

THE SUMMIT

October 2005

Volume 1 Issue 1

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FIDELITY EMPLOYEES HELP HURRICANE KATRINA VICTIMS

In the wake of the Hurricane Katrina disaster, FNFS announced that the company would match employee contributions to the American Red Cross and Salvation Army.

Several FNFS employees were affected by the hurricane and their fellow employees have come together to help them and others affected by this National Disaster.

Through donations to the American Red Cross, the Salvation Army, and other charitable organizations, FNFS was able to raise \$18,728 to assist those in need. Thank you to those who helped organize the effort and to everyone who contributed.



(L to R): Araceli Garcia (FNFS), Walter Loos (Director of Emergency Services, Red Cross), Melinda Cardenas (FNFS), Kellie Haehnel (FNFS), David Therkelsen (CEO, Red Cross), and Daniel Hoffman (Major Gifts Officer, Red Cross)

MESSAGE FROM GREG

BY GREG WHITWORTH, FNFS PRESIDENT AND COO

Welcome to the first issue of *The Summit*, the newsletter of the Fidelity National Foreclosure Solutions partnership.

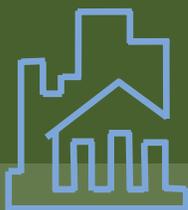
We are in the midst of an exciting time at FNFS. Our technology companies, NewTrak, NewImage Express, and NewInvoice, have all experienced additional market acceptance and continual improvement. Much of that growth and product development is attributable to user feedback from clients, from attorneys, and from our employees working in the FNFS outsource company.

This outsource company (Fidelity National Foreclosure and Bankruptcy Solutions) has also experienced considerable growth as we have taken advantage of our experience and the technological capabilities provided by our real-time default management and imaging products. Over the last few months, we have been fortunate not only to receive additional work with existing clients such as Option One Mortgage Corporation, Saxon Mortgage Services and Washington Mutual, but also to welcome EMC, Everhome Mortgage Company, and HSBC Consumer Lending into the partnership. As a result, FNFS is

now the designated default management service provider for a portfolio of nearly \$1.5 trillion in residential loans.

Our servicer clients as well as the 500+ attorney firms currently in the FNFS Attorney Network are all valuable customers. Our goal with this quarterly newsletter is to provide an outlet for both our customers and our company to share news and information about industry developments, opportunities and challenges. By doing so, we hope to encourage performance, to further strengthen our partnership, and to create additional success and value for everyone involved.

Thank you to all of our employees and our customers for all of your hard work and your trust. You are the FNFS partnership, and we look forward to our future as we continue to strive for "Peak" Performance.



ABOUT FIDELITY NATIONAL FORECLOSURE AND BANKRUPTCY SOLUTIONS

Fidelity National Foreclosure and Bankruptcy Solutions (FNFS) provides loan servicers with single-source solutions for managing foreclosures, bankruptcies, and related matters on a nationwide basis.

Possessing the expertise to manage diverse loan procedures and credit types, FNFS helps clients realize consistent pricing for default management services as well as reductions in the cost per loan serviced.

When clients refer a loan to FNFS, we manage and report on the loan until resolution. The individual requirements of each loan are identified and processed to ensure the most efficient outcome. Stringent internal time limits are placed on every important event and active monitoring is conducted to minimize the overall timeframe. This loan level data can be reported to Fidelity partners on a daily basis using NewTrak, Fidelity's web-based default management tool. NewTrak allows Fidelity and its clients to view status from the lowest level of detail on a case all the way up to an aggregated view of the state- and nationwide performance of the vendor. It provides unparalleled efficiency by putting critical case and management data at the fingertips of vendors, clients, and Fidelity employees.

NewImage Express is another collaborative technology product offered by FNFS. NewImage Express (NIE) assists Fidelity clients and vendors with the expanding document retention requirements they face today. It is a secure, stand-alone scanning and document

management system that reduces manual servicing requirements by transitioning hard copied documents to an electronic, indexed format for easy filing, retrieval, and storage. Once information has been freed from the physical limitations of paper, it becomes a more valuable strategic resource. In conjunction with NewTrak, NIE users have the ability to manage their files along with the variety of documents associated with those files. The system offers a secure 128-bit encrypted bidirectional conduit for transmission of documents between FNFS and our clients' offices. Stored documents can be

viewed, searched, and printed worldwide from any computer through a secure password authenticated Internet connection. An NIE user can easily find and send a document created years ago without rummaging through endless filing cabinets, making copies, and paying for the postage to mail it.

NewInvoice 5.0 is an important tool for the mortgage community that provides the most complete vendor management solution for B2B electronic invoice submission and

processing in the industry. NewInvoice has made a significant investment in enhancing the ability to create, present, and process the many thousands of invoices received daily by clients.

From referral to invoice, Fidelity National Foreclosure and Bankruptcy Solutions provides unique, money-saving solutions for the mortgage community.

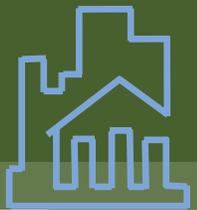


FLORIDA OFFICES

10302 Deerwood Park Blvd
 Building 100-1
 Jacksonville, FL 32256
 (904) 470-7700
 (904) 470-7800 fax

MINNESOTA OFFICES

1270 Northland Drive
 Suite 200
 Mendota Heights, MN 55120
 (651) 234-3500
 (651) 234-3600 fax



FNFS MANAGEMENT

SCOTT BARNES	SVP Operations	904.470.7703
LARRY DINGMANN	SVP Division Counsel	904.470.3506
STEVE GERTHS	SVP Client Implementations	651.234.3504
JAMES IREDALE	SVP MIS and Core Development	904.470.7704
LAURA MACINTYRE	SVP Comptroller	651.234.3511
DENNIS STEMMLE	SVP Technology Solutions	904.470.7705
GREG WHITWORTH	President and COO	904.470.7701

CONTACT US!



NEWTRAK

support@newtrak.com



NEWIMAGE EXPRESS

chris.lewis@nie2.com
marlen.vogt@nie2.com
barry.crouch@nie2.com



NEWINVOICE 5.0

CustomerCareGroup@NewInvoice.com

CUSTOMER RELATIONS

Selena Edwards	904.470.7837
Theron Green	904.470.7732
Jane Johns	904.470.7766
Lori Jones	904.470.7743
Lindsey Lesch	904.470.7831
Lauren Martilli	904.470.7752



attyfeedback@fnfs.net

THE SUMMIT

The Summit is published quarterly by the Customer Relations Team for employees, clients, and attorney firms in the Fidelity National Foreclosure and Bankruptcy Solutions partnership.

