALF OF BORROWER				M. REDUCTIONS IN AMOUNT DUE TO SELLER			
201. Deposit or earnest money				501. Excess Deposit (see instructions)			
202. Principal Amount of New Loan(s) 185,000.00				502. Settlement Charges to Seller (line 100)			
203. Existing Loan(s) Taken Subject to				503. Existing Loans Taken Subject to			
204.				504. Payoff of first mortgage loan			
205.				505. Payoff of second mortgage loan			
206.				506.			
207.				507.			
208.				508.			
209.				509.			
Adjustments for items unpaid by Seller				Adjustments for items unpaid by Seller			
210. Imp/Borg Taxes to				510. Imp/Borg Taxes to			
211. County Taxes to				511. County Taxes to			
212. School Taxes to				512. School Taxes to			
213.				513.			
214.				514.			
215.				515.			
216.				516.			
217.				517.			
218.				518.			
219.				519.			
220. TOTAL PAID BY/FOR BORROWER 185,000.00				520. TOTAL REDUCTION AMOUNT DUE SELLER 0.00			
N. CASH AT SETTLEMENT FROM/TO BORROWER				O. CASH AT SETTLEMENT TO/FROM SELLER			
301. Gross Amt Due from Borrower (line 120) 106,000.00				601. Gross Amount Due to Seller (line 420) 0.00			
302. Less Amt Paid by/or Borrower (line 220) (185,000.00)				602. Less Reductions Due Seller (line 520) (0.00)			
303. CASH <input type="checkbox"/> FROM <input type="checkbox"/> TO BORROWER 1,000.00				603. CASH <input type="checkbox"/> TO <input type="checkbox"/> FROM SELLER 0.00			

The undersigned hereby acknowledge receipt of a completed copy of pages 1A-D of this statement & any attachments referred to herein.

BORROWER Anthony D. Alberton
 BORROWER Lisa Alberton

SELLER _____
 SELLER _____

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SETTLEMENT STATEMENT PAGE 2

I. SETTLEMENT CHARGES		PAID FROM BUYER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. Total Sales/Broker Commission Based on Price & Division of Commission (Line 700) as follows:			
701. \$ to			
702. \$ to			
703. Commission Paid at Settlement			
704.			
II. ITEMS PAYABLE IN CONNECTION WITH LOAN			
801. Loan Origination Fee	to		
802. Loan Discount	to		
803. Appraisal Fee	to CRA		
804. Credit Report	to RELS HOUSING SVC.		
805. Lender's Insurance Fee	to		
806. Mortgage Ins. Add. Fee	to		
807. Document Preparation Fee	to Wells Fargo Home Mortgage, Inc	250.00	
808. Underwriting Fee	to		
809. Tax Service Fee	to Wells Fargo Home Mortgage, Inc	20.00	
810. Flood Certification Fee	to Wells Fargo Home Mortgage, Inc	16.00	
811. Application Fee	to Wells Fargo Home Mortgage, Inc	535.00	
812. Principal Reduction	to Wells Fargo Home Mortgage, Inc	152.00	
813.			
814.			
815.			
816.			
817.			
818.			
819.			
820.			
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest from 07-26-01 to 08-01-01 at 3.633000/ANNUAL RATE	X)	276.66	
902. Hazard Insurance Premium for months to			
903. Hazard Insurance Premium for 1.0 years to			
904.			
905.			
1000. RESERVES DEPOSITED WITH LENDER			
1001. Hazard Insurance	\$ %	per	
1002. Mortgage Insurance	\$ %	per	
1003. Imp/Borg Taxes	\$ %	per	
1004. County Taxes	\$ %	per	
1005. School Taxes	\$ %	per	
1006.	\$ %	per	
1007.	\$ %	per	
1008. Aggregate Escrow Adj.			
1100. TITLE CHARGES			
1101. Settlement Fee	to		
1102. Title Search	to		
1103. Title Examination	to		
1104. Title Ins. Under	to		
1105. Document Prep.	to West Ridge Abstract		
1106. Notary Fees	to Settlement Clerk		
1107. Attorney's Fees	to		
1108. Title Insurance	to West Ridge Abstract	1,320.00	
Includes above item numbers 500, 100/300/801/8.1-200, Inc. 1108			
1109. Lender's Coverage	to		
1110. Owner's Coverage	to		
1111. Closing Services Letter	to Old Republic Title	25.00	
1112. 2001/2 School Tax	to Downingtown Area Sch. Dist.	3,070.72	
1113. Certification Taxes	to West Ridge Abstract	75.00	
1114.			
1115.			
1116.			
1117.			
1118.			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201. Recording Fees	to	03.50	
1202. City/County Tax/Stamp	to		
1203. State Tax/Stamp	to		
1204.			
1205.			
1300. ADDITIONAL SETTLEMENT CHARGES			
1301. Survey	to		
1302. Post-Inspection	to		
1303.			
1304.			
1305.			
1400. TOTAL SETTLEMENT CHARGES ENTER ON LINES 103, SECTION J AND 502, SECTION K1		3,642.76	0.00

