



TITLE GUARANTY

**Iowa Title Guaranty Special Board Meeting  
Tentative Agenda March 24, 2015**

- I. Roll Call**
- II. Public Comments**
- III. Action Items**
  - a. Old Business
    - i. Permanent Title Plant Waivers
      - 1. Todd Prichard
        - a. Director's Recommendation
      - 2. Paul Miller
        - a. Director's Recommendation
- IV. Discussion & Informational Items**
  - i. Director's Report
    - 1. Closing Protection Letter Fee
    - 2. Field issuer Incentive Payment Increase
- V. Adjournment - Next meeting is tentatively set for June 2, 2015**

Location:  
Iowa Finance Authority  
Presentation Room  
Des Moines, Iowa  
March 24, 2015 1:00 p.m.

Below are the submission details:

## SUBMISSION INFORMATION

### Applicant Information

Date of Request: 10/17/2014  
 Name of Applicant: Todd Prichard  
 Requesting Waiver:  
 Law Office Name: Prichard Law Office, PC  
 Applicant Mailing Address: PO Box 454  
 Applicant Physical Address  
 (if different from Mailing Address): 103 N Main St  
 City: Charles City  
 State: IA  
 Zip Code: 50616  
 Email Address: [todd@prichardlawoffice.com](mailto:todd@prichardlawoffice.com)  
 Office Phone Number: 6412284500  
 Cell Phone Number: 6412206414  
 Fax Number: 6412283143

### Narrative Responses

General description of the business: I am an attorney in Charles City, Iowa, and own my own law firm, Prichard Law Office, PC. My firm practices extensively in real estate transactions and title examination. I am also 50% owner of Great Plains Title, d/b/a Council Bluffs Title & Escrow in Pottawattamie County (f/k/a Iowa Abstract Services). Council Bluffs Title & Escrow maintains a 40 year tract index title plant for Pottawattamie County. This plant was certified by the Iowa Land Title Association in December of 2013. My waiver would primarily be used to facilitate the title search activity of Council Bluffs Title & Escrow in the greater Council Bluffs / Omaha metro area.

License number to practice law in Iowa: 6309

County or counties where you intend to abstract: Pottawattamie, Harrison, Cass, Mills, Shelby, and Page

Do you intend to develop a No

40-year tract index?:

Do you understand that you, as attorney, are personally liable for abstracting conducted on behalf of TGD?:

Yes

If yes, do you understand that this liability cannot be transferred to a corporate entity, nor can you, as attorney, use a corporate structure that would shield you from personal liability?:

Yes

How does the requirement to own or lease a title plant impose a hardship on you?:

Building and maintaining title plants in the outlying counties of the Omaha / Council Bluffs metro is extremely cost prohibitive. I estimate the cost to build a title plant in any one county at approximately \$50,000. This figure varies depending on the progress the particular county has made with converting to Iowa Land Records. I base this figure on the cost other abstractors have had in creating new plants as well as my costs in updating my plant in 2013. Financial hardship is evidenced by the fact that Great Plains Title has yet to be profitable given the disadvantages it has in the market. For the current year to date, this company has posted a \$29,614.54 loss. For the same period last year, the company posted a \$14,956.96 loss. These losses demonstrate the difficulty of the market in the Council Bluffs metro as well as the fact that building additional title plants is not economically feasible given current cash flow (see attached letter from State Bank). Given the competition and influence of out of state title insurance providers, the Council Bluffs market is extremely competitive and hostile for single county abstractors. Without the ability to search and abstract with a waiver, I am at a competitive disadvantage against Omaha based title search providers who can search in any county. Nebraska based title companies are able to search all counties without relying on other abstractors or searchers. The ability to conduct all tasks in-house reduces costs and turn times for search products. This ability provides a competitive advantage to title insurers over single county abstractors in the Council Bluffs metro as the Nebraska title providers can promote their firm as a one-stop service shop. A waiver would allow my company to be seen as a full service title searcher to lenders and real estate agents who are accustomed to dealing with title insurance providers who are not limited to a single county. On the Iowa side of the greater Omaha metro area, 93,000 residents live in Pottawattamie county, 73,000 live outside of Pottawattamie county. Being bound to

Pottawattamie is a disadvantage in the eyes of lenders and realtors in that I cannot service 73,000 residents in the market area. A single county title plant is simply not competitive in the Council Bluffs market given competition from Nebraska and customer expectations. Absent change that levels the playing field in the market, I do not foresee the continuance of my company or any other pure abstractor in Pottawattamie County.

A waiver allows me to more effectively compete with out of state title insurers and promote Title Guaranty products. Currently the Council Bluffs market is dominated by Omaha based title insurance providers. The relatively low percentage of Iowa Title Guaranty products issued in Council Bluffs compared to the population demonstrates that title insurance dominates this market and Title Guaranty plays a very small role in the market. In the Council Bluffs greater metro area, title insurance dominates due to two factors: 1) ease of ordering as explained by one stop shop service and 2) the alignment of real estate companies with title insurance firms. With a waiver, I could compete with title insurers on the first factor, seamless service throughout the metro. To the second factor, the alignment of real estate companies and title companies, I would be extremely competitive with re-finance files as usually lender institutions suggest title companies for re-fi loans.

How is the waiver of the requirement clearly in the public interest?:

A waiver would allow me to provide service that is comparable to title insurance providers while at the same time using Iowa Title Guaranty standards. This fact will insure more accurate title searches for home purchasers (consumer protection) as well as lower premium costs for consumers (price advantage for consumers). The average home sale price in the Council Bluffs market is approximately \$150,000. At that mortgage amount, title insurance would cost typically \$595 (using Nebraska rates which are typically applied in Iowa). Compared to an all-inclusive cost under Title Guaranty of approximately \$460. In fact, for title insurance to be equal or less expensive than title guaranty, the loan amount would need to be \$85,000 or less. For an \$85,000 Tile Guaranty and Title Insurance would both be \$460. Typically, Title Guaranty rates are less expensive for consumers at the medium and above price as opposed to title insurance rates which are typically higher and unregulated under Iowa law and tied to Nebraska rates. In sum, a waiver would allow more competition in this underserved market for Title Guaranty, likely increasing Title Guaranty's market share in Southwest Iowa and protecting consumers. Further, title insurance searches do not meet the requirements of Title Guaranty, typically title insurers do not require searches going back 40 years,

only last deed forward. Given the cost benefit of Title Guaranty, a waiver would allow me to compete effectively by offering comparable service times with lower costs and better product.