EDITOR

Lindsey Lesch

EDITORIAL DIRECTOR

Christian Hymer
VP Operations

CONTRIBUTING AUTHORS

Deborah Chandler
John Doonan
Sidney Gelernter
Christie Godwin
Jo-Ann L. Goldman
Berry Laws
Abby O'Dess

Do you want to be featured in next quarter's issue of *The Summit*? We welcome all articles or comments about your company/firm. Tell us about changes, improvements, legislation that affects you — whatever you think will be interesting to readers of *The Summit* like you! The deadline for submissions for the next issue is November 28th.

We also welcome your photos (digital photos set to the highest resolution are preferred). Send comments, photos, and story ideas to:

E-mail: lindsey.lesch@fnfs.net

Phone: (904) 470-7831

Fax: (904) 470-7800

ATTORNEY ROUNDTABLE HIGHLIGHTS

By Lindsey Lesch

Each year, eight firms from across the nation are selected to represent our Attorney Network and to provide valuable feedback to our company and our clients through the Attorney Roundtable. Meetings are held monthly via teleconference and quarterly in a face-to-face format. The following contains highlights from the August 16 and September 26 Roundtable meetings.

On August 16, 2005 members of the Attorney Roundtable held their inaugural meeting in Jacksonville, Florida. The primary topic for the first meeting was the Attorney Tiering Program.

One of the first items of discussion dealt with hold allowances and data normalization. Noting that certain “exception files” were affecting attorney scores, members of the Roundtable discussed options to allow different values for specific holds and remove exception files that skew data. The decision was made to alter the model to more closely align with a gross day calculation. Bankruptcy, Loss Mitigation, Re-Demand and Probate Delays will be completely backed out, while all other delay types will no longer receive credit (formerly 10%). Data will then be “normalized” by removing the top and bottom 5% at the stage level to achieve a more representative sample score with exception files removed.

Other changes decided upon include weighting/scoring methodology and altering the Referred to Received activity to be measured by business hours (Monday through Friday, 8-5 CT). Members agreed that once the new weighting model is reviewed and

implemented, it will be maintained in stable format for at least one year unless significant reasons to change it occur.

Finally, the Tiering program was renamed the “Attorney Performance Report” or APR. Consequently, Fidelity will remove the “Tier Rank” column in the program. All proposed changes to the APR are scheduled to be in effect October 1.

After the meeting, conference calls were held throughout September covering every state to reach a clear understanding of event expectation in anticipation of random and directed audits through NewTrak. During these audits, if a pattern of errors is detected or a firm fails to comply with audit requirements, the consensus was that the data should be corrected and the clients should be notified.

On September 26, 2005 the Roundtable met via conference call to discuss upcoming APR changes, additional fee billing, and new reporting products that Fidelity is currently working on.

In association with the Attorney Roundtable, Fidelity will host a series of open calls with clients in early October discussing the impact of the Bankruptcy Reform Act on servicers.

The next Roundtable meeting will take place via conference call on October 31st.

For questions, comments, or suggestions for discussion topics for the Attorney Roundtable, please contact any member firm or e-mail attyfeedback@fnfs.net.

2005-2006
ATTORNEY ROUNDTABLE MEMBERS

- Feiwell & Hannoy (IN)**
- Florida Default Law Group (FL)**
- Hunt, Leibert, Chester & Jacobsen (CT)**
USFN At-Large Member
- Kozeny & McCubbin (MO)**
AFN At-Large Member
- Law Offices of Steven J. Baum (NY)**
- Mickel Law Firm (AR)**
- Morris, Schneider & Prior (GA)**
- Robinson Tait (WA)**



If your firm would like to be considered for membership on next year's Attorney Roundtable, email attyfeedback@fnfs.net with subject line “Attorney Roundtable Participation.” FNFS will keep an ongoing list of interested firms for consideration.

WISCONSIN UPDATE

by O'Dess and Associates, S.C.

Referral packages for foreclosure of Wisconsin mortgages originated for \$25,000 or less must include a complete payment history and transaction codes.

On June 1, 2005 the Wisconsin Court of Appeals, District I, held that a complaint for foreclosure of a mortgage governed by the Wisconsin Consumer Act must include "figures necessary for computation of the amount" claimed by the lender. Bank One, NA v. Ofojebe, 2005 WI App 151, ___ Wis. 2d ___, ___ N.W.2d ___. The remedy for failing to do so is harsh; Section 425.109, Wis. Stats. provides that **JUDGMENT MAY NOT BE ENTERED ON A COMPLAINT THAT DOES NOT COMPLY WITH THE STATUTE.** In Ofojebe, judgment had been entered in favor of Bank One, but the Court of Appeals directed the trial court to dismiss the mortgagee's complaint without prejudice. In other words, Bank One was forced to re-file suit, resulting in a substantial loss of time and additional expense to re-start.

The provisions of the Wisconsin Consumer Act (WCA) governing pleadings in consumer credit transactions also affect other suits involving consumer loans originated for \$25,000 or less, such as actions on the note for a money judgment and replevins. There is a comparable pleading requirement in Section 428.105, Wis. Stats., for first lien real estate mortgages or equivalent security interests originated for \$25,000 or less; the complaint must set forth a summary of figures necessary for computation of the alleged amount due.

Our firm attaches the payment history to complaints for foreclosure of mortgages originated for \$25,000 or less and redacts all loan account numbers and Social Security Numbers from same. If the payment history requires transaction codes or a legend to be able to interpret it, we would also require this information to attach to the complaint. If the payment history does not establish the detail of any outstanding

advances, fees or escrow shortfall included in the payoff, a breakdown of this information would also be required.

REMINDER - All lenders should also provide a copy of the breach (right to cure) letter with their referral packages. Lenders can avoid incurring unnecessary non-recoverable fees and costs for referral and title (as much as \$580.00) by making sure that the account is breached and the time period to cure has expired prior to referral.

ANOTHER REMINDER - Our firm has recently been instructed to cancel, but then re-set several Federal VA loans due to forbearance breaches. If the appraisal is less than six months old, do not order a new one. However, if the time period is close, check with Fed VA to see whether the appraisal is acceptable or whether you will need to obtain a new one for bidding instructions.

Please refer any questions to Abby O'Dess.

phone: (414) 727-1591

email: aodess@odesslaw.com



ABBY O'DESS has been representing lenders in foreclosure and bankruptcy matters since 1978 and founded O'Dess and Associates, S.C. of Wauwatosa, Wisconsin in July 2003, a law firm which focuses on representation of creditors.