By signing page 1 of this statement, the signatories acknowledge receipt of a completed copy of page 2 of this 2 page statement.

(2/VA6495.NUD/VA6495)
Certified to be a true copy

Karen Korndorfer
Settlement Agent

U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT		H. TYPE OF LOAN:		
SETTLEMENT STATEMENT		1. <input type="checkbox"/> FHA	2. <input type="checkbox"/> MHA	3. <input checked="" type="checkbox"/> CONV. UNINS.
		4. <input type="checkbox"/> VA	5. <input type="checkbox"/> CONV. INS.	
		6. FILE NUMBER: 03-NY1188CL		7. LOAN NUMBER: 0002174415
A. MORTGAGE INS CASE NUMBER:				
<p>NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid in cash by the settlement agent are shown. Items marked "(1)" are paid outside the closing; they are shown here for informational purposes and are not included in the totals.</p>				
C. NAME AND ADDRESS OF BORROWER:		E. NAME AND ADDRESS OF SELLER:		F. NAME AND ADDRESS OF LENDER:
Anthony D. Alberton and Lisa Alberton Husband and wife 208-80-1534 181-50-0061		National City Mortgage Co. DBA Eastern Mortgage Services P. O. Box 1024 Dayton OH 45401		National City Mortgage Co. DBA Eastern Mortgage Services P. O. Box 1024 Dayton OH 45401
D. PROPERTY LOCATION:		H. SETTLEMENT AGENT:		I. SETTLEMENT DATE:
101 Kings Arms Drive Trebleton, PA 19333 Chester County, Pennsylvania		Counsel Abstract Incorporated PLACE OF SETTLEMENT 423 N. Main St Doylestown PA 18001		April 8, 2003 Disclosure: 04/14/03

J. SUMMARY OF BORROWER'S TRANSACTION	
01. GROSS AMOUNT DUE FROM BORROWER:	
01. Contract Sales Price	
02. Personal Property	
03. Settlement Charges to Borrower (Line 1400)	3,234.18
04. Payoff first mortgage to Wells Fargo Home Mortgage	180,808.45
05. Payoff second mortgage to First Union	33.50
Adjustments For Items Paid By Seller in advance	
06. City/Town Taxes	0
07. County Taxes	0
08. School Taxes	0
09.	
10.	
11.	
12.	
20. NET AMOUNT DUE FROM BORROWER	184,078.13
K. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:	
301. Unpaid or unpaid money	
302. Principal Amount of New Loan(s)	185,000.00
303. Existing loan(s) taken subject to	
304.	
305.	
306.	
307.	
308.	
309.	
Adjustments For Items Unpaid By Seller	
401. City/Town Taxes	0
402. County Taxes	0
403. School Taxes	0
404.	
405.	
406.	
407.	
408.	
409.	
50. TOTAL PAID BY/FOR BORROWER	185,000.00
600. CASH AT SETTLEMENT FROM/TO BORROWER:	
601. Gross Amount Due From Borrower (Line 20)	184,078.13
602. Less Amount Paid By/Fo Borrower (Line 50)	(185,000.00)
603. CASH (FROM) (X 10) BORROWER	823.88

