



LEADERSHIP
INNOVATION
TEAMWORK

The NC Connection

An Investors Title Company Publication
November 2010



Investors Title Supports Real Estate Lawyers Association of North Carolina, Inc.

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In September, 2010, a group of concerned North Carolina real estate attorneys gathered in Charlotte to discuss changes in the closing practices for real estate transactions in North Carolina which adversely affect consumers engaged in those transactions. As a result of that meeting, Real Estate Lawyers of North Carolina, Inc. (RELANC) was formed. RELANC is a trade group composed of North Carolina licensed real estate attorneys committed to engaging in research, educational, and promotional activities, and to advocating policies, laws, and regulations that promote the protection of client-consumers in NC real estate transactions.

As long term supporters of the attorney closing system in North Carolina, Investors Title is excited about the formation of this group and the implications for the practice of real estate law in the state.

At the most recent Investors Title Fall Gathering Seminar in October, over 93 attorneys joined as members of RELANC and pledged over \$25,000 in membership fees and donations. At this same event, Investors Title generously contributed \$5,000 on top of their initial \$5,000 seed funding which had been provided several weeks before. As incentive for the attorneys attending the Fall

Gathering event to join RELANC and contribute, Investors also pledged to match attorney donations dollar for dollar up to an additional \$15,000.

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Investors Title Supports RELANC, Inc. (cont. from page 1):

When all the dust settled and the tremendous support was tallied, the Fall Gathering Results were as follows:

93 Attorney pledges	\$25,120.00
Initial ITIC donation	\$ 5,000.00
Added ITIC donation	\$ 5,000.00
ITIC match	\$15,000.00
ITIC title attorney (7) dues	<u>\$ 1,400.00</u>
Total	<u>\$51,520.00</u>

Since October, RELANC has continued to grow in membership and support. Meetings have been held in Pinehurst, Durham/Chapel Hill, Raleigh, Gastonia, and Monroe to spread the word and solicit additional members. Additional meetings are scheduled for Wilmington (November 30), Jacksonville (December 1), Greensboro (December 7), Winston Salem (December 8) and Asheville (December 9). In addition, an organizational meeting to elect a Board of Directors and establish by-laws and working committees is tentatively scheduled for January 19, 2011 (location to be determined).

Investors Title highly encourages each of its approved attorneys to consider becoming a member, donor, and active participant in RELANC. Information on joining, donating, and upcoming events can be found at the organization's website at www.relanc.com.



NC Fun Facts

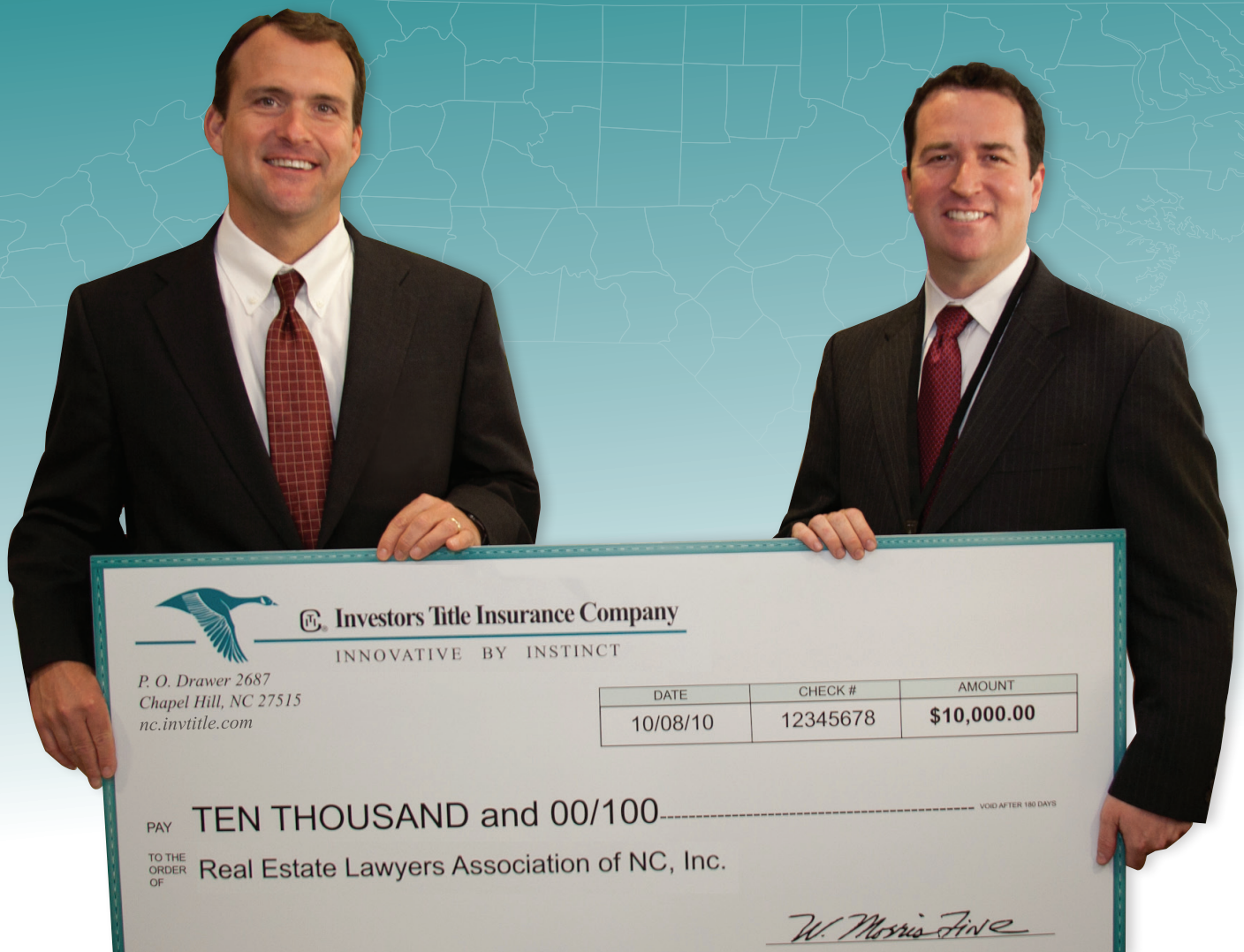
Until 2008, Grandfather Mountain was privately owned and operated as a nature preserve and tourist attraction. It was and still is best known for its mile-high swinging bridge, the highest in America, built in 1952 by Hugh Morton, and William B. Umstead.