EMPLOYEE SPOTLIGHT: JOHN CODY

By Lauren Martilli

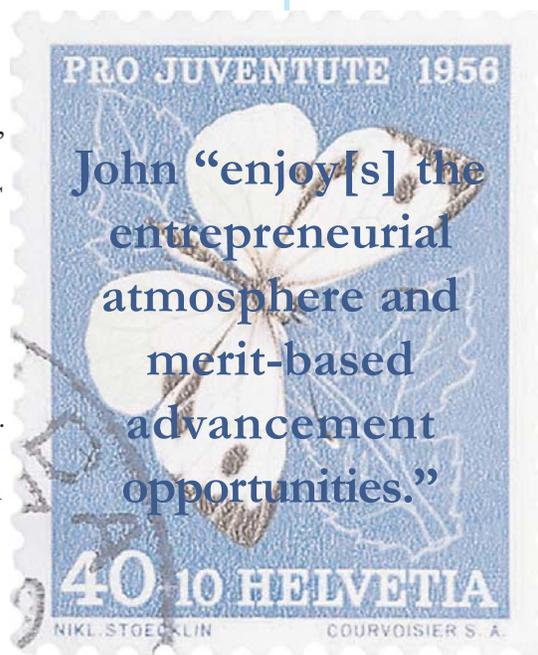
John Cody is the FNFS Manager for the Bankruptcy Attorney Management team. Located at our Mendota Heights office, John and his team manage the MFR, POC Defense and Plan Objection core processes for all FNFS clients.

Prior to joining Fidelity in 2001, John held positions with Northwest Mortgage Services and Vista Info. At the former, John worked first in bankruptcy operations, then as a Computer Technician for the IT department. At the latter, he provided telephone technical support for Vista Info's realtor productivity software products. After Fidelity acquired both companies, John reports that he "sensed a developing trend in the real estate services industry,"

which resulted in his decision to join Fidelity's team. John believes that it was a good decision to come to Fidelity, as his time here has been "rewarding and challenging." He "enjoy[s] the entrepreneurial atmosphere and merit-based advancement opportunities."

Upon joining Fidelity's team in November of 2001, John began as a bankruptcy representative. In June 2002, he was promoted to the position of Team Lead, and in

October of the same year he advanced to Supervisor. Back then, John and his team members each serviced bankruptcy files for one individual client. After departmental reorganization separated the country into two regions, John's responsibilities expanded to include all client files within one of these regions. In 2005, John was promoted to his current position of Manager. His hard work and perseverance have been a positive influence on his coworkers and have helped him become a valuable member of the Fidelity National Foreclosure and Bankruptcy Solutions team.



John grew up in Fridley, MN. He earned a BA in German from the University of Minnesota - Minneapolis in 1988, and a MA in German Linguistics from UW - Madison in 1992. He enjoys traveling and has journeyed to Europe twice, visiting Austria, Italy, Switzerland, and Germany. John lives in Bloomington, MN, with his partner of twelve years, Ron. Both travel enthusiasts, they have embarked on two cruises to the Caribbean and have also visited Canada and Mexico.



FINANCIAL AID

By Lindsey Lesch and Darby Campbell

While MSP screenprints provide necessary information to firms in the Fidelity Partnership, improvements are underway to make the information they contain more easily accessible.

Fidelity currently provides financial information that firms need to proceed with foreclosure. The information is found in screenprints from client servicing platforms. Although Fidelity personnel are available to help firms with any difficulties they may have accessing this information, we recognize that a more user-friendly

system is desired. As a result, the Financial Support team at Fidelity is working on a new, condensed format that will be free of codes and easier to interpret.

Whereas firms currently download MSP screenprint ledgers, judgment figure information, and corporate advance breakdowns, the new Account Information Delivery program (Financial AID) will contain material interpreted directly from the MSP platform and presented in a table format with simple descriptions for each entry.

The Financial AID program is already underway, with Bank of America live for payoffs and reinstatements. Look for the complete replacement of screenprints in the near future.

NEWTRAK USER GROUPS

By Lindsey Lesch

The NewTrak user groups allow attorneys and clients to make the NewTrak enhancements and changes they want most a reality.

The NewTrak user groups were created to provide a venue for clients and attorneys to prioritize enhancements and new functionality for the NewTrak application. During quarterly meetings, separate user groups for clients and attorneys meet to discuss their Top 10 lists for enhancement requests.

The Client User Group held its first meeting in January of this year. Since that time, NewTrak has implemented over 30 new features that came directly from the “Top 10” lists. These lists, comprised of suggestions gathered in representative-facilitated meetings, are ranked in order of priority. The clients’ Top 10 requests are submitted to NewTrak and a final Top 10 list is created. This final Top 10 list is then discussed during quarterly meetings and implemented into the NewTrak development schedule for

release to production the following quarter.

To assist in the organization of requests, the NewTrak team designed a website application that includes online request forms for

new enhancements, online status reports of all enhancements, online ranking capability for Top 10, and posted release notes.

User group representatives are encouraged to hold meetings within their firm/company to generate ideas. Upon request, the NewTrak team is also available for assistance in these meetings via teleconference.

The Attorney User Group held its inaugural teleconference in August and will meet again in October to begin Top 10 discussions.

SOME ENHANCEMENTS SO FAR:

- Intercoms: Allow users within a Vendor to view “all” unread messages, in descending order from most overdue.
- Delete All/Reply All options on Intercom home page
- Ability to edit Dynamic Data Forms (DDF).
- Reprojection color coding: All reprojections requiring approval appear in red, then turn green when approved.

MORTGAGE FRAUD UNCOVERED

By John Doonan
DOONAN, GRAVES, & LONGORIA, LLC

Information technology is not enough to stop fraud schemes. We are, in fact, entering an era that will see a decided increase in the amount and complexity of fraud. The internet is a major growth engine for the spread of these schemes which seek to defraud lenders out of, literally, billion of dollars worth of mortgage loans.

One scheme that Doonan, Graves & Longoria uncovered in New England originated in California and spread throughout the United States. Although this particular program has now attracted the scrutiny of various law enforcement agencies, its progeny continue to multiply. We estimate that this particular scheme has been perpetrated over a thousand times at a cost of billions of dollars.

In essence, this particular scam attempts to take advantage of the Federal Fair Debt Collection Act (“FDCA”) and the size of today’s servicers. Once a debtor has been attracted to the scam they are convinced to transfer their property into a trust with the ringleaders acting as the trustees. The “trustees” then forward a detailed request under the FDCA to the target lender seeking a variety of information. There is no indication in the letter that the property has been transferred, and the loan is still frequently current when this demand is made upon the lender. In many cases, such requests are given low priority by servicers and the response deadlines under the FDCA pass without an answer from the

lender. Once the deadline under FDCA has passed, the scheme accelerates and the ringleaders file a Power of Attorney with the local registry of deeds, which purports to authorize them to issue documents (including discharges) related to the target mortgage. Following the recording of the Power of Attorney, they then file a discharge of the mortgage. The servicers are unaware of the filing of the Power of Attorney and Discharge because the loan is usually still current and servicers rarely perform title searches of performing loans.

