FRAUD Insights

Fraud Insights is published by: FIDELITY NATIONAL FINANCIAL

LOCAL heroes

By Lisa A. Tyler
National Escrow Administrator

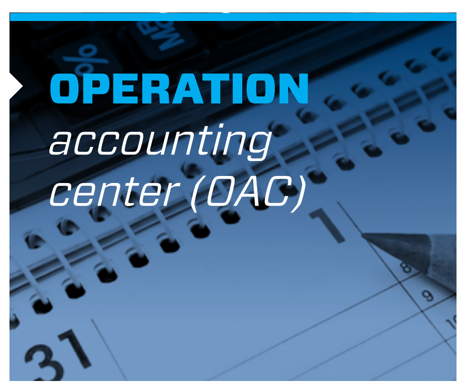
Personal representatives (PRs) to an estate of a deceased person usually act in the best interest of the estate's heirs. In the story of "LAST person standing," however, the property was owned by three persons - all as joint tenants and all deceased. The PR for the "last" of the three tenants refused to provide all the necessary documentation to prove the estate truly was for the last person standing.

It is not uncommon for lenders to include the requirement for certain unsecured debts to be paid on behalf of the borrower, as a condition of closing a loan transaction. The requirement is typically made in order to reduce the borrower's debt ratio. Since the lender includes this as a part of the instructions, settlement agents must ensure the payments are made. Find out what happened when the payments were **not** successfully delivered to the creditor at closing and instead delivered to the borrower by reading "PESKY credit card payoffs."

"OPERATION accounting center (OAC)" is a heroic story about a trust accounting manager who noticed an unusual disbursement during a routine audit and then ferreted out the unthinkable – a defalcation by one of our own long-standing employees. Find out what triggered Sandra Sidor's suspicion and what steps she took to stop the thief from continuing her crime spree.

What is the fastest way to send a last minute Christmas gift? Through online shopping! Read this month's SAFETY CORNER, "SAFE online shopping," to find out what you can do to protect yourself against crimes committed while Internet shopping.

IN THIS ISSUE



Share Fraud Insights
via email, mail or word of mouth.

volume 8 issue 12
December 2013

FRAUD Insights

Publisher
Fidelity National Financial

Editor
Lisa A. Tyler
National Escrow Administrator

LAST person standing

When a property owner dies, the estate is usually probated by the court and a personal representative (PR) is appointed to act on behalf of the estate of the deceased. The PR will typically list and sell any properties owned by the deceased and distribute the proceeds to the heirs. Things can get ugly when there are multiple owners to a single piece of property, they all die and different PR's are appointed.

Stacie Brown, escrow officer at Heritage Title Company in Highlands Ranch, Colo., opened a $300,000 transaction for a personal representative (PR) trying to sell a property. She was working on the file which was set to close within the next few days, when she thought something was not quite right about the PR.

According to the title report there were currently three property owners, who all held title as joint tenants: George, Katina and Anastasia. The PR had letters of appointment, appointing her the representative for the estate of George, who according to the PR passed away AFTER Katina.

The PR kept pushing Stacie and the listing agent to get the deal closed. When Stacie asked the PR about Anastasia, the PR said she had also died previous to George and therefore, had the authorization to sign on behalf of the estate and sell the property.

When Stacie asked for the death certificates, the PR told her she did not have any of them. Stacie told the PR we could not proceed without the death certificates and assumed the PR would track them down.

In the meantime, Stacie called the county treasurer to obtain the status of the property taxes, expecting them to be delinquent. The representative at the treasurer's office indicated the property taxes had been paid. When Stacie mentioned the paid taxes to the PR, the PR had no idea how the taxes were paid.

Stacie called the treasurer's office again and found out the taxes had been paid by someone in Texas. She asked for the contact information for the person who had been paying the taxes on the property. Stacie kept in contact with the listing agent and they both felt something was not right about some unknown person, other than the PR, paying the property taxes on a deceased person's property.

Stacie decided to send a copy of the title work (but not the title commitment disclosing our customer names) and a cover letter to the address of the person in Texas via overnight courier. The letter explained that the property was under contract and due to close.

The next day Stacie got a call from the person in Texas who had been paying the taxes in previous years. It was Anastasia's husband. He explained that Anastasia had passed away three years prior and HE was the personal representative for her estate. He had all of the documentation to prove that he was the PR and that Anastasia was the last of the sellers to pass away, making him the one in possession of the property.

Anastasia's husband was shocked to hear that the property was set to close and was very appreciative to Stacie for sending him the documentation to alert him of the sale. He said he was not interested in selling the property and would be coming to Denver to meet with an attorney to be sure this other PR would not cause him any future problems.

Had it not been for Stacie wondering why this other PR was pushing so hard to close, and if she had not done the research on who had paid the taxes and notified that person, this property could have closed with the incorrect PR on the contract without the knowledge of the real PR in Texas.

Once the real estate agents and the buyer found out the person who signed the contract to sell the property did not have the full authority to do so, they decided to cancel the entire transaction. Stacie drew the cancellation instructions and believe it or not the PR for George's estate demanded the forfeiture of the buyer's deposit! The buyer ultimately prevailed. For Stacie's diligent efforts to discover the unknown PR, she has been rewarded $1,000 and received a letter of recognition from the Company.

MORAL OF THE STORY

Stacie's discovery of the unknown PR ultimately protected the rights of Anastasia's heirs to the subject property and to any equity they held. Since the owners held title all as joint tenants, the order in which they died was significant, since the ownership of each passes to the next as they die. The last person standing is truly the owner of the property and when the last person dies, his or her PR has the authority to sell any property owned by the estate.

Stacie's efforts saved the Company from a future claim from those heirs. Had she closed the transaction believing George's PR had the sole authority to sell, Anastasia's heirs would have surely questioned the legitimacy of the deed and ownership of our insured. We would have had to spend thousands of dollars to protect the property rights of our insured owner.

TELL US HOW YOU STOPPED FRAUD

settlement@fnf.com or 949.622.4425

PESKY credit card payoffs

Many people have tapped into the equity of their home to consolidate debt. For years, settlement agents have closed refinance transactions which include instructions from the lender to pay off a list of credit cards. Over the years our industry has learned the pitfalls associated with making these payments but a new risk has emerged. Read on for the details.

In recent years many employers have beefed up their job application requirements in order to be eligible for hire. Job seekers are now subject to background and credit checks. Failure to manage personal finances can result in one's inability to find a job in one's desired field. This turned out to be the case for one borrower.

In 2012 a gentlemen applied for a new loan. On his application he indicated he was applying for a debt consolidation loan as he had several credit cards with outstanding balances. The lender approved his application and opened the transaction with the local title company. Title prepared the title report and a payoff statement was ordered. The lender sent the loan documents to the closer who met with the borrower to have them executed.

At the signing the closer explained to the borrower the loan required the payment of several credit card balances. She asked him to provