

# VIRGINIA BANKERS ASSOCIATION

EDUCATION & TRAINING



## 2016 Trust & Wealth Management Peer Exchange

March 31, 2016 | VBA Training Center

*Sponsored by the VBA Trust & Wealth Management Committee*

### Welcome to the VBA Training Center!

#### Wi-Fi in the VBA Training Center

There is Wi-Fi available in the VBA's Training Center.

#### Onsite VBA Contact


Walt Lyons  
Manager, Education & Training  
Virginia Bankers Association  
[wlyons@vabankers.org](mailto:wlyons@vabankers.org) | (804) 819-4746

*\*Should you need anything, please feel free to contact Walt.*

For more information about VBA Education & Training events visit:  
[www.vabankers.org/event-calendar](http://www.vabankers.org/event-calendar)



Contact Walt Lyons at [wlyons@vabankers.org](mailto:wlyons@vabankers.org) for more information on ABA Online Training Courses or to enroll.



## **ABA Online Training for Trust & Wealth Management Professionals**

**See a list of available  
courses below!**



**A Guide To Ethics for Trust Professionals Curriculum**

**A Guide to Ethics in Fiduciary and Trust Activities**

**A Guide to Ethics in Financial Planning**

**A Guide to Ethics in Investments**

**A Guide to Ethics in Tax Law and Tax Planning**

**Account Acceptance and Termination**

**Asset Allocation and Portfolio Management**

**Basic Characteristics of a Trust**

**Bond Selection and Analysis**

**Discretionary Distributions**

**Duties and Powers of the Trustee**

**Economics & Markets**

**Education Planning Solutions for Minors**

**Estate and Guardian Administration**

**Estate Planning for Charitable Giving**

**Estate Planning for IRAs and Qualified Plan Balances**

**Estate Planning for the Marital Deduction**

**Estate Planning Solutions for the Business Owner**

**Estate Planning to Achieve Client Goals**

**Fiduciary Income Tax**

**Fiduciary Law**

**Fundamentals of Alternative Investment Products**

**Fundamentals of Life Insurance**

**Generation-Skipping Transfer Tax**

**Gift Taxation**

**How Trusts are Taxed**

**Income Tax Planning**

**Introduction to Estate Planning**

**Introduction to Investment Management**

**Introduction to IRAs**

**Introduction to Planning for Retirement Assets**

**Introduction to Trust Administration**

**Investment Policy**

**Investment Products**

**Managing Life Insurance Policies**

**Minimizing Fiduciary Risk and Litigation**

**Planning for Estate Tax**

**Prudent Portfolio Management**

**Special Needs Trusts**

**Stock Selection and Analysis**

**Types of Insurance**

**Understanding Transfer Tax**

**Wealth Management and Trust Fundamentals**

**Contact Walt Lyons at [wlyons@vabankers.org](mailto:wlyons@vabankers.org) to learn more about  
ABA Online Training Courses or to enroll!**



## 2016 VBA Trust & Wealth Management Peer Exchange

March 31, 2016 | VBA Training Center, Glen Allen, Virginia

*Sponsored by the VBA's Trust & Wealth Management Committee*

### Presenter Bios



**Mike Smith** is a native of Virginia growing up just north of Roanoke. He graduated from Virginia Tech in 1983 and began working in the financial services industry. He originally began his career with Met Life where he was promoted to Branch Manager in 1986. In 1993, he took over as franchise owner as General Agent of John Hancock in Roanoke where he met and worked with Matt and Steve. His firm expanded into Richmond, Raleigh, NC and eventually into Atlanta in 2003.

Mike went totally independent in late 2010 and now is President of The Financial Partners Group along with subsidiaries TFP Brokerage and TFP Consulting. Mike is also a Charter Member of PolicyCheck and has been instrumental to PolicyCheck's growth throughout the US.

Mike and his team specialize in working with banks and trust companies in helping them manage the life insurance assets they oversee in trusts. He is a published author, regular blogger on the life insurance industry and is considered an influencer on social media. He has been helpful to banks nationally in analyzing life insurance policies while guiding them through the process of giving proper advice to their clients. He has also backs these trust departments up with appropriate documentation on every policy they manage.

Mike currently resides in Atlanta and is the proud father of 2 children.



**Matt Brotherton**, President of 1752 Financial, started in the Financial Services industry after graduating from Roanoke College in 2000. Since then Matt has grown his operation to help clients build their financial homes.

Matt is a Charter Member of PolicyCheck and has been counseling high net worth clients in their risk management for over 15 years. He is an active member of the Society of Financial Service Professionals, Greater Richmond Chamber of Commerce, St. Bridget's Church and the Roanoke College Alumni Association.

Matt and his wife Kathryn currently live in Richmond with their three children Adi, Jack and Liam.

