



*Peter J. Birnbaum,  
CEO, Attorneys' Title  
Guaranty Fund*

# Eroding Lawyer's Role Fires Up ATG's CEO

New Services, International Expansion  
Part of Hard-Hitting Response to CBA Threats

Reprinted by permission of Settlement Services Today  
Copyright 2000, Condell & Company, Inc.  
For subscription information visit [www.condell.com](http://www.condell.com)

*By Mike Thompson*

**P**eter J. Birnbaum is a troubled man. It isn't the performance of the company to which, as president, he provides leadership and direction that troubles him. No, Illinois-based Attorneys' Title Guaranty Fund, Inc. (ATG) is performing quite nicely, thank you. In fact, in the 20 years since Birnbaum joined ATG as a law clerk, when total revenues barely lapped against the \$1 million mark, the company's growth has been spectacular. Indeed, revenues generated during 1999 are projected to be in excess of \$100 million for the law firms benefiting from ATG membership, and ATG expects to realize around \$16 million from those transactions.

Birnbaum has presided over much of that growth, having been promoted to the presidency of his company in 1991. ATG, found-

ed in 1965 by Urbana, Illinois, attorney Stanley B. Balbach, has become one of the leading providers of real estate and related services through law firms in the United States, and it is now gaining an international presence.

Nor is Birnbaum troubled by the recent revision to his company's corporate mission statement. "ATG's new mission is to be the premier lawyer service organization for the benefit of the profession and the public," he explains, with obvious enthusiasm.

No, what troubles Peter Birnbaum is the proliferation of realtor- and lender-controlled business. "Without question, it's our biggest problem," he says. "Over the last year some of the big players locally and nationally have started to aggressively market their captive mortgage and title companies and ancillary services. These companies are under what they call 'increasing economic pressure



*Hugh Pollard, SR. Manager, Escrow Services, David Huffman, VP, Chicago Operations, and Arthur Wilkins, SVP, COO (left to right) discuss the current state of the title market in Chicago.*



*Above: Henry Shulruff, VP, Business Development, records his observations on a new revenue opportunity.  
Below: Augie Butera, VP, Associate General Counsel, reviews the examiner's conclusions on a particularly involved chain of title.*



to generate revenues from ancillary sources,' because the margins are continuing to get thinner in the face of compensation issues for top producers, their overhead, etc.," says Birnbaum.

Because of the success of ATG, especially in Chicago, where the seller pays for and arranges to bring down title, almost half of the lawyers handling real estate transactions are ATG agents. So when the big boys came to town, wanting to get into the title business, they were faced with trying to wrest it from the lawyers who more or less controlled it. Their strategy started out fairly benignly. They tried to market their title and closing product to their clients, but their clients would, almost uniformly, opt to have their own lawyer do the title work rather than have the realtor do it. After a few months with no success, this strategy was abandoned.

The next try, also unsuccessful, was an attempt to incorporate a title order with the listing agreement, so the listing consumer would unwittingly sign up for the realtor's title services when signing the listing contract. That didn't work when the sellers' lawyers pointed out that it wasn't really a contract, it was more along the lines of an expectancy, since the title company was not a party to the contract.

Next, says Birnbaum, "The realtors said, in effect, 'If you don't order the title insurance through us, we'll impose a document preparation fee of \$195.' Our position was they were shaking down the consumer and engaging in an illegal tying arrangement.

"The most recent strategy that we're challenging is one of displacement, like what happened in Virginia recently," explains Birnbaum. "It appears our new competitors decided that if the lawyers were going to disrupt their market expansion plans so much, they were going to try to get them out of the picture completely.

In fact, one of the realtor companies sent out a memo to their sales agents saying it was just a myth that you had to have a lawyer representing the consumer in a real estate closing, and that their company has in-house counsel at their title companies that can handle these closings."

Of that thrust, says Birnbaum, "The Illinois Supreme Court has ruled it is the unauthorized practice of law for a broker or a title company to conduct a closing. The fact that they have in-house counsel is of no import. It's still a corporation practicing law. ATG is working with the Attorney General, the state bar association, and the Illinois Real Estate Lawyers Association on this."

#### **Defending and Growing**

While fending off these moves by Affiliated Business Arrangements operations in his back yard, Birnbaum is also looking to continue ATG's growth. To that end, ATG has several significant initiatives currently underway or recently completed. Among them are ATG subsidiaries Guaranty Trust Company, The Judicial Sales Corporation, and Capital Funding Corporation.

The company is becoming a major national and international player in the lawyer service market as evidenced by its joint venture agreement with the Canadian Lawyers Network, a consortium of transactional attorneys. ATG will provide title services,



document preparation, loan origination, and trust services through the Canadian network.

Birnbaum points out that ATG has much in common with the Canadian network, including similar basic philosophical principles. "The Canadian venture will create a broader base of membership and revenues, which will allow ATG to diversify products, improve service and build new revenue streams for all members," says Birnbaum.

For some, the Canadian expansion might be enough, but it is only one of a series of moves into new territory. The company has barely had time to catch its breath after expanding into Wisconsin, Indiana, and Missouri. The choice of those states was easy, says Birnbaum. They were picked because of "Our belief that there are enough lawyers practicing real estate law in those states to make it worth our while."

"We've seen the phenomena of a lot of South Side Chicago people moving into the northwest corner of Indiana. In large measure, they've shown that they like to use the lawyer with whom they are dealing for selling their home to handle the purchase in Indiana. The lawyers get licensed in both states so they can handle the deals. We decided to follow those lawyers to the states they start doing business in," he concludes.

