

Unclaimed Property Issues

2009 STA Annual Conference

Challenges of the New Economy

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The **STA** Securities
Transfer Association, Inc.

Moderator and Panelists

Moderator

Paul Griffith, Senior Manager – U.S. Operations, Computershare

Panelists

Jennifer C. Borden, Partner, Holland & Knight LLP

Robert G. Irvine, President, UPRR, LLC

Debbie Zumoff, Executive Vice President & Chief Compliance Officer, The Keane Organization

Background

Unclaimed property statutes - reuniting lost owners or generating revenue for the states?

In 2006 the states reported holding \$34.9 Billion in cash, not including securities, yet returned just \$1.7 Billion to owners.

Source: NAUPA

*Treasurer v. John Hancock
Mutual Life Insurance Co.*

(1983)

*American Express Travel Related
Services Co., Inc. v. Hollenbach*

(2009)

Background

States' fiscal situations appear to be driving statutory changes:

- Shortening of dormancy periods
- Due diligence requirements changing
- Discouraging searches for owners
- Liquidation of securities
- Cessation of interest
- Refusal to pay accrued dividends on claims

Working with the States

- State Audits
 - State conducted
 - Third-party conducted
- Privacy issues
- Data security issues
- Interest and penalty assessments
- Lack of appeal process
- Sovereign immunity

Legal Update – Securities Cases

- Recent cases shaping the Unclaimed Property Industry
 - Protecting the issuer escheating in good faith?
 - Protecting the owner’s investment? or
 - Shielding the states, and
 - Passing liability from states to issuers

Azure Limited v. I-Flow Corporation

Vondjidis v. Hewlett Packard Corp.

Combs v. B.A.R.D. Industries, Inc.

A.W. Financial Services S.A. v. Empire Resources Inc.

Legal Update – Non Securities Cases

Cwik v. Topinka

Biogen IdecMA Inc. v. Cahill

Young America v. Iowa

Sogg v. Zurz

CA, Inc. v. Pfeiffer et al.

McKesson Corporation v. Cook et al.