As the Council Bluffs market is dominated by out of state title insurance, title customers (lenders & real estate agents) expect and demand a one stop shop for all title searches in a given market. Being limited to only Pottawattamie County, I cannot provide service and build client relationships that the market demands in terms of streamlined ordering and turn around times. Like Nebraska companies, I would not be forced to outsource searches in the metro area. As stated, without the ability to abstract and provide services throughout the market, I am at a marked competitive disadvantage to out of state companies who can provide title insurance throughout the market area without any regulation or oversight from Iowa authorities. The argument for a waiver in Southwest Iowa can be based on the same arguments that provides abstractors in Pottawattamie County an exemption for requiring abstracts, competition from Nebraska title insurers has shaped the market against Title Guaranty.

How is the waiver absolutely necessary to ensure availability of title guaranties to buyers and lenders through the state, competitively priced, with good service and quality titles?:

Do you have experience abstracting under the supervision and control of an exempt attorney-abstractor?: Yes

If yes, describe your abstracting experience including personal supervision & control of an exempt attorney-abstractor with whom you had a close working relationship, legal partner or associate.:

In 2011, I entered into a mentor relationship with attorney Charles Hendricks who maintains a state wide waiver. Mr. Hendricks, along with his staff, provided practical training in conducting title searches. Mr. Hendricks and his staff also provided guidance and supervision of the assembly of abstracts and search reports.

If no, describe your abstracting experience and specify why you were unable to abstract under the supervision & control of an exempt attorney-abstractor.:

For the county(s) that you intend to abstract, provide the number, availability, service & quality of other abstractors & whether the grant of a permanent waiver will adversely impact their

There is currently one other abstractor in each of the counties I intend to abstract in. I have no indication that these abstractors give nothing but excellent service. I do not believe my waiver will negatively impact these abstractors as I intend to service files that would otherwise have gone to out of state abstractors. Further, a higher prevalence of Title Guaranty should benefit other Title Guaranty participating abstractors in the market.

business.:

## **Documents (Under Supervision)**

Professional letter or letters of reference. (Exhibit A): [Download](#)

A written recommendation from the exempt attorney-abstractor or grandfathered attorney who personally supervised the Applicant's abstracting for a period of two years or more. (Exhibit B): [Download](#)

Samples of abstracts prepared by the Applicant. (Exhibit C): [Download](#)

## **Documents (Not Under Supervision)**

Professional references. (Exhibit A):

Samples of abstracts prepared by the Applicant. (Exhibit B):

The Applicant's business plan. (Exhibit C):

Evidence of clients, and the volume of additional transactions that will be brought into the title guaranty/attorney system as a result of the waiver. (Exhibit D):

## **Signature**

Signature: Todd Prichard

Date: 10/17/2014

## **Todd Prichard – Permanent Waiver Application**

### **Additional Documents:**

-Resume or brief job history describing real estate experience, training, or special education or attendance at seminars related to real estate. Include information on when your employment – ownership, and management and abstracting began with Great Plains Title d/b/a Council Bluffs Title and Escrow

Resume attached. I have practiced in real estate since 2004 when I was admitted to the Iowa bar. I have examined title and abstracts since I began practicing. I would estimate that I examine approximately 350 to 1000 abstracts or title reports per year. More recent average is around 350 per year. My practice includes all aspects of real estate from drafting purchase agreements to closing transactions. I have frequently attended CLEs sponsored by Title Guaranty in recent years. I am also a subscriber to the list serve for real estate attorneys hosted by the Iowa Bar Association. I have been involved in abstracting since August of 2011 when I and a former partner purchased Dakota Title in Pottawattamie County, Iowa. I have trained the abstract company's searchers and trained and supervised them in the drafting of title reports and assembly of abstracts. My regular duties in the management and supervision of Great Plains Title is supervision of abstract assembly, quality control of the search reports, dealing with technical abstracting issues in what needs to be shown as well as review of source documents.

- Updated mentor reference from Chuck Hendricks commenting on abstract, skill level, amount of errors, and more details on the scope of the mentorship process, number of interactions, meetings, etc.

- If possible, updated references from anyone available to attest to your ability and skills in abstracting, preferably from the market requested. Request made to Chuck. Awaiting response. I worked closely with Mr. Hendricks and his staff over the course of months to train and learn how to search and assemble abstracts. Mr. Hendricks provided mentoring and guidance as I and my staff learned the trade of abstracting. I still occasionally consult with Chuck and his staff when I have questions about a real estate matter.

-Abstracting samples from counties other than Pottawattamie. Was the "Dammann" root sample attached done by you? Do you want to use any samples previously submitted? (For instance, see attached) (Preferably samples not completed through the title plant and signed by the title plant – ie: use ones signed by or for Chuck Hendricks.) I searched the Dammann root.

### **Abstracting History**

1. Please provide a history of abstracting experience for the attorney and their staff which states approximately the number of abstracts or updates they have completed and during what timeframe. My recollection is that I and my staff completed or updated 5-8 abstracts in direct supervision of Chuck Hendricks or his staff. I would estimate that since 2012, Great Plains continues or creates 5-10 abstracts per year. We do many more title reports as abstracts are fairly rare in Pottawattamie County. Over the last year, our average is approximately 15-20 title search requests a month or 3-5 a week.
  - a. Specifically whether this includes "mentored" abstracts", and whether they were all intended for ITG purpose, as it is believed by ITG staff that some mentored abstracts were done for portfolio, commercial, or other transactions not needing ITG Certificates (per Chuck H).
  - b. Does Applicant do direct searches of the public records, if so how often, what kind of searches. Done personally or through staff? I do search public records as needed as part

of title searches done by my staff. I am familiar with searching numerous counties physical records, as well as online ISIS searches, county treasurer searches and Iowa Land Records searches. Given that Great Plains has a complete and modern 40 year title plant, Pottawattamie searches are done first with the title plant and routinely verified by public record searches.

- c. Do you want to include the 2011 Work Share and Abstracting Mentorship Agreement.pdf as a part of this Application? Only if needed.

### **Clients/Market**

1. Provide additional information on the number and type of clients you hope to serve, and whether their geographic scope is limited to the Western Iowa counties, or if they lend on a national, statewide, or local basis. I see opportunity to work with regional lenders in SW Iowa. I do not believe that Great Plains has captured the market share of the regional lenders refinance and title work that it should. I attribute this to competition I deal with from Omaha based title companies that can service all client needs with in-house resources.
2. Provide specific factual details on how a waiver will improve services and drive down costs. As I explained in the first response, Title Guaranty has better price points for consumers above a certain purchase price. Title Insurance rates depend on purchase price or mortgage amount, Title Guaranty does not.
3. Provide specific factual details why the market is underserved, in addition to only having one title plant abstractor present in each of the counties (except Pottawattamie). The market is underserved due to the fact that title plant abstractor cannot compete with the title insurer. I would compare the number of TG policies issued in Pott County to the number issued in a county of comparable population. I don't have ready access to this data.
4. What is the problem, if any, if lenders would need to attempt to renegotiate for abstracting services on a county by county basis? The problem is lenders do not renegotiate for county by county service because they have service providers who can service all their market at set prices, thus making RESPA/ Dodd Frank compliance much simpler. The difference is the convenience factor and consistent pricing title insurance providers can provide.
5. Provide any factual evidence available to show that some business is going around the abstract/attorney/ITG process through the use of title insurance in the counties requested. I can get a letter from my Great Plains co-owner who witnesses this first hand.
6. If business is to be gained, please provide details on the business plan and factual data describing the ability or plan to increase the volume of abstracting done for ITG purposes.
7. Provide further details on the following statement: "Given the cost benefit of Title Guaranty, a waiver would allow me to compete effectively by offering comparable service times with lower costs and better product." TG is less expensive for purchases above a certain price. A waiver would allow me to complete searches myself or with in-house staff and avoid finding searchers for anything outside of my county, this saves time as it is more efficient. TG standards for title reports and abstracts is superior to title insurance standards. Title insurers do not typically require 40 year searches, but only deed forward.

### **Building a Title Plant**

1. How long would it take to build title plants in all five counties? How was that estimated? It took approximately 6 months to update and convert my existing plant which only required

conversion of 15 years of digital data and inputting two years of missing data. In observing other abstractors from around the state, I have seen that it took two years to build plants. The limiting factoring is the number of years of digital data the county has already has. Most of the counties in SW Iowa have less than 20 years of digital data and records. Such little electronic data increases the cost and time required to build the plant. To be frank, building 5 title plants is not feasible.

- a. Provide evidence of cost associated with building a title plants related to staffing, office, hardware, personnel, obtaining records. Include estimates of time it would take to build the plants, and base those estimates on factual data. I estimate that Great Plains Title spent approximately \$25,000 to update and fix its title plant once a software provider was identified and contracted. Man hours were not tracked. However, I would estimate that for the 6 month period, Great Plains Title employees dedicated approximately 10 to 15 hours per week assisting in the conversion and update project. I did attach some of the quotes and invoices.
  - b. Provide details on how you arrived at the \$50,000, and if anyone else who built a title plant was consulted to arrive at that number. I consulted with Barry Sacket for this estimate. I also based this estimate on my own expense to update and repair my own plant as well.
2. If granted a waiver in Pottawattamie County, would you keep the Pottawattamie County title plant and office physically present and up-to-date? Yes. I invested a significant amount of money in my plant. It would be wasteful to not continue updating the plant.
- a. If not, would the searches be done through the title plant, plus a review through the public records for more recent recordings?
  - b. If not, does Pottawattamie (or the other five counties) have any unique or particularly easy computer systems to accurately search the public records?

# Todd Prichard

[todd@prichardlawoffice.com](mailto:todd@prichardlawoffice.com)

107 Ferguson St., Charles City, Iowa 50616  
641-228-4500 (W) 641-228-6070 (H)

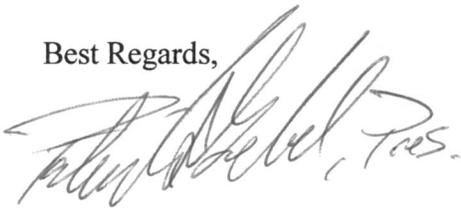
- EDUCATION**
- The University of Iowa College of Law** Iowa City, Iowa  
Juris Doctor May 2004  
Student Journal – Article selected for publication  
Legal Intern, Iowa Attorney General’s office
- The University of Iowa** Iowa City, Iowa  
Bachelor of Arts May 1997  
ROTC, Honors Program, Fairall Scholarship  
Dean’s List
- EXPERIENCE**
- United States Army Reserve** Worldwide  
Major, Infantry January 1996-Present
- Serve in positions of command and staff during active duty and reserve career. Veteran of four overseas tours.
- Prichard Law Office, PC** Charles City, Iowa  
Owner / Attorney February 2013-Present
- Owner of a two attorney firm. Areas of concentration include real estate, tax, bankruptcy, criminal law prosecution, civil litigation, estate planning. Licensed to practice in Iowa and Minnesota.
- Learned, Prichard & Associates PC** Charles City, Iowa  
Managing Attorney January 2009- February 2013
- Elwood Law Office** Charles City, Iowa  
Associate general practice attorney. August 2004-January 2009
- INTERESTS** Hunting, working on family farm, various nonprofit associations.
- FAMILY** Married, with three children.

10-17-2014

To Whom It May Concern:

Mr. Todd Prichard, an existing bank customer, has asked for me to write the following letter in regards to the construction of additional title plants. Mr. Prichard has spoken with me regarding the lending likelihood of borrowing capital to build additional title plants to service his market in Southwest Iowa. Mr. Prichard has informed me that he estimates the cost of a title plant build to be approximately \$50,000.00 per plant. Based on the information I have, I would not extend credit or make a loan to build a plant given the current financial situation of Council Bluffs Title & Escrow for the following reasons. First, there is not adequate income or cash flow in the company to make loan payments. It is my understanding from Mr. Prichard that the company is currently operating at a loss. Second, the company does not have adequate collateral on which to secure any loan or extension of credit. Mr. Prichard informed me that the company owns no hard assets other than office equipment and title records. The equipment and assets do not constitute adequate collateral for lending purposes.