The bridge links two of the mountain's rocky peaks and is known as the "swinging" bridge due to its tendency to sway in high winds.

Investors Title Helps the Real Estate Lawyers Association of NC Raise Over \$50,000

At their most recent Fall Gathering Seminar, Investors Title Insurance Company demonstrated their continued commitment to the approved attorney system with a check for \$10,000 to the Real Estate Lawyers Association of NC, Inc. (RELANC). Investors Title also agreed to match an additional \$15,000 in membership fees and pledges made during the seminar. With over 93 attorneys becoming members and pledging more than \$25,000 in membership fees and donations, the total raised exceeded \$50,000.

RELANC is an association of NC real estate attorneys committed to engaging in research, educational, and promotional activities, and to advocating policies, laws, and regulations that promote the protection of client-consumers in NC real estate transactions.



Morris Fine, *President, Investors Title Insurance Company*

Adam Foodman, Esq., *Member, Board of Directors RELANC*



Visit www.RELANC.com to become a member and to show your support for this new association.





Is the Security Interest Secured?

Part I

By Robert Crabill, Title Attorney
& Risk Control Manager

Deeds of Trust Must be Signed by All Property Owners

Lenders require property owners to sign deeds of trust. This act gives the lender recourse to foreclose if the borrower does not repay the loan.

Even if a property owner is not a borrower, they must sign the security instrument. This basic concept allows lenders to know that if they do not get repaid, they can take steps to own the property. When a property owner does not sign the deed of trust, the lender will not be able to foreclose against that owner's interest in the property. To prevent this unfortunate and costly situation, closing attorneys need to be sure that all record owners have signed the security instrument.

Investors Title continues to see lender claims based on security instruments that lack signatures necessary to effectively create the security interest. Documents make it all the way through closing and finalization and are still not signed by the owners. When the lender goes to foreclose, the problem comes to light, and the lender files a title claim. The following examples illustrate how avoidable errors have led to expensive claims.

Husband and Wife Own Property but Sign on Behalf of Their LLC

The deed vested title in the husband and wife. The husband and wife owned an LLC. The property was not owned by the LLC. The closing attorney listed the LLC as the grantor on the deed of trust and the transaction progressed and finalized without the error being caught. Later, the husband entered bankruptcy and the lender's interest was not secured. This claim was closed after Investors paid \$240,000 to provide coverage for the lender.

A Company and Its President are Not the Same

A certifying attorney listed a corporation as grantor on the deed of trust. A lender's policy for \$156,000 was obtained. Unfortunately, the property was actually owned by the president of the corporation individually. After the closing, the note and deed of trust were modified to correct the discrepancy; however, by the time the modification was recorded, an intervening judgment for \$225,000 had been recorded against the president of the corporation.

The judgment took priority over the lender's lien, and Investors was obligated to pay the lender the full amount of the policy.

Another Successful Fall Gathering!

Held Oct. 8 - 9, 2010 - Sheraton Chapel Hill Hotel

"The Fall Gathering is a wonderful indication of the commitment of Investors Title to the title attorney. It also provides a great opportunity for the exchange of ideas and experiences among those of us in the real property trenches."