Having set the stage, the scammers go for the cash in a very simple manner. They simply sell the property to a third party or, occasionally, refinance the property. The closing agent, unless they are incredibly careful, does not notice that the Power of Attorney and Discharge are both executed by the same people who just happen to be the trustees of the trust, which actually holds title to the property. Since the closing agent believes the prior mortgage to have been paid off, they do not even inquire as to the outstanding balance on the “discharged” mortgage. Similarly, since the mortgage is still being paid, the initial lender has taken no action to enforce or foreclose its mortgage. The end result is that the property is sold to an innocent third party, the original debtor/owner and the ringleaders share in the proceeds and the initial lender is left tilting at windmills.



JOHN DOONAN is the Founding Partner of Doonan, Graves & Longoria, LLC. His best friend, Clancy, helps with difficult cases.



NEWTRAK VENDOR INTERFACE

by Lindsey Lesch and Sonny Thomas

The NewTrak Import Export Engine seeks to provide integration between third-party systems and NewTrak.

Launched in February 2004, NewTrak has historically supported vendor/attorney updates through a graphical user interface (UI). NewTrak users currently upload information into the NewTrak UI in addition to the specific case management system their company uses. To simplify integration between NewTrak and outside data sources, Fidelity created the NewTrak Import/Export Engine (NTIEE), enabling the sharing of data between these systems. This system was created with the average attorney user in mind.

In June 2005, NTIEE was introduced with two primary objectives: first, to reduce the effort required to maintain NewTrak for those Attorneys with existing case management systems and , second, to improve the timeliness and quality of data being loaded into NewTrak. A multi-phased project, NTIEE will eventually support the update of almost all NewTrak data elements with the aim of significantly reducing the volume of manual updates directly into the NewTrak UI.

NTIEE is written for all NewTrak users, including attorneys, system integrators, software product managers, consultants, and other technical professional interested in integrating with NewTrak. While it is not expected to completely eliminate the need for users to log on to NewTrak's UI, NTIEE aims to allow most users the ability to upload into a single interface which, in turn, will communicate information to NewTrak.

An attorney firm with, for example, a Microsoft Access database and knowledge of the import/export features built into Access may use the NTIEE website as a fully functional interface with the NTIEE web browse feature.

No Information Technology department or skilled consultants are required for implementing a fully functional NewTrak Interface.

Users may access the NTIEE User Network Resource website for assistance.

Look for NTIEE phase 2 next quarter. Right now, the NTIEE allows vendors to update steps, forms (DDFs) and comments from their case management systems to NewTrak. The NTIEE phase 2 project plan currently outlines the goal to add holds, intercoms, reprojections, and issues to the updating functionality.

COMMENTS FROM CURRENT NTIEE USERS

“The complete interface runs in less than 1 minute and behaves well...The interface is fast and efficient and we do not see any issues from our end.”

— Ted Dasigenis, Independent Contractor for Hughes Watters Askanase, L.L.P.

“In concert with Fidelity/NewTrak, we provide a quick and reliable integration approach to transaction interfaces for attorneys and their trading partners... The NewTrak staff are some of the brightest and most innovative in the industry. They are always looking to standardize processes and provide workable solutions creating a win/win relationship for all of their trading partners. NewTrak has been architected with a technology platform that ensures reliable, configurable, and scalable transaction interfacing now and into the future.”

— Tom Archambault , Chief Technology Officer for NetDirector, L.L.C.

FIRM SPOTLIGHT: POTESTIVO AND ASSOCIATES

By Adrienne Nutter
 POTESTIVO & ASSOCIATES

Commitment to providing superior legal services while consistently fulfilling clients' needs and expectations are top priorities at the law firm of Potestivo & Associates.

"We are dedicated to exceeding the standards set for us," says Angela Veda, Director of Foreclosure Operations for the firm. Opened in 1990 by Brian Potestivo, the rapidly-growing firm was recently ranked the leading law firm serving the mortgage banking and servicing industries by FNFS.

Consistently attaining perfect scores on industry scorecards, Potestivo & Associates' success can be attributed to their tradition of putting clients first and their dedication to meeting industry timelines.

The knowledgeable and skilled staff at Potestivo & Associates merges the industry's leading technologies with years of experience to handle thousands of foreclosures, evictions, and REO matters annually. Use of customized mortgage servicing programs such as NewInvoice provides Potestivo & Associates with the tools necessary to efficiently process each case. They monitor multitudes of debtor bankruptcy proceedings with constant focus on the client's best interest. Additionally, they assist with an array of pre-foreclosure loss mitigation matters and work diligently to clear title matters that are encountered in the process.

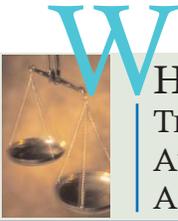
Potestivo & Associates' team-based approach has been developed through years of practice and thousands of successful cases. Constantly striving to evolve their services, Potestivo & Associates is continually working to coordinate with their clients' specific needs and circumstances. This commitment to transforming the firm's focus into their client's competitive advantage has earned the firm a number of well-satisfied repeat customers. These clients range from mortgage bankers and mortgage servicing companies to other commercial lenders and property owners of varying sizes.

In addition to providing legal services, Potestivo & Associates is an active participant and sponsor of national industry conferences, such as MBA's 2005 National Mortgages Servicing Management Workshop and MBA's 2005 National Mortgage Servicing Conference & Expo. Potestivo & Associates is located in Rochester Hills, Michigan.

"THIS COMMITMENT TO TRANSFORMING THE FIRM'S FOCUS INTO THEIR CLIENT'S COMPETITIVE ADVANTAGE HAS EARNED THE FIRM A NUMBER OF WELL-SATISFIED REPEAT CUSTOMERS."



BRIAN POTESTIVO is the founder of Potestivo & Associates in Rochester Hills, Michigan.



WHAT TO LOOK FOR IN THE NEW BANKRUPTCY ERA

THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005: AN OVERVIEW OF THE MORTGAGE LENDERS' AND SERVICERS' PROTECTIONS AGAINST ABUSIVE FILERS

By Deborah Chandler, Sidney Gelernter, and Christie Godwin
McCURDY & CANDLER, LLC

President Bush signed the new Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (the "Act") in April 2005, heralding sweeping changes (effective on October 17, 2005) to many of the existing Bankruptcy code provisions. Before and since this Act was passed, speculation has been pervasive throughout the mortgage lending industry and among its attorneys, the Bankruptcy Judges and Trustees, and debtors' counsel. What are these changes, what do they mean and, more importantly, how will they impact current processes — within the servicers and lenders (collectively, "Servicers") shops, the attorney firms and the Courts?