Best Regards,



Patrick J Gebel, President

## WORK SHARE AND ABSTRACTING MENTORSHIP AGREEMENT

COMES NOW Learned, Prichard & Associates, P.C. (hereinafter "Learned") and Charles Hendricks Law Office (hereinafter "Hendricks") and hereby agree and covenant for all matters relating to work share agreements for real estate transactions and the parties' mentorship relationship for purposes of abstracting.

WHEREAS, Learned is a law firm of general practice with a strong emphasis in title search and closing services.

WHEREAS, Hendricks is a law firm specializing primarily in real estate services, particularly closing, title search and abstracting.

WHEREAS, Hendricks, by and through attorney Charles Hendricks, maintains a statewide waiver for abstracting throughout the State of Iowa.

WHEREAS, Learned and its attorneys, Chad Learned and Todd Prichard, desire to obtain a statewide waiver for abstracting purposes throughout the State of Iowa and desire to train and mentor in the field of abstracting under Charles Hendricks.

WHEREAS, Hendricks has agreed to provide training and mentorship in the field of abstracting to attorneys, Todd Prichard and Chad Learned.

WHEREAS, Learned has significant service needs for abstracting in the State of Iowa .

WHEREAS, Hendricks has agreed to provide abstracting services to Learned on an as needed basis.

THEREFORE, it is hereby agreed between the parties as follows:

1. Hendricks agrees to train and mentor attorneys, Chad Learned and Todd Prichard in the field of abstracting up to and for a period of no more than two years to assure that

attorneys, Chad Learned and Todd Prichard are successful in applying and obtaining for a statewide abstracting waiver/license.

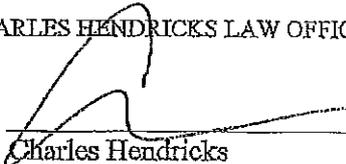
2. Hendricks agrees to use his best efforts and resources to provide attorneys Chad Learned and Todd Prichard with the necessary training and mentorship required to obtain their statewide license.
3. It is contemplated between the parties that this mentorship agreement will consist of instruction and training with Charles Hendricks and the staff of his law firm and abstracting firms to learn the abstracting trade.
4. Hendricks will make reasonably available all literature, abstracting materials and other additional resources as necessary to provide effective training and mentorship of attorneys Chad Learned and Todd Prichard.
5. Hendricks shall also make available his contacts for searches and abstracting services to Chad Learned and Todd Prichard.

8. This written agreement represents the full agreement between the parties and  
supersedes any other agreements whether written or oral between the parties.

Dated this 24 day of January, 2011.

CHARLES HENDRICKS LAW OFFICE

By: \_\_\_\_\_

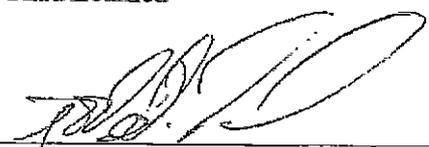
  
Charles Hendricks

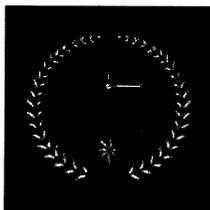
LEARNED, PRICHARD & ASSOCIATES, P.C.

By: \_\_\_\_\_

  
Chad Learned

By: \_\_\_\_\_

  
Todd Prichard



Office of the  
Floyd County Attorney

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101 South Main Street, Charles City, Iowa 50616  
Voice (641) 228-7571 Fax (641) 228-7013

**Normand Klemesrud**  
County Attorney  
[nklemesrud@floydcoia.org](mailto:nklemesrud@floydcoia.org)

**Todd Prichard**  
Assistant County Attorney  
[tprichard@floydcoia.org](mailto:tprichard@floydcoia.org)

**William Baresel**  
Assistant County Attorney  
[wbasesel@floydcoia.org](mailto:wbaresel@floydcoia.org)

April 5, 2013

To Whom It Concerns:

I am the Floyd County Attorney and a licensed attorney in the State of Iowa(AT004274).

Attorney Todd Prichard works for me in the Floyd County Attorney's office on a part time basis assisting in the prosecution of criminal matters in Floyd County. I have also worked with Mr. Prichard prior to him joining the County Attorney's on both criminal and civil law matters. From my interaction with Mr. Prichard, I find him to be a diligent and competent attorney. He has demonstrated his ability to handle complex legal matters with fair and equitable outcomes. Further, Mr. Prichard's professional ethics are above reproach.

I recommend your support for Mr. Prichard's application for a state wide abstractor waiver. Given his experience in real estate matters he is up to the task of producing accurate and quality abstracts and reports of title. Further, I believe that a waiver is necessary for Mr. Prichard in order to compete in the western Iowa real estate market where title insurance has infiltrated the Iowa market.

Sincerely,

Normand Klemesrud  
Floyd County Attorney

**LAW OFFICE OF CHARLES W. HENDRICKS, P.C.**1454 30<sup>th</sup> Street, Suite 202

West Des Moines, IA 50266

Tele (515) 440-1782

Fax (515) 440-0280

Email: [chuck@chendricksllaw.com](mailto:chuck@chendricksllaw.com)

October 30, 2014

Iowa Title Guaranty Board  
2015 Grand Ave.  
Des Moines, Iowa 50312

Dear Board Members,

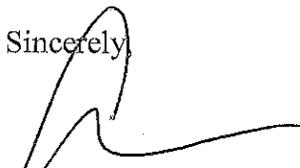
Please accept this letter of recommendation in full support of the abstracting waiver request by attorney, Todd Prichard. During January of 2011, I entered into a mentoring arrangement with Todd. The mentoring arrangement was, in part, to help educate and train both him and his staff on conducting abstracting searches which included general title searches, title reports and abstracts.