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## How to Appropriately Monitor Life Insurance

and  
Protect Yourself as a Fiduciary

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PolicyCheck

## Who We Are And What We Do

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## Current Trust Owned Life Insurance Landscape

- ▶ Approximately 66% of ILIT policies are either "at risk" or non-competitive.
- ▶ Most life insurance policies are complicated and difficult to understand.
- ▶ Carrier communication is difficult and almost undecipherable for even the well trained.
- ▶ Most ILIT fiduciaries have not been trained on how to manage life insurance.
- ▶ Most agents do not service in force policies as they are not paid to.
- ▶ Carriers are under tremendous profit pressures and have begun increasing internal policy costs.
- ▶ Carriers can be difficult to get information on in force policies.



Look Familiar?

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#### OCC Guidelines-Unique and Hard to Value Assets Comptrollers Handbook, August 2012 Update

Bank fiduciaries are responsible for protecting and managing the life insurance policy for the benefit of the beneficiaries for the life of the grantor. A bank fiduciary must understand each life insurance policy that the trust accepts or purchases, or the bank fiduciary must employ an advisor who is qualified, independent, objective, and not affiliated with an insurance company to prudently manage these assets, and

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#### OCC Guidelines-Unique and Hard to Value Assets Comptrollers Handbook, August 2012 Update

Many states have recently passed legislation to limit the liability of bank fiduciaries, in certain situations, by rescinding requirements under state law to perform due diligence on insurance companies as a directed bank fiduciary. The OCC, however, continues to require bank fiduciaries to follow 12 CFR 9.6(c) and 12 CFR 150.220 and to conduct annual investment reviews of all assets of each fiduciary account for which the bank has investment discretion. This review should evaluate the financial health of the issuing insurance company as well as whether the policy is performing as illustrated or whether replacement should be considered.

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#### Rafert vs Meyer Nebraska Supreme Court The First "Win" in Court for ILIT Beneficiaries

- ▶ Reversed and remanded lower court decision
- ▶ Trustee has a non-waivable duty to act in the best interest of the ILIT beneficiaries
- ▶ Trustee's authority is governed by common law, statutes and trust instrument
- ▶ No trust provision can limit trustees liability for reckless behavior
- ▶ Trustee has to communicate with ILIT beneficiaries
- ▶ Found untenable the argument that the instrument expressly limited trustees liability for claims relating to the non payment of premium

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### Overview of Various Life Insurance Policy Types

- ▶ Term
- ▶ Whole Life
- ▶ Universal Life
- ▶ Indexed Life
- ▶ Variable Life

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### Proper Process for Reviewing TOLI Policies

- ▶ Retain an independent 3<sup>rd</sup> party to conduct periodic reviews
- ▶ Review in force illustrations to determine if policy is at risk or non-competitive
- ▶ Competitive and not at risk policies-document review process
- ▶ At risk and non-competitive policies-need simplified health assessment
  - ▶ Existing policy-revise funding
  - ▶ Existing policy-revise face amount
  - ▶ If insurable-pursue policy alternatives at revised funding
  - ▶ If insurable-pursue policy alternatives at revised face amount
- ▶ Document, document, document

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### How to Order Appropriate In-Force Ledgers

- ▶ Term-request premium projection after level premium period and confirmation of conversion options
- ▶ Whole Life-request current funding and dividend crediting rate and 1% below
- ▶ Universal Life-request current funding and crediting rate and 1% below
- ▶ Indexed Life-request current funding, crediting rate based on legitimate rationale and 1% below
- ▶ Variable Life-request current funding, crediting rate based on legitimate rationale and 2% below.
- ▶ On all, include language that requests additional illustrations if policy is not projected to last until maturity on any request.

[www.tfpbrokerage.com/in-force-ledger-templates.html](http://www.tfpbrokerage.com/in-force-ledger-templates.html)

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### How to Read and Understand Carrier Communications Including In-Force Ledgers

- ▶ Annual Statements
- ▶ In Force Ledgers
- ▶ Suitability Reports

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### Process for Remediating Policies That are "At Risk"

- ▶ Collect simplified health assessment including signed independent HIPAA form
  - ▶ On existing policy, determine revised funding amount necessary to carry current policy face amount to maturity or target date
  - ▶ On existing policy, determine face amount reduction necessary to carry current policy to maturity or target date at current funding
  - ▶ If insurable, pursue open market suitability alternatives to determine if replacement insurance at current face amount would be in Client's best interest
  - ▶ If insurable, pursue open market suitability alternatives to determine if replacement insurance at a reduced face amount and current funding would be in Client's best interest
- ▶ If new insurance is pursued, make sure agent is following a legitimate multi-carrier negotiation process

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### Competitive Analysis

- ▶ Ask a trusted insurance broker to assume the same rate class on insured(s), 1035 exchange the cash value into a new policy and solve for maximum face amount to run policy until age 105. Ask for no-lapse guarantees or guaranteed premium type policies. If the result is a higher face amount then existing policy may not be competitive.

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### When to Consider Policy Replacement

- ▶ If competitive analysis results in higher face amount or lower premium.
- ▶ If policy can enjoy longer guarantees.
- ▶ Any variable insurance policy, replacement should be considered or at minimum, look at low risk or fixed interest allocations.