~Alan S. Hicks, P.A.



Steve Brown and Morris Fine, Opening Remarks



Record-breaking attendance!

"The discussion format and information exchange is always fantastic. This is my favorite CLE seminar by far."

~Bryant Webster, Stone and Christy, P.A. (Presenter)



"I loved being able to pick the topics that interested me and were relevant to my practice."

~Matthew Rhoad - Smith Anderson Law Firm



"The Fall Gathering was wonderful - so many real estate attorneys and lively discussions!"

~Eloise D. Bradshaw, Patrick Harper & Dixon, LLP (Presenter)



"Just could not be better."

~Paul Efird, III—Horack Talley Pharr & Lowndes, P.A.



Speakers were knowledgeable, articulate, and congenial. Everything was coordinated and went very smoothly. It was obvious that a great deal of time and effort were put into the preparations and the carrying-out of the seminar.

~William G. Holland, Attorney

The Investors Title Team (from left to right): Marianne Joines, Tonya Mason, Angie Fortune, Rhonda Debruhl, Kathy Baum, Lou Ann Craven, Carol Faucette, Tracy Weekman

We Look Forward to Seeing You in 2011!

RESPA ROUNDUP NEWSLETTER

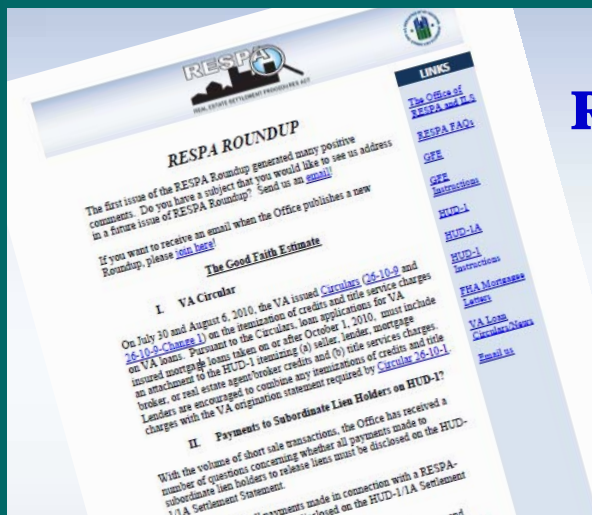
September 2010

Topics include:

VA Circular

Payments to subordinate lien holders on HUD-1

Click [here](#) or visit www.hud.gov/respa



Experience,
Personal
Service,
Performance.

Nelson v. Bennett

When testators place restrictions on property they leave to surviving beneficiaries, courts will not automatically give a reversionary right to the testator's heirs if those conditions are not met. That was the decision of the North Carolina Court of Appeals in a case that developed following the death of Lucille Jones in February 2008. In her Will, Jones gave Lynda Frejlach "the right for life...to live in the house located on the 11 acres of property I own," but Jones also specified that at Frejlach's death "or if Lynda Frejlach declines to exercise this right," the 11 acres would be distributed to Jones' sister. Additionally, the Will specified that the property should not be leased, used for business purposes, or converted to a bed and breakfast inn. After Frejlach had still not occupied the residence within six months of Jones's death, her executrix filed suit seeking a declaratory judgment regarding the rights of the various parties. The trial court ruled in March 2009 that Frejlach had a life estate, which could be terminated if any of the conditions expressed in the Will were not satisfied, specifically that (1) she failed to occupy the house or (2) she violated the restrictions regarding how the property was to be used. An appeal followed.

The appellate court found that, because the law generally disfavors conditions subsequent, the provision should be narrowly construed. Accordingly, the Court said in its 21-page opinion, the provisions of Jones' Will "clearly state that, in the event that Ms. Frejlach does not...live on the property," it passes to the remainder beneficiary. By contrast, the Court ruled, that same language was not included in the provision that restricted the property's use. Instead, the Appeals Court said, the language that restricted the property's use was only a suggestion—precatory—no reversionary interest arose if Frejlach fails to honor it. The Court then affirmed the trial court's ruling in its holding that Frejlach had a life estate that would terminate if she failed to reside on the premises, but the Court reversed the lower court's other finding—that the property would revert to Jones's beneficiaries if Frejlach either rented it or she otherwise used it for business purposes.

--*Nelson v. Bennett*, No. COA09-896, N.C. Ct.. App. 6/15/10

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Investors Trust Company

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- Personal service and individual attention delivered the old fashioned way.
- Customized portfolios constructed with individually managed stocks and bonds, for agency accounts, IRAs, and trusts.
- Over 200 years of combined experience from trusted investment and trust professionals who will work with you and your clients.



For more information, contact Ben Foreman at 877.327.9110 or bforeman@invtrust.com