As his mentoring attorney/abstractor, I worked closely with Todd on all aspects of abstracting. Todd's experience consisted of travelling to numerous courthouses and personally examining various records and indices, under my supervision and the supervision of my knowledgeable staff members. During this period, I found Todd's knowledge of real estate law exemplary, and his work product of similar caliber. Both Todd and his staff understood what must be done to produce quality abstracts and title products.

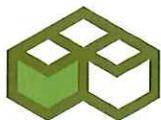
In addition to the quality work product and considerable legal knowledge, Todd has also been instrumental in attempting to turn back the advance of title insurance by purchasing a title plant in the Pottawattamie County. Todd's efforts demonstrate complete support for the Title Guaranty system. I hope his efforts can be replicated in other border counties so the Iowa Title Guaranty system will remain strong.

Todd has proven himself to be a capable real estate attorney over his eleven years of legal practice. He has also demonstrated an open willingness to attempt to expand Title Guaranty in counties once thought lost to title insurance. As such, I fully recommend Todd Prichard for a full abstracting waiver so he may continue his abstracting efforts as well as his attempt to expand Title Guaranty. I believe he will be a valuable asset for the Title Guaranty program as an attorney-abstractor.

Sincerely,



Charles W. Hendricks



## TITLE GUARANTY

**To:** Iowa Title Guaranty  
**From:** Geri Huser, ITG Director  
**Date:** December 2, 2014  
**Re:** Todd Prichard- Director's Recommendation

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### Background

Iowa Code §16.91(5)(b) allows Iowa licensed attorneys to apply for a permanent waiver of the 40-year title plant and tract index requirement (hereinafter waiver). Iowa Code §16.91(5)(b); 265 IAC 9.7(1); 265 IAC 9.7(6)9(d); and 265 IAC 9.7(8) permit the Iowa Title Guaranty Board (hereinafter Board) to grant a waiver providing the following Iowa Code §16.91(5)(b) and 265 IAC 9.7(7)"a"&"b" requirements are met:

- a) The title plant requirement described in Iowa Code §16.91(5)(a)(2) imposes a hardship to the abstractor or attorney, and
- b) The waiver is 1) clearly in the public interest, or 2) absolutely necessary to ensure availability of title guaranties throughout the state.

Prior to the enactment on 1/7/2009 of a revised IAC section addressing waivers, the Board had few specific standards by which to judge the merits of a waiver application. Since then, in addition to requirements "a" and "b" set out above, the Board also considers the applicant's: 1) abstracting experience; 2) professional references; 3) samples of abstracting as well as 4) the availability of currently participating abstractors physically located within the requested county(ies).

The application from Todd Prichard was submitted to Iowa Title Guaranty (ITG) on October 17, 2014 and noticed as required by the Iowa Administrative Rules §9.7(5)a on October 31, 2014. Iowa Administrative Rule §9.7(5) sets out the requirement that any completed application is required to be submitted for public notice 14 days after submission and placed on the agenda for the next scheduled ITG Board meeting.

### Recommendation

Based on careful consideration of the application, sample abstracts, references and support and objection letters, I believe that Mr. Prichard's application meets the hardship and public interest requirements. In the future ITG believes that a minimum abstracting proficiency standard for statewide abstractors should be considered for any applicants. In this manner an ITG statewide attorney abstractor will have demonstrated the ability to create root of title and the continuation of abstracts.



## TITLE GUARANTY

### Requirements

My recommendation is to approve Todd Prichard for a Permanent Title Plant Waiver for Pottawattamie, Harrison, Cass, Mills, Shelby, and Page Counties subject to the following limitations, restrictions or requirements:

- 1) Submit at least four root of title abstracts prepared and executed by Mr. Prichard to ITG staff within the next 6 months from four different counties to be reviewed as determined by ITG based upon the abstracting minimum standard requirements and ILTA and ISBA title standards.
- 2) Attend at least two ITG conferences or real estate CLE's per year for 5 years. Maintain active membership with the Iowa Real Estate Section List Serve during your participation with ITG.
- 3) Attend a one hour meeting with the ITG underwriting attorney assigned to your application and review all requirements of the contract for statewide abstracting. This meeting will be scheduled at your office.
- 4) Agree to audits of your abstracting product and compliance with all ITG regulations.
- 5) Execute an ITG participation agreement/contract prior to issuance or use of your ITG participation number.
- 6) Provide proof of abstracting insurance coverage including but not limited to the entire policy and any exception or exclusions prior to use of your ITG participation number. Use of the number is limited to those new counties.
- 7) Within three (3) years applicant or at least one staff person will have earned or be in the process of earning the Certified Land Title Professional (CLTP) designation.

\_\_\_\_\_  
Geri Huser, Iowa Title Guaranty Director

**Jeanblanc, Marie [IFA]**

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**From:** Iowa Finance Authority <postmaster@globalreach.com>  
**Sent:** Wednesday, September 03, 2014 4:01 PM  
**To:** Jeanblanc, Marie [IFA]; Jared, Ashley [IFA]  
**Subject:** [Form Submission] Uniform Petition for Permanent Waiver (Attorney)

A form entry was submitted on Sep 03, 2014 at 4:01 PM US Central.

Below are the submission details:

## SUBMISSION INFORMATION

### Applicant Information

Date of Request: 09/03/2014  
Name of Applicant Requesting Waiver: Paul A. Miller  
Law Office Name: Miller Law Office  
Applicant Mailing Address: 119 N Court  
Applicant Physical Address (if different from Mailing Address):  
City: Fairfield  
State: IA  
Zip Code: 52556  
Email Address: paulmiller@millerlawia.com  
Office Phone Number: 6414725049  
Cell Phone Number: 6419197784  
Fax Number: 6414729612

### Narrative Responses

General description of the business: I am in practice with my father in Fairfield Jefferson County Iowa as a general practice attorney. My fathers's practice is primarily real estate and probate. Approximately 25% of my income is derived from real estate. As my father is now 67 and nearing retirement, I expect to see more real estate and probate work in the near future. My father has been in practice for almost 40 years and is licensed to abstract with the Iowa Finance Authority. I have been helping my father research court records and prepare abstracts for more than 6 years.