The Servicers' focus should be on the areas that will create new steps in the bankruptcy process and new decision paths that need to be filtered down from the default and bankruptcy managers to their staff. Servicers need to: first, establish increased and closer communication with their law firms, especially as the changes become more definitive and "real" after October 17, second, identify the changes that would impact the Servicers business and decision processes, third, establish a system to track the implementation and specific changes within each Bankruptcy District and Division as they evolve once the Act goes into effect, fourth, develop strategies as issues arise to determine which ones the Servicer should litigate or adapt to, and fifth, recognize when it's appropriate to adjust the Servicer's bankruptcy management processes to accommodate the changes brought about by the Act.

An important area that Servicers should focus on with their attorneys are the code changes related to abusive filers — those debtors who, acting in bad faith, never seem to run out of reasons

or strategies to delay the foreclosure process. An overview of the relevant related new code provisions is as follows:

Section 362(c)(3)

- a. Covers debtors who file a second case where another case was dismissed within the preceding year.
- b. Critical aspect — automatic stay terminates on the 30th day after the filing of the petition.
- c. Debtors' counsel may file a request for a continuation of the stay along with the petition due to the time constraints.
- d. For the stay to be continued, the debtor must overcome a presumption of bad faith at the hearing which must be noticed and completed before the 30-day period expires.

Section 362(c)(4)

- a. Covers debtors where 2 or more cases were pending in the previous year and which were dismissed for reasons other than the debtor failed to meet the new means test to qualify for a filing under Chapter 7.
- b. Critical aspect – **NO** automatic stay is in effect.
- c. Servicers and their attorneys should more closely scrutinize the debtors' bankruptcy filing history before stopping any foreclosure action prematurely.

Section 362(d)(4)

- a. Codifies law that was judicially created under the old Act concerning *In Rem* orders.
- b. Critical aspect – if the *In Rem* order is granted and a certified copy of the order is filed in the appropriate real estate records office, **any** petition filed by **any** party for two years from the date of the order will **NOT** cause an automatic stay to come into effect.

Story continued on page 18



DEBORAH CHANDLER, ESQ.
Deborah is the Director of Client Relations/Marketing and IT for the law firm of McCurdy & Candler, LLC



SIDNEY GELERNTER, ESQ.

Sid is the bankruptcy managing partner for the law firm of McCurdy & Candler, LLC



CHRISTIE GODWIN, ESQ.

Christie is a bankruptcy associate with the law firm of McCurdy & Candler, LLC

DEPARTMENT SPOTLIGHT: REFERRALS, RECONCILIATION, DATA ANALYSIS

by Mark Cardenas, Customer Support Manager - Referrals/Recon/Data Analysis

I remember the chilly October day when I first walked into our building in Mendota Heights to meet with Chris Anderson, hoping to land a job with Fidelity. I remember not being sure which set of doors to go into once I climbed the stairs to the second floor. Despite this uncertainty, the building was very welcoming. I also remember how kind Chris was in the interview, which took place in what is now called the Mille Lacs room. At one point, while reviewing my resume, Chris smiled and said, “So you live on Polaris Place...like the snowmobile?” I smiled back but didn’t say anything. I hadn’t prepared any responses to a snowmobile question!

Obviously, I made it through the rest of the interview. I also quickly became used to the “out of the box” thinking at Fidelity as I moved through the ranks. First a temp working in a unit called referrals, to its Lead, then its Supervisor. Then, in November, 2004 to

Referrals Manager. The Reconciliation Unit became part of my team in early 2005 and we were recently able to welcome the Data Analysis team into our group. Each of these teams is responsible for a different aspect of the Customer Support area.

Our Referrals team currently has fourteen team members: Supervisor Rick Wilken, Leads Margie Bowen and Macy Hui, and eleven associates broken into three referral specialty groups: NewTrak FC and BK referrals, Homecomings BK referrals and Proceed / Restart / BPO’s. These folks are responsible for 22,000 new referrals and over 1500

Restart/Proceed requests each month. The referrals function is critical because we manage the “Invisible timelines” from when the client sends us the data needed to refer the file, to the time it is



DATA ANALYSIS TEAM: (L TO R) Mark Cardenas, Katherine Zorn, Alicia Watters, Dan Cregan

actually electronically sent to counsel. We also manage the time from when a file comes out of bankruptcy or forbearance to when Fidelity notifies counsel to proceed or restart foreclosure action. Delays in either of these areas impact our overall performance. Current projects for referrals include the creation of a proceed process in NewTrak, the screenprint reduction project (removing screenprints from the initial referral and having the data listed on the referral cover letter instead), and the automation of bankruptcy referrals.

Our Reconciliation (or “Recon”) team currently has seven team members: Supervisor Dan Cregan, Lead Jill Horsch and five associates. Recon is an



REFERRALS TEAM - BACK (L to R): Kim Hall, Marissa Menza, Amy Guibord, Rick Wilken, MIDDLE (L to R): Margaret Bowen, Pajhoua Lee, Julie Coon, Sarah Block, Casey Sepeda, Mark Cardenas, FRONT (L to R): Macy Hui, Jerry Yang, Stacy Bolander, and Kenji Hang.

FNFS EMPLOYEE ANNIVERSARIES

JULY, AUGUST, SEPTEMBER

ONE YEAR

Nicole Anders	Default Specialist
Darby Campbell	Financial Support Manager
Elizabeth Cotie	NewInvoice Auditor
Lynn Doyscher-Wright	Bankruptcy Specialist
Jean Egan	NewInvoice Auditor
Daniel Fadden	Bankruptcy Specialist
Jermaine Halloway	Foreclosure Specialist
Wade Hanson	Foreclosure Specialist
Kang Her	Client Support Specialist
Debra Hoffman	Delinquent Taxes Specialist
Macy Hui	Referrals Lead
Jeff Hyman	Financial Support Lead
Joann James	Customer Support Specialist
Adrian Maull	NewInvoice Development Manager
Lauren Martilli	Customer Relations Facilitator
Jon Menz	BK Closing and Setup Team Supervisor
Nathan Miller	Stop/Hold Team Lead
Bill Newland	AVP Financial Support
Ndifonga Ngwa	Special Assets/Title Litigation Specialist
Mason Segers	Claims Specialist
Joseph Stemig	Computer Operator
Cindy Stevens	Special Assets Title/Litigation Coordinator
Espe Valdgraf	Bankruptcy Specialist
Jennifer Wersal	Special Assets Lead

FIVE YEARS

Sonja Boomgaarden	Bankruptcy Specialist
Larry Dingmann	SVP, Division Counsel
Fanessa Fuller	AVP Implementations and Technical Support
Cathy Hagstrom	Bidding Specialist
Pam Kammerer	NewInvoice Auditor
Joel Martinson	Senior Developer - NewTrak
Kim Mullins	NewInvoice Lead Auditor
Renaee Stanton	BK Issue Resolution Supervisor

TEN OR MORE YEARS

Susan Carstensen	Project Administrator	12
Joyce Helberg	Loss Analyst	10
Angela Morris	IT Customer Support Manager	12

important safety measure in the Customer Support structure, keeping NewTrak and the systems of record of our clients in sync. Recon associates work in a separate database that houses and catalogs files when the data from NewTrak and the client systems do not match. Current projects for Recon include an effort to reduce the number of existing files that are over 7-days aged down to zero, as well as reducing the overall volume of files entering the recon database on a monthly basis.