K. SUMMARY OF SELLER'S TRANSACTION	
400. GROSS AMOUNT DUE TO SELLER:	
401. Contract Sales Price	
402. Personal Property	
403.	
404.	
405.	
Adjustments For Items Paid By Seller in advance	
406. City/Town Taxes	0
407. County Taxes	0
408. School Taxes	0
409.	
410.	
411.	
412.	
420. GROSS AMOUNT DUE TO SELLER	
L. REDUCTIONS IN AMOUNT DUE TO SELLER:	
501. Excess Deposit (See Instructions)	
502. Settlement Charges to Seller (Line 1400)	
503. Existing loan(s) taken subject to	
504. Payoff of first mortgage	
505. Payoff of second mortgage	
506.	
507.	
508.	
509.	
Adjustments For Items Unpaid By Seller	
601. City/Town Taxes	0
602. County Taxes	0
603. School Taxes	0
604.	
605.	
606.	
607.	
608.	
609.	
70. TOTAL REDUCTION AMOUNT DUE SELLER	
800. CASH AT SETTLEMENT TO/FROM SELLER:	
801. Gross Amount Due To Seller (Line 420)	
802. Less Reductions Due Seller (Line 70)	
803. CASH (TO) (X 10) SELLER	0.00

The undersigned hereby acknowledge receipt of a completed copy of pages 1&2 of this statement & any attachments referred to herein. I HAVE CAREFULLY REVIEWED THE HUD-1 SETTLEMENT STATEMENT AND TO THE BEST OF MY KNOWLEDGE AND BELIEF, IT IS A TRUE AND ACCURATE STATEMENT OF ALL RECEIPTS AND DISBURSEMENTS MADE ON MY ACCOUNT OR BY ME IN THIS TRANSACTION. I FURTHER CERTIFY THAT I HAVE RECEIVED A COPY OF THE HUD-1 SETTLEMENT STATEMENT.

Borrower: Anthony D. Alberton Seller: _____
 Lisa Alberton

TO THE BEST OF MY KNOWLEDGE, THE HUD-1 SETTLEMENT STATEMENT WHICH I HAVE PREPARED IS A TRUE AND ACCURATE ACCOUNT OF THE FUNDS WHICH WERE RECEIVED AND HAVE BEEN OR WILL BE DISBURSED BY THE UNDERSIGNED AS PART OF THE SETTLEMENT OF THIS TRANSACTION.

Settlement Agent: [Signature]

WARNING: IT IS A CRIME TO KNOWINGLY MAKE FALSE STATEMENTS TO THE UNITED STATES ON THIS OR ANY SIMILAR FORM. PENALTIES UPON CONVICTION CAN INCLUDE A FINE AND IMPRISONMENT. FOR DETAILS SEE: TITLE 18 U.S.C. SECTION 1001 & SECTION 1010.