License number to practice law in Iowa: 0005415

County or counties where you intend to abstract:	Jefferson, Keokuk, Van Buren
Do you intend to develop a 40-year tract index?:	No
Do you understand that you, as attorney, are personally liable for abstracting conducted on behalf of TGD?:	Yes
If yes, do you understand that this liability cannot be transferred to a corporate entity, nor can you, as attorney, use a corporate structure that would shield you from personal liability?:	Yes
How does the requirement to own or lease a title plant impose a hardship on you?:	Building a 40 year tract index would be very costly and there is also the potential risk that the State of Iowa through the legislature and governor, could ultimately allow Title Insurance Companies the ability to provide insurance and without the need for abstracting. Our office is less than 1/2 block from the Jefferson County Courthouse and 30 minutes from Van Buren and Keokuk County Courthouses. Abstracting in the area is very competitive in terms of price.
How is the waiver of the requirement clearly in the public interest?:	In Jefferson County, there are three active abstractors. They include two attorneys, Tim Kuiken and David Miller. Jefferson County has had a long tradition of attorney abstractors and titles to real estate have been kept in very good shape with very few title problems. If either attorney retires, there is less competition and this would not be in the public interest. From our experience, Miller Law Office has been able to provide final loan opinions to banks within 2 weeks of closing or sooner. In the neighboring counties of Van Buren and Keokuk there is only 1 abstractor in each county. When refinancing was at an all time high, there were periods where we would wait months for a final abstract continuation. This is not in the interest of the public or the lending industry who is subject to audits and burdensome financial regulation. The ability for our office to continue abstracting after my father's retirement is necessary to ensure availability of title guaranties in Southeast Iowa. By allowing myself to receive a permanent waiver, the Iowa Finance Authority can help to ensure continued competition in the market place and access by the public to abstractors. This in turn will allow for more expeditious title guaranties and consumer satisfaction without the need for out-of-state title insurance companies.
How is the waiver absolutely necessary to ensure availability of title guaranties to buyers and lenders through the state, competitively priced, with good service and quality titles?:	With few abstractors in this rural setting and even fewer due to potential retirement in the future, the rural community is left with fewer options, less competition and thus higher prices, and potentially less consumer oriented service, a permanent waiver is absolutely necessary to allow the market place to dictate competitive pricing and good service to the general public and the financial institutions.
Do you have experience abstracting under the	Yes

supervision and control of an exempt attorney-abstractor?:

If yes, describe your abstracting experience including personal supervision & control of an exempt attorney-abstractor with whom you had a close working relationship, legal partner or associate.:

I have been abstracting under the supervision of David P. Miller for the past 6 years. He reviews the abstracts for errors and omissions prior to signing.

If no, describe your abstracting experience and specify why you were unable to abstract under the supervision & control of an exempt attorney-abstractor.:

For the county(s) that you intend to abstract, provide the number, availability, service & quality of other abstractors & whether the grant of a permanent waiver will adversely impact their business.:

Keokuk County - 1 local abstractor, they price there abstracts at 2-3 times that of Jefferson County. As we only plan to abstract for our real estate clientele, the effect should be negligible. In the end, consumers will benefit in terms of price. Van Buren County - our office currently abstracts in Van Buren County for our clientele on occasions. We refer much of our existing clientele to Van Buren County Abstracting due to our working relationship with the owner. Jefferson County - we have and continue to abstract here in Jefferson County. Effect upon Jefferson County Abstract and Tim B. Kuiken will be negligible. The good quality of abstracting in Jefferson County should continue.

## **Documents (Under Supervision)**

Professional letter or letters of reference. (Exhibit A):

A written recommendation from the exempt attorney-abstractor or grandfathered attorney who personally supervised the Applicant's abstracting for a period of two years or more. (Exhibit B):

Samples of abstracts prepared by the Applicant. (Exhibit C):

## **Documents (Not Under Supervision)**

Professional references. (Exhibit A):

Samples of abstracts prepared by the Applicant. (Exhibit B):

The Applicant's business plan. (Exhibit C):

Evidence of clients, and the

volume of additional transactions that will be brought into the title guaranty/attorney system as a result of the waiver. (Exhibit D):

## Signature

Signature: Paul A. Miller

Date: 09/03/2014

You can login to [SiteViz Administrative Site](#) to view the record.

**IP Address:** 76.76.237.92

**URL:** http://forms.ifahome.com/index.cfm?nodeID=64434&audienceID=1

**User Agent:** Mozilla/5.0 (Windows NT 6.1; WOW64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/36.0.1985.143 Safari/537.36

## ADDENDUM

## 1. Job history

After passing the Bar in October, 2005, I went to work with my Father at Miller Law Offices in Fairfield, IA 52556. Up until 2005, Miller Law Office was a sole proprietorship. I have held no other jobs as an attorney. As a real estate attorney, I have handled a multitude of issues. I have represented banks in foreclosure actions, as well as mortgagors. I have handled boundary line disputes, quiet title actions, landlord/tenant issues, evictions, and countless real estate transactions and closings.

## 2. Client Base

- a. I have provided title opinions for numerous banks and individuals in the surrounding area. While my father maintains his existing client base of over 40 years, I continue to add new clients on a monthly basis. The bulk of our title work is for banks and individuals in the Jefferson, Van Buren, Keokuk, Wapello & Henry Counties. Prior to the real estate collapse, we handled a fair amount of title work for out of state lending companies. With tighter lending standards, we have seen more title work through local banks without the need for Title Insurance. The banks rely upon our title examination and abstracting without the need for Title Insurance. We have encouraged the use of local banks and in house loans to our clients. This keeps the money local, abstracting local and many times, it saves the client significant money. The use of ITG for title insurance is not the issue, it is the ability for our office to be able to continue to abstract after my father's retirement with the approval of Iowa Title Guaranty. Less than 5% of title work prepared by our office requires title insurance. Our use of title insurance is only required when the local bank(s) work through the secondary market.
- b. By allowing myself to abstract through ITG, I will be able to supplement my income, provide timely title work to local banks and not be reliant upon the few abstract companies that remain, should they be bought out or close their doors. This also saves our clients money. When it comes to abstracting, we see our client's fees paid for abstracting in Van Buren County, Keokuk County and Washington County exceed attorney fees and equal or exceed bank fees and appraisal fees. This should not be the case, and the need thus arises for the general public to benefit from our abstracting capabilities and save them money. In addition, Libertyville Savings Bank and Pilot Grove Savings Bank have complimented us on our ability to promptly complete final abstracting on loans. There have been occasions where they have retrieved an abstract from an abstract company and forwarded to us for abstracting due to the amount of time that has passed by. Allowing us to abstract will allow such banks to timely close a file and not have to provide an explanation during audits. I would also comment that much of the abstracting in Keokuk County is by companies owned by attorney's in Washington and Fairfield Iowa. With only one abstract company in Jefferson County and Keokuk County, they could ultimately end up in the hands of an attorney as well. Should this happen, I would be relying upon my fellow attorney competitors to provide for my clients abstracting needs. I would thus be at a significant disadvantage in the field of real estate. They would most certainly tout their full service abilities to gain client share at my expense. Business is gained for