Data Analysis currently has two associates and is also supervised by Dan Cregan. These two associates analyze our most critical operational reports and send updates throughout the workday to Timeline and Support Management so that we can keep a thumb on the pulse of the daily operations. They also provide a daily analysis of our other reports, including volume and trending information, which saves management a great deal of time. The projects currently in progress for Data Analysis include the reduction of volume for our critical reports, the compilation and analysis of our non-web based reports and the streamlining and cataloging of report change requests.

Since that first day in October, I am still amazed and impressed by the people and atmosphere here at FNFS. Although there are a number of exciting changes on a daily basis, there are two constants I have come to rely upon: the building is still welcoming and the people I have the pleasure of working with are warm and kind.



RECON TEAM - BACK (L to R): Joseph Alvarado, Dan Cregan

MIDDLE (L to R) Tim Blanchard, Alicia Marter

FRONT (L to R) - Kristine Benson, Karen Froggatte, Jill Horsch, Mark Cardenas



MANAGING ATTORNEY FEEDBACK

By Christian Hymer

With over 500 firms in the FNFS Attorney Network, managing the flow of information between those firms and the business unit is a challenging task. Most readers can probably relate to the situation of an overflowing email box, and it was found that even though everyone at FNFS worked diligently to respond to questions or concerns raised by the Network, there were cases where, despite best intentions, a problem did not receive the attention it deserved and languished in someone's Inbox. We also found cases where the same question or concern was raised repeatedly, but received varied responses from different personnel or had to be answered by someone repeatedly over the course of weeks and months. Our challenge: Come up with a way to ensure more timely responses, leverage off the combined experience of our company personnel, and keep everyone "in the loop" as questions are asked and answered.

Out of that challenge evolved the Attorney Feedback mailbox and the Attorney Issue Database. A centralized escalation point, the mailbox provides a single point of contact for our attorney network. Combined with a centralized "spare brain" of knowledge and task tracking (the database), we believe that we have found an efficient solution that will work for everyone. Here is some basic information about the purpose and design of the AttyFeedback mailbox to help everyone understand how to use this additional tool:

What is the purpose of the Attorney Feedback mailbox, and when should messages be sent to it?

The primary point of contact for the FNFS Attorney Network should be their contacts in the business unit: their designated Attorney Management, Bankruptcy Support, Customer Support, and Special Assets personnel. To help everyone know who to contact, an escalation matrix is provided every month via Network Update. The AttyFeedback mailbox is designed as an additional escalation point for items that the sender in the Network or the recipient at Fidelity feels should be documented. These may be items like feedback from a firm on ways to improve the level of service they receive from FNFS, or an explanation of an issue that may be especially problematic, or an issue that poses risk to the attorney firm, our company, or our clients, or an operational concern or question about the Attorney Performance Report which has already been asked of the business unit and which the firm feels received an unsatisfactory response.

Who manages the AttyFeedback mailbox, and what should we expect when contacting it?

The mailbox is monitored throughout the day by members of the Customer Relations team of FNFS. Messages sent to the mailbox are logged in the database, and the sender is issued a response within 24 hours. That response will always include the designated issue number. Some issues are able to be resolved immediately, using the combined knowledge gained through experience and contained in similar previously resolved issues stored in the database.

Other issues are sent into our business unit for resolution where they are assigned a 3-day follow-up time, by which point we expect the item to be resolved, or if necessary to be "reprojected" and an explanation given of the need for additional time. Some issues turn out to be long-term projects, and the Customer Relations staff monitors those and reports each week on the progress of all "overdue" and "aged" issues. Over the last three months, the average inflow to the mailbox has been around a hundred items per week.

Story continued on page 18



TWO VOICES YOU ARE LIKELY TO HEAR: Attorney Relations Managers Theron Green (above) and Selena Edwards, the newest addition to the Customer Relations Team (below).



Let us know how we are doing, how we can better serve you. Please utilize your business unit contacts as your primary contact point for day-to-day issues and loan-level items, but feel free to send information to AttyFeedback@fnfs.net — we're here to help!

ATTORNEY PERFORMANCE INCENTIVES



CLIENT INPUT

Clients, this newsletter is for you too! To have your comments listed in the next issue of *The Summit*, send them to your FNFS Customer Relations contact or:

lindsey.lesch@fnfs.net

SELECT PORTFOLIO SERVICING:

In September, Select Portfolio Servicing's timeline management group celebrated our first anniversary back in Salt Lake City. Hard to believe it's been a whole year since consolidating our default functions. Thank you to all of our vendors for your support as we worked through the last year of challenges and changes.

Each year, Fidelity National Foreclosure and Bankruptcy Solutions distributes financial incentive awards through the year to our highest scoring firms according to the Attorney Performance Report. Each quarter, the top ten performing firms in Foreclosure and Bankruptcy receive an award of \$20 per file, with the next ten firms receiving \$10 per file. To date in 2005, over \$150,000 has been distributed to top performing firms in the form of quarterly Incentive payouts.



Q3 - 2005 WINNERS FORECLOSURE

STATE	FIRM NAME
AL	Scott J. Humphrey
AZ	Quality Loan Service Corp
CT	Reiner, Reiner & Bendett
MD	Draper & Goldberg, PPLC
MD	Allan Fiegelson, Law Offices of
MD	Friedman & MacFadyen
MI	Potestivo & Associates
MI	Orlans Associates PC
MS	Morris and Associates
MS	Adams & Edens, PA
NE	Steffi A. Swanson, PC LLO
NH	Shechtman, Halperin & Savage, LLP
NY	Rosicki, Rosicki & Associates
NY	Fein, Such
OH	Manley, Deas & Kochalski
OR	Cal-Western Reconveyance Corp
PA	Goldbeck, McCafferty & McKeever
TN	LOGS (TN) - Shapiro & Kirsch
VA	Sykes, Bourdon, Ahern & Levy
VA	Friedman & MacFadyen

Q3 - 2005 WINNERS BANKRUPTCY

STATE	FIRM NAME
AR	Mickel Law Firm
AZ	Miller & Clark, LLP
CA	Miller & Clark, LLP
GA	Morris, Schneider & Prior
ID	Robinson Tait
IL	Dutton & Dutton
IL	Freedman, Anselmo, Lindberg & Rappe
IL	Kluever & Platt
MI	Potestivo & Associates
MN	Reiter & Schiller, PA
MO	Martin, Leigh and Laws
NC	Nodell, Glass & Haskell
NE	Steffi A. Swanson, PC LLO
NY	Rosicki, Rosicki & Associates
OH	John D. Clunk, Law Offices of
OR	Miller & Clark, LLP
OR	Robinson Tait
TN	Morris, Schneider & Prior
VA	Sykes, Bourdon, Ahern & Levy
WA	Robinson Tait

NEW SECTION 524 (I) (BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005) COULD SPELL TROUBLE FOR CREDITOR/MORTGAGE INDUSTRY

By Berry F. Laws III and Jo-Ann L. Goldman
MARTIN, LEIGH, LAWS & FRITZLEN, P.C.