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### The Proper Process to Follow in the Event Replacement is a Suitable Alternative

- ▶ For at risk or non-competitive policies, conduct general health assessment on insured to determine mortality risk and remediation alternatives. Also obtain HIPAA form signature from insured(s). Provide these documents to a trusted resource to assess life expectancy and potential insurability
- ▶ If decision is to replace existing insurance, have advisor prepare necessary documents and handle all aspects of application, underwriting, issuing new policy and handle policy delivery. Request an independent 3rd party perform a replacement analysis confirming the replacement is in good order prior to policy replacement
- ▶ Make sure agent is pursuing a legitimate multi-carrier negotiation process
- ▶ Don't forget about life settlements

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PolicyCheck<sup>®</sup>

[www.policyCheck.com](http://www.policyCheck.com)

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### Case Studies

- ▶ 63 year old male with universal life policy properly funded
- ▶ 91 year old female in with Sun Life whole life policy
- ▶ Male age 43, variable life, option B projected to lapse at age 84
- ▶ Male 64, female 64, 2<sup>nd</sup> to die, policy projected to lapse at age 93
- ▶ Female age 68, NLGUL, overfunded premium to age 120

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### Q & A

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### PolicyCheck Representation in Virginia

Matt Brotherton 1752 Financial, Inc. 7100 Forest Avenue, #101 Richmond, Va. 23226 804.651.0521 <a href="mailto:mbrother@gmail.com">mbrother@gmail.com</a> <a href="http://www.1752financial.com">www.1752financial.com</a>	Steve Devlin Market Square Advisors, LLC 207 Albemarle Ave., SW Roanoke, Va. 24014 540.353.1579 <a href="mailto:Steve.Devlin@lpl.com">Steve.Devlin@lpl.com</a> <a href="http://www.marketsquareadvisors.com">www.marketsquareadvisors.com</a>
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March 31, 2016 | VBA Training Center, Glen Allen, VA




















March 31, 2016 | VBA Training Center, Glen Allen, VA



March 31, 2016 | VBA Training Center, Glen Allen, VA

# 2016 VBA Conferences & Events

For more information visit [vabankers.org/event-calendar](http://vabankers.org/event-calendar)

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|  <b>SECURITY RISK WORKSHOP</b><br><a href="#">Omni Charlottesville Hotel</a><br>March 1-2, 2016  |  <b>ADVANCED CREDIT ANALYSIS &amp; BUSINESS FINANCING</b><br><a href="#">VBA Training Center</a><br>May 10-11, 2016 |
|  <b>RETAIL BANKING &amp; MARKETING CONFERENCE</b><br><a href="#">Omni Charlottesville Hotel</a><br>March 9-10, 2016  |  <b>OPERATIONS &amp; TECHNOLOGY CONFERENCE</b><br><a href="#">Omni Charlottesville Hotel</a><br>May 17-18, 2016     |
|  <b>VBA/ABA GOVERNMENT RELATIONS SUMMIT</b><br><a href="#">Washington Marriott Marquis</a><br>March 14-16, 2016  |  <b>SUPERVISOR BOOT CAMP</b><br><a href="#">VBA Training Center</a><br>June 14-15, 2016                             |
|  <b>BANK DIRECTOR &amp; EXECUTIVE MANAGEMENT CONFERENCE</b><br><a href="#">The Inn at Virginia Tech</a><br>March 22, 2016<br><br><a href="#">Wyndam Virginia Crossings Hotel</a><br>March 23, 2016 |  <b>CFO CONFERENCE</b><br><a href="#">Omni Downtown Richmond</a><br>August 28-30, 2016                              |
|  <b>INCIDENT RESPONSE &amp; CRISIS COMMUNICATION SEMINAR</b><br><a href="#">Troutman Sanders</a><br>March 24, 2016   |  <b>CREDIT MANAGEMENT CONFERENCE</b><br><a href="#">Omni Charlottesville Hotel</a><br>October 3-4, 2016            |
|  <b>COMPLIANCE SCHOOL AND ADVANCED COMPLIANCE</b><br><a href="#">Omni Charlottesville Hotel</a><br>April 11-15, 2016   |  <b>LEADERSHIP CONFERENCE</b><br><a href="#">Richmond</a><br>October 6-7, 2016                                    |
|  <b>CONSUMER LENDING SCHOOL</b><br><a href="#">VBA Training Center</a><br>April 20-21, 2016  |  <b>COMMERCIAL LENDING SCHOOL</b><br><a href="#">VBA Training Center</a><br>October 11-12, 2016                   |
|  <b>HR, BENEFITS, &amp; TRAINING CONFERENCE</b><br><a href="#">Omni Charlottesville Hotel</a><br>May 1-3, 2016   |  <b>ENTERPRISE RISK MANAGEMENT WORKSHOP</b><br><a href="#">VBA Training Center</a><br>October 27, 2016            |
|  |  <b>WOMEN IN BANKING CONFERENCE</b><br><a href="#">Richmond</a><br>November 17, 2016                              |

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