me through word of mouth, prompt service and someday, taking over my father's clientele.

3. Title Plant

I cannot state in certain terms the cost of preparing one title plant, let alone three. From my experience, it could be very costly. We purchased a server for our office three years ago. We spent close to \$10,000.00 for configuration, hardware and set-up. Not to mention the costs of regular maintenance and support. We have scanned all of my client files to server. This has been a time consuming process and has required countless hours by our assistants. To scan all records at the Recorder's office would require an additional server, additional scanner(s), additional support staff and training to file all documents correctly. This would be a financial hardship for a rural law office with two attorneys. As rural attorneys, we cannot charge the same rates that other attorneys charge in larger cities. It is a price our clientele would not be able to afford. Thus, we do not have near the disposable income or cash on hand as our fellow attorneys in big cities for such a major undertaking. In addition, I am still paying on my student loans after graduating more than 13 years ago. After 13 years of payments, my student loans are ½ paid, while making a monthly payment of \$830.00. As small business owners, my wife and I pay our own medical insurance premiums. There is simply not enough discretionary income to cover the costs of a title plant.

4. Mentorship

- a. Half of our abstracting needs are done in house, versus the use of other abstractors. Of the abstracting, I have personally done direct searches in Jefferson County on a bi-weekly basis for those abstracts affecting my individual clients. Searches in the Recorder's office include plat and survey records, grantor/grantee indexes, federal and state tax lien records, death records and those records housed online since 1996. Searches of the Clerk of Courts Records include all matters including but not limited to Estates, Criminal and Civil Judgments and the Lis Pendens. I am also familiar and regularly use the Auditors records to confirm titleholder and boundary/location issues. I have on a few occasions performed personal searches of the records in Van Buren and Keokuk County. On a weekly basis, I use online records including but not limited to those records found at the Clerk of Court's office (Iowa Courts Online), Assessor's Office, Treasurers Office (Iowa State Treasurer's Association), Iowa Land Records and the Secretary of State's office (UCC filings and mechanic's liens).
- b. Any issues I may have regarding proper referencing in an abstract, I have always sought guidance from David Miller. When an abstract is ready for his signature, he reviews the abstract in conjunction with a checklist of items searched by me and a hard copy of the instrument retrieved at the Courthouse, as well as the items retrieved online. If there are any issues, the abstract continuation or root are revised prior to his approval and signature.

Respectfully,



Paul A. Miller  
Miller Law Offices

Phone: 319-469-3951 • 888-283-2265  
1341 Pilot Grove Rd. • Box 5  
Pilot Grove, Iowa • 52648-0005

 Equal Housing Lender

October 22, 2014

Iowa Title Guaranty  
Iowa Finance Authority  
2015 Grand Ave.  
Des Moines, Iowa 50312

RE: Paul Miller, Attorney at Law

To Whom It May Concern:

We have known and done business with Paul Miller for over eight years. During this time, our business relationship has been excellent. Paul has done a substantial amount of abstracting and legal work for our bank during this time period and we have been very impressed with the timeliness and accuracy of his work. We have found Paul to be a good upright individual who we can rely on.

Paul is always willing to offer his assistance and has an excellent rapport with our bank and the mutual clients we serve. Having Paul Miller available to provide abstracting and legal work is a huge asset to our bank and the communities we continue to serve. We feel Paul is a benefit to those communities by providing high quality abstract work at a very reasonable price. Without reservation, I very highly recommend Paul Miller. Please feel free to contact me if you need any further information.

Sincerely,



Matthew R. Morrison  
Vice President



We're all the bank you'll ever need!



Fairfield



Keosauqua 26



Eldon



Libertyville

October 21, 2014

Iowa Title Guaranty  
Attn: Loyd Ogle

RE: Paul A. Miller  
Miller Law Offices  
Fairfield, IA 52556

Dear Loyd or Whom It May Concern,

I am writing to provide a professional recommendation that Paul A. Miller be allowed to obtain whatever powers necessary to perform abstracting in the state of Iowa. Paul provides a variety of legal services for the Libertyville Savings Bank and our customers and I believe he is qualified to provide abstracting also.

Thank you.

Sincerely,

Amber Stump McDowell  
Vice President  
Libertyville Savings Bank  
PO Box 744  
Fairfield, IA 52556

PO Box 130	•	Libertyville, Iowa	52567-0130	•	641-693-3141	•	Fax 641-693-3301
PO Box 744	•	Fairfield, Iowa	52556-0744	•	641-472-9839	•	Fax 641-472-9852
PO Box 204	•	Eldon, Iowa	52554-0204	•	641-652-7838	•	Fax 641-652-3284
PO Box 190	•	Keosauqua, Iowa	52565-0190	•	319-293-3151	•	Fax 319-293-3510

Member FDIC

October 21, 2014

Iowa Title Guaranty  
ATTN: Lloyd Ogle

RE: Paul Miller  
Miller Law Offices  
119 N. Court Street  
Fairfield, Iowa 52556

Dear Lloyd,

My name is Steven Beltramea. During the past 12 years, I have worked as a Real Estate Loan Officer in Fairfield, Iowa.