The impending Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“Act”) is not all good news and cheer for the mortgage servicing industry. While there is much good news for the industry, including revisions to preclude abusive filings, sanctions against “renegade” debtors’ attorneys, consumer credit counseling and related matters, the Act also includes a provision that may be the source of angst for mortgage servicers, namely, § 524(i).

Section 524(i) requires creditors to credit payments received under a confirmed plan. Failure can result in injunctive relief. Section 524(i) states:

The willful failure of a creditor to credit payments received under a plan confirmed under this title, unless the order confirming the plan is revoked, the plan is in default, or the creditor has not received payments required to be made under the plan in the manner required by the plan (including crediting the amounts required under the plan), shall constitute a violation of an injunction under subsection (a)(2) if the act of the creditor to collect and failure to credit payments in the manner required by the plan caused material injury to the debtor. (emphasis added)

This section is entirely new, and no legislative history appears. However, its inclusion into the Act may have originated from debtors’ frustration with unexplained charges (including escrow and late charges), and from partially applied payments and returned payments that make up proof of claim arrearages and often appear post-petition during the life of the bankruptcy.



The proper application of Chapter 13 payments has long been an irritant for the servicing industry as well as debtors, due to the failure of many software programs that track and apply loan payments to work well (or at all) when a Chapter 13 plan is filed. This is especially true if the mortgage instrument is an ARM loan and

payments change during the life of the bankruptcy. While payments are normally received and applied to the last payment or delinquency, an arrearage or delinquency on a Chapter 13 (pre-petition arrearage) must be treated differently. Payments received post-petition must be applied in accordance with the plan, which normally will cure the mortgage arrearage within 24-36 months.

Creditors have often struggled with application of Chapter 13 payments, and § 524(i) will give additional enforcement remedies to debtors, including possible class actions for those creditors who are unable or unwilling to make changes in their servicing software or to otherwise properly account for payments.

The injunctive relief provided by § 524(a)(2) is designed to bar creditor enforcement of the debt against a

borrower personally upon discharge. The creditor can only proceed *in rem* against the collateral securing the debt. Sanctions against creditors for violating § 524(a)(2) (and not presumably § 524(i)) include seeking attorney's fees incurred by a debtor, possible contempt action against a creditor, and money judgments for damages. The greatest fear of the mortgage industry in violating the new § 524(i) is the threat of a class action suit against a creditor/servicer who fails to properly apply Chapter 13 payments. The expense could be great, as well as financially devastating.

It has been suggested that a mortgage servicer can protect itself from future liability by one or more of the following:

1) Ensure that the Trustee is raising the payments when the payments fluctuate, and if he/she is not, file an immediate Motion for Relief from Stay to compel a modification by the debtor.

2) Create/employ internal procedures to account for every charge to a debtor's account, whether or not reflected in a proof of claim. If post-petition charges apply to the account that are not resolved in a proof of claim or escrow analysis (i.e. additional attorney's fees, inspection fees, etc.), the creditor should be ready to either write them off at the end of the plan, find a way to put them in a pre-petition arrearage claim, or file a post-petition claim during the case. Another option is to include language in an order to allow such fees to be added to the end of the account. In any event, creditors must be able to account for application of all payments and charges.

3) Ensure that the plan allows payments to be credited pursuant to the contract if the arrearage claim is not segregated on the system.

4) Ensure that the computer system does not allow inadvertent "double dipping" of charges by having escrow analyses performed during the course of the case and not assume the account is current and thereby accommodating for charges already accounted for in the proof of claim. Because of system limitations, this is often a manual process for servicers.

5) Ensure that all payments and back credits can be accounted for when another mortgage servicer acquires a portfolio and the information is merged into a new system.

6) Use software technology to verify and synchronize records during the plan and ensure that balances owed are consistent.

In summary, new § 524(i) should cause creditors to take greater care in applying and crediting payments received during a confirmed Chapter 13 plan. Good software systems and accountability will be the key to avoiding civil liability to debtors who challenge the creditor's method of accounting for payments. The industry should move toward making it a high priority to work towards one common goal: during the course of the bankruptcy, ensure the debtor is current on all payments at the end of the Chapter 13 plan.



BERRY F. LAWS III works for Martin, Leigh, Laws & Fritzen, P.C., handling bankruptcy, foreclosure, eviction and related creditor litigations statewide for Kansas and Missouri.



JO-ANN L. GOLDMAN is a Chapter 13 Trustee in the Eastern and Western Districts of Arkansas and chair of the Mortgage Liaison Committee.

continued from page 11: WHAT TO LOOK FOR IN NEW BK ERA

In reviewing these particular new code provisions, the Servicers should discuss with their attorneys the need and circumstances for obtaining a “comfort order” during or after the conclusion of the foreclosure. The “comfort order” may become especially crucial in providing title companies involved with the sale of the REO with the assurance that the foreclosure sale was not invalidated by the applicable bankruptcy filing in light of the particular above-described Section relied upon in continuing the foreclosure sale through to completion.



The code sections described above illustrate the need for careful consideration of the various types and level of potential risks to the Servicer before proceeding on what appears to be a relatively straightforward view of the provisions. Even though the new protections against abusive filers seem somewhat easy to comprehend, there are several aspects that could provide relief back to the debtors based on subjective criteria and new hearing processes that have not yet been defined. Again, frequent and planned communication/consultation between the Servicers and their attorneys is critical to ensure that all involved are proceeding in accordance with the Servicers’ best interests in view of the potential risks and individual bankruptcy management practices as impacted by the external changes to the overall bankruptcy process starting October 17, 2005 — the start of the new era of bankruptcy law.

continued from page 14: MANAGING ATTORNEY FEEDBACK

How does the Attorney Issue database work?

Staff members are able to search the database for keywords pertaining to the question or comment, or they can search the database by firm name, client, employee name, or department. The documentation and task tracking is designed to go on behind the scenes, so once an item is assigned a tracking number and sent to the business unit, the mailbox should be carbon copied (cc’d) with all additional communications until the item is resolved. Once resolved, items are stored in the database to serve as relationship history and as an information resource.