A. U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT SETTLEMENT STATEMENT <small>Optional Form for Transactions without Gabor</small>			
NAME AND ADDRESS OF BORROWER: Mark C. Kessler Susan G. Kessler 1108 W. Fir Drive Laird, PA 16850		NAME AND ADDRESS OF LENDER: Countrywide Home Loans 681 Anderson Dr. Bldg 6 2nd Fl. Pittsburgh, PA 15220	
PROPERTY LOCATION: 1108 W. Fir Drive Laird, PA 16850 Westmoreland County, Pennsylvania		SETTLEMENT AGENT: Broker's Settlement Services PLACE OF SETTLEMENT: 1801 Reedsdale St. Ste 4001 Pittsburgh, PA 15233	
		SETTLEMENT DATE: June 6, 2001 Disburse: 06/11/01	
		LOAN NUMBER: 8897-AJ	
L. SETTLEMENT CHARGES		M. DISBURSEMENT TO OTHERS	
800. ITEMS PAYABLE IN CONNECTION WITH LOAN		1501. Mortgage Payoff	
801. Loan Origination Fee % to		General Motors 31,294.19	
802. Loan Discount 1.1300% to Countrywide Home Loans 1,012.00		1502.	
803. Appraisal Fee to Anderson Real Estate Appraisal S 275.00		1503.	
804. Flood Check to Countrywide Home Loans 25.00		1504.	
805. Tax Service Fee to Countrywide Home Loans 90.00		1505.	
806. Doc Prep to Countrywide Home Loans 50.00		1506.	
807. Underwriting Fee to Countrywide Home Loans 420.00		1507.	
808.		1508.	
809.		1509.	
810.		1510.	
811.		1511.	
812. Broker Points to US Mortgage Consultants 1,200.00		1512.	
813. Broker Processing Fee to US Mortgage Consultants 350.00		1513.	
814. Closing Credit to Borrower to US Mortgage Consultants -506.25		1514.	
815.			
816.			
817.			
818.			
819.			
820.			
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest 06/11/01 to 07/01/01 @ \$ 15.410000/day -154.10			
902. Mortgage Insurance Pre for months to			
903. Hazard Insurance Premium for 1.0 yr to Erie Insurance Group 288.00			
904.			
905.			
1000. RESERVES DEPOSITED WITH LENDER			
1001. Hazard Insurance 11.000 months @ \$ 24.90 per month 284.00		1520. TOTAL DISBURSED (enter on line 1503) 31,294.19	
1002. Mortgage Insurance months @ \$ per month			
1003. City/Town Taxes 4.000 months @ \$ 2.74 per month 10.98			
1004. County Taxes 4.000 months @ \$ 21.17 per month 84.68			
1005. School Tax 11.000 months @ \$ 60.44 per month 664.84			
1006.			
1007.			
1008. Aggregate Adjustments months @ \$ per month -110.93			
1100. TITLE CHARGES			
1101. Settlement Fee to Broker's Settlement Services 200.00			
1102. Courier Fee to Broker's Settlement Services 49.00			
1103. Title Examination to			
1104. Title Ins. Binder to			
1105. Document Prep. to			
1106. Notary Fees to			
1107. Attorney's Fees to			
(includes above item numbers:)			
1108. Title Insurance to Broker's Settlement Services 918.73			
(includes above item numbers: 100, 300, 8, 1)			
1109. Lender's Coverage \$ 90,000.00			
1110. Owner's Coverage \$			
1111. Closing Protection Letter to Commonwealth Land Title 35.00			
1112.			
1113.			
1114.			
1115.			
1116.			
1117.			
1118.			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201. Recording fees: Mortgage \$ 57.50 ; Releases \$ 57.50			
1202. City/County Tax/Stamp: Mortgage \$			
1203. State Tax/Stamp: Mortgage \$			
1204. Mortgage Satisfaction to Recorder's Office 39.00			
1205.			
1300. ADDITIONAL SETTLEMENT CHARGES			
1301. Survey			
1302. Pest Inspection			
1303.			
1304.			
1305.			
1400. TOTAL SETTLEMENT CHARGES (enter on line 1402) 5,848.35		1604. Equals Disbursements to Borrower (after expiration of any applicable recission period required by law) \$ 52,658.45	

The undersigned hereby acknowledge receipt of a completed copy of this statement & the disclosures related to herein.

Borrower
 Mark C. Kessler
 Susan G. Kessler

Broker's Settlement Services
 Settlement Agent

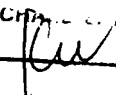
CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2008, a true and correct copy of the foregoing **Second Amended Complaint** will be served via e-mail transmission and upon filing with the Court will be available for viewing and downloading on the Electronic Case Filing System of the United States District Court for the Eastern District of Pennsylvania.

Samuel W. Braver, Esquire
Stanley J. Parker, Esquire
Buchanan Ingersoll & Rooney P.C.
One Oxford Centre
301 Grant Street, 20th Floor
Pittsburgh, PA 15219-1410

FILED

MAR 13 2008

MICHAEL J. ...
by  Det.



Steven A. Schwartz