Since Paul Miller passed the Bar, and began practicing as an Attorney here in Fairfield, he has assisted many of my bank customers with their Real Estate Purchases and Refinances. Paul has utilized his education and professional experience to perform preliminary abstracting, written preliminary and final title opinions, and performed final abstracting.

It is my pleasure to write this recommendation on Paul's behalf. I find his work to be detailed and accurate and look forward to recommending my loan customer's for his assistance in the future.

Please feel free to call me at (641) 472-9839 should you have any questions, concerning this matter.

Sincerely,



Steve Beltramea  
Real Estate Loan Officer, NMLS ID 442160  
Libertyville Savings Bank  
2000 W. Jefferson Avenue  
Fairfield, Iowa 52556

PO Box 130	•	Libertyville, Iowa	52567-0130	•	641-693-3141	•	Fax 641-693-3301
PO Box 744	•	Fairfield, Iowa	52556-0744	•	641-472-9839	•	Fax 641-472-9852
PO Box 204	•	Eldon, Iowa	52554-0204	•	641-652-7838	•	Fax 641-652-3284
PO Box 190	•	Keosauqua, Iowa	52565-0190	•	319-293-3151	•	Fax 319-293-3510
PO Box 68	•	Keota, Iowa	52248-0068	•	641-636-2193	•	Fax 641-636-3470

**MILLER LAW OFFICE**

DAVID P. MILLER

PAUL MILLER

119 North Court  
Fairfield, Iowa 52556-2812  
Ph. (641) 472-5049 Fax (641) 472-9612

October 17, 2014

**Iowa Finance Authority**  
2015 Grand Ave.  
Des Moines, Iowa 50312

Re: Paul Miller Attorney at Law

Dear Sir/Madam:

I have been doing abstracting for 38 years in Jefferson County Iowa. Jefferson County has utilized attorney abstractors for most of our history. My practice is primarily real estate.

Paul Miller has been working with me for 9 years. During this time he has had extensive experience in real estate and has had time to learn the art and legal talent of doing title research and abstract of titles. I have provided the personal supervision and advice to Paul concerning abstracts of title. This service has been a very important service to the lending institutions in this county and has expedited the process of loans and mortgages due to the fact that there is only one abstract company in Jefferson County.

I am planning on retirement and turning the law practice and abstracting over to Paul Miller.

I respectfully request that Paul Miller be approved to do abstracting by the Iowa Finance Authority and continue the service that Miller Law Office has provided for 38 years to our clients.

Respectfully,  
MILLER LAW OFFICEDavid P. Miller  
DPM/jas



## TITLE GUARANTY

**To:** Iowa Title Guaranty Board  
**From:** Geri Huser, ITG Director  
**Date:** December 2, 2014  
**Re:** Paul Miller- Director's Recommendation

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### Background

Iowa Code §16.91(5)(b) allows Iowa licensed attorneys to apply for a permanent waiver of the 40-year title plant and tract index requirement (hereinafter waiver). Iowa Code §16.91(5)(b); 265 IAC 9.7(1); 265 IAC 9.7(6)(d); and 265 IAC 9.7(8) permit the Iowa Title Guaranty Board (hereinafter Board) to grant a waiver providing the following Iowa Code §16.91(5)(b) and 265 IAC 9.7(7)"a"&"b" requirements are met:

- a) The title plant requirement described in Iowa Code §16.91(5)(a)(2) imposes a hardship to the abstractor or attorney, and
- b) The waiver is 1) clearly in the public interest, or 2) absolutely necessary to ensure availability of title guaranties throughout the state.

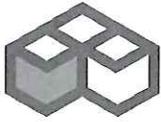
Prior to the enactment on 1/7/2009 of a revised IAC section addressing waivers, the Board had few specific standards by which to judge the merits of a waiver application. Since then, in addition to requirements "a" and "b" set out above, the Board also considers the applicants: 1) abstracting experience; 2) professional references; 3) samples of abstracting as well as 4) the availability of currently participating abstractors physically located within the requested county(ies).

The completed application from Paul Miller was submitted to Iowa Title Guaranty (ITG) on October 17, 2014 and noticed as required by the Iowa Administrative Rules §9.5(5)a on October 31, 2014. Iowa Administrative Rule §9.7(5) sets out the requirement that any completed application is required to be submitted for public notice 14 days after submission and placed on the agenda for the next scheduled ITG Board meeting.

### Recommendation

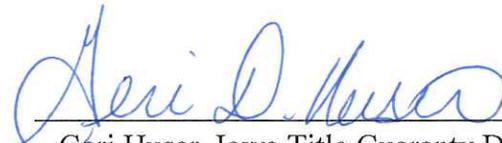
Having reviewed the staff legal analysis, application, references and sample abstracts provided, I am recommending approval of the application submitted by Paul Miller for a Permanent Title Plant waiver to abstract in Jefferson, Van Buren, Keokuk, Wapello and Henry Counties subject to the following limitations, restrictions or requirements:

- 1) Submit at least four root of title abstracts prepared and executed by Mr. Paul Miller to ITG staff within the next 6 months from four different counties to be reviewed by ITG based upon the abstracting minimum standard requirements and ILTA and ISBA title standards.



## TITLE GUARANTY

- 2) Maintain active membership with the Iowa Real Estate Section List Serve during your participation with ITG.
- 3) Attend a one hour meeting with the ITG underwriting attorney assigned to your participation number and review all requirements of the contract for statewide abstracting. This meeting will be scheduled at your office.
- 4) Agree to audits of your abstracting product and compliance with all ITG regulations.
- 5) Agree to attend at least two ITG conferences or real estate CLE's per year for 5 years.
- 6) Execute an ITG participation agreement/contract prior to issuance or use of your ITG participation number.
- 7) Provide proof of your abstracting insurance coverage including but not limited to the entire policy and any exception or exclusions prior to use of your ITG participation number. Use of the number is limited to those new counties.
- 8) Within three (3) years applicant or at least one staff person will have earned or be in the process of earning the Certified Land Title Professional (CLTP) designation.

  
\_\_\_\_\_  
Geri Huser, Iowa Title Guaranty Director