FNFS NEWS FLASH!

Effective October 3, 2005, the FC Regions for FNFS operations changed. Below is a list of the new regions and contacts for each.

- REGION 1 - AK, CT, IA, MN, MO, ND, NH, NJ, NV, NY, RI, SD, VA, VT
Chris Anderson
- REGION 2 - CO, GA, KS, OH, UT
Chris Anderson
- REGION 3 - AR, IN, LA, MA, ME, NE, OK, PR, TX, WY
Liquenda Allotey
- REGION 4 - IL, MD, MS, PA
Liquenda Allotey
- REGION 5 - DC, DE, FL, ID, KY, NM, SC, WI, WV
Jennifer Anthony
- REGION 6 - AL, AZ, CA, HI, MI, MT, NC, OR, TN, WA
Jennifer Anthony

FORECLOSURE MANAGERS

- Liquenda Allotey liquenda.allotey@fnfs.net
- Christine Anderson christine.anderson@fnfs.net
- Jennifer Anthony jennifer.anthony@fnfs.net

MORTGAGE WORD SEARCH

f m r s e l l e r s e r v i c e r i n p
a p r d c u p t j v s w r d x l z f o k
e c r a m d o w n a c g e e h j k v b l
k j m o t i o n f o r r e l i e f a i m
s p r e o q i t g v o e h a d s c b d f
y a q b x f r o r h w w i y f t t z w o
i n v e s t o r h u f s t y r o l a n r
t k o l a m t f g d t h k b e p m e t b
d l a s r i r q c s a f o x s p o l i e
l m s n e b u z u l v a f l i e r h j a
p s e r u e s r t n a y g a d l t e e r
w t r h u e t t o k c i p o u b g t y a
a m v f b f e s f s a c m f a p a m i c
n v i g o f e r f f n z f e l r g c d e
h k c d i l o m d n c o o a s p e o k q
x r e j y s u r v e y n t n q o n w e x
s e r b t u c v e a x n h p i i y i y z
d t f e e s i m p l e s r f d n a p l i
r i n t e r e s t r a t e s d s g q o p
w r i t o f e x e c u t i o n c f k t l

NEW TO THE FIDELITY PARTNERSHIP

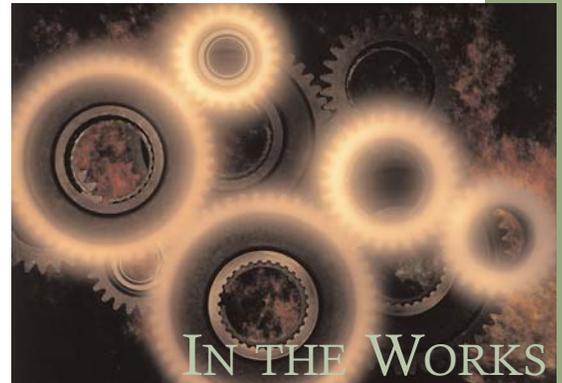
Fidelity National Foreclosure and Bankruptcy Solutions welcomes the following firms and clients to the Fidelity partnership.

CLIENTS

EMC
 Everhome Mortgage Company
 HSBC Consumer Lending

FIRMS

Clunk, Paisley & Associates
 Dale and Decker LLC
 Gary Dilk
 Kass, Shuler, Solomon, Spector, Foyle & Singer PA
 Lefkoff, Rubin & Gleason PC
 LOGS (OR) Shapiro & Sutherland
 McGrath and Associates
 Nationwide Appraisal Services Corp.
 Peterson, Fram & Bergman
 Richard Grayson, ESQ
 Sebraien M. Haygood & Associates
 Sheehan, Sheehan & Stelzner, PA
 Shumaker, Loop & Kendrick
 Sutin, Thayer & Browne
 The Florida Default Law Group
 Tyler, Cassell, Jackson, Peace & Silver, LLP
 Wade and Wade, PLC
 Woods Oviatt Gilman Sturman & Clarke



Look for these upcoming product developments from FNFS:

- | | |
|--------------------|--|
| NTIEE: | NewTrak Import/Export Engine phase 2 in development. |
| NEWINVOICE: | Continued conversions for version 5.0 scheduled for remainder of year. |
| NEWTRAK: | Continued conversions for new clients throughout the next few months. |

PEAK PERFORMANCE AWARD WINNERS

The Peak Performance Award program is a tool available to recognize superior employee performance at FNFS. Employees are nominated for noteworthy performance, customer praise, suggestions or improvements, or completion of additional tasks. Peak Performance Award winners have taken it upon themselves to improve our company through their exceptional work ethic, creativity, and customer service.



Scott Walter

While working as the Customer Support Supervisor in our Mendota Heights office in June, Scott was commended for resolving a bidding error for a client that potentially save them several hundred thousand dollars. His manager explained that Scott “showed professionalism and outstanding customer support that was recognized and appreciated by our client.” In September, Scott was promoted to Bankruptcy Support Manager.



Cathy Hagstrom (photo not available)

While working in Customer Support - Bids in our Mendota Heights office in June, Cathy was recognized for her flexibility in accommodating a client and assisting in some time-sensitive matters involving a bidding error. After this, Cathy’s supervisor noted that she went “above and beyond by contacting the various counsels involved and ensuring the correct bidding instructions [were] being used.”



Eric Tate

While working as a Customer Support Team Lead in our Mendota Heights office in July, Eric was singled out for his dedication and pride in his work while solving last minute bidding concerns. Brandi Smith of Homecomings shared with us how surprised she was to find Eric still in the office on the Friday before the 4th of July. Intending to leave Eric a message to call when he received an important email, Brandi was surprised to find that Eric was not only still in the office at 6:00, but that he had received her email, sent everything to the attorney, and also wished her a happy 3-day weekend! In August, Eric was promoted to Customer Support Team Supervisor.



Jeff Hyman

While working as a Post Sale Claims/ Specialist in our Jacksonville office in August, Jeff’s manager and AVP singled him out for his noteworthy performance. His manager explained that Jeff “is always willing to take on additional important tasks that require attention to detail” in his work assisting with alterations to NewTrak, establishing reporting criteria, training clients via WebX presentations and assisting and leading coworkers. In September, Jeff was promoted to team lead for the Sales Results/Payoff/Reinstatement team.



Lee Bodnar

While working as a BK specialist in our Mendota Heights office in September, Lee was recognized for his outstanding work facilitating communication between a servicer and a network firm on a problem file. His manager believes that “the dedicated work and persistence to get this file resolved as best as possible by Lee, and the fact that one of our attorneys was so adamant that Lee was the only person in our entire company that could help to reach that goal on this file qualifies Lee for a Peak Performance Award.”