#### **New Companies, New Opportunities**

A constant search for expanding the list of benefits to lawyers for affiliating with ATG is what produced the string of recent subsidiary operations. Capital Funding Corp. is ATG's mortgage origination program for its members. Judicial Sales Corp. provides judicially approved real estate auction sales for foreclosure suits. Guaranty Trust Co. allows member firms to expand their estate-planning practices, generate significant additional revenues, and provide a service to clients that is, as Birnbaum describes it, "Superior to that now available in their communities."

"Guaranty Trust," explains Birnbaum, "is our newest subsidiary. It is a strategic move designed to fight back against the efforts of banks, accountants, and financial services companies to either displace lawyers or co-opt their practices through the formation of multi-disciplinary practices."

In addition, in what may prove to be the crucial building block for its future, ATG has entered into a joint venture with Owners.com, a Silicon Valley-based internet company that provides For Sale By Owner (FSBO) services nationwide. Testing of a FSBO/Limited MLS company in Madison, Wisconsin, is scheduled for this year.

#### **Technology is the Key**

"I think the Internet has tremendous potential value to both consumers and to the legal profession," says Birnbaum. "We at ATG believe the Internet will change the way real estate is bought and sold. Up to now, brokers, through the MLS, have controlled almost all the information in the process, which they believe justifies their 6% commission. Today we see more FSBO activity where the Internet is the



*The ATG Closing Department hums with activity.*

marketing tool, effectively cutting the broker out of the equation.

"What I see missing from that process, and where I see enormous opportunity, is that these self-enabling sellers more often than not fail to sell their property because they don't know what to do to accomplish the entire transaction. They don't know how to handle contract negotiations, how to handle showings, security, defect disclosure—all the things that happen between signing the contract and closing the transaction. What we think we can do by joining with fixed fee realtors and FSBO companies is to give the public access to an independent adviser at the beginning of the process, who, for a very reasonable fee, can walk them through that transaction from the time they list their home to the closing. We think the lawyer is the best party to provide those services. We think that



*Regional Managers Hector Rodriguez (seated) and Michael Moore compare notes on monthly production figures.*

if we can pull this off, lawyers are going to be much more actively involved, not just in Illinois, but nationwide," says Birnbaum.

"We feel that the way to respond to the pressure from the realtors is to provide pressure back in the form of getting lawyers involved in the process early on," he concludes.

But to get lawyers involved in internet-based transactions, it is necessary to get them on the Internet. To that end ATG's Board of Directors, in response to Birnbaum's urging, recently agreed to lower the interest rate for its computer leasing program to prime less 50 basis points, and to allow a two- or three-year lease with a dollar buyout.



*Mona Stevens, Senior Manager-Personnel Services, is also a Microsoft Office User Specialist, and in that capacity is working here with Financial Administrator Guissepina Lucido on a system problem.*

More than 200 ATG members have taken advantage of the computer leasing program, and there are 107 outstanding leases with a total commitment of \$1.1 million from ATG.

Birnbaum passionately believes that this program is an important tool for his company to provide a low-cost way to bring more productive technology into the law office.

"I think that the people who don't step up to the technology probably won't be around for long," he says. "We identify what we think is the minimum needed to be in this business, and we make it clear that it's what we think our members should have. We're taking a leadership role here because this isn't a strong suit for most lawyers. Our members look to us for direction on what to do. They say 'Tell us what to do and within reason we'll endeavor to get there.' The good ones are looking for leadership and support, and we intend to deliver it."

### Small Firms

Peter Birnbaum sees the most significant limiting factor to the rapid adoption of new technology for ATG's membership as the relatively small size of the member firms. "Our average member is a practice composed of one or two lawyers with a support staff of four to five people," he explains. "Our members are typically helping families do estate planning, handling real estate buying and selling, and working with small business owners."

Income for these law firms, after expenses, is often less than six figures, thus limiting the amount available for capital expenditures on technology. "I think their attitude has been 'If I can get things done now without making this investment, that's what I'll do'" says Birnbaum of his membership.

"But those times are changing," he cautions, "We're moving to require of our members that they make that investment to ensure that they will survive. We'll create services here that will allow them to piggyback on our technology. One of the things we're working on to do that is ProFUND, which is our member software. The current version is Windows-based and the next generation is going to be web-based. That will enable all the business they do with us to be done on-line.

"It's on us to give the lawyers the tools to compete, but it's on them to make the financial commitment to acquire the technology to fully utilize those tools."

"We're looking at a strategy that will allow us to pool talent among other companies like us with the objective of developing technology for law firms. quicker and cheaper than we can do it on our own. We can make the capital investment in a website that enables all the processes we've described, and gets them all done, in a way that the lawyer's buy-in is very modest.

"It's up to us to give small offices the tools they need," he says.

### The Plans are in Place

Although Peter Birnbaum is troubled by the threat of those entities who are trying to usurp what he sees as the proper role of attorneys at the center of the real estate transaction, he is untroubled by the goals and strategies he has set for his company, and himself.

"We've spent a lot of years developing our strategies," he says. "Developing the title business, the real estate brokerage, the trust business, the expansion into Canada, and dealing with the controlled business phenomena. The goal I've set for myself is to have in place infrastructure suitable to bring all these products and services to the market and to face these challenges with a management team that's strong and dedicated. We expect our products to be top-flight, with top-quality services that will make our lawyers say of dealing with us: 'What a great company!' If they say that, their clients will feel that same way."

"This is an organization that has grown tremendously over the years. The challenge is keeping it up. We now have a great management team in place. We believe that if we contend for business, we'll walk away with it," says Birnbaum with pride in his voice.

Peter Birnbaum troubled? Certainly not by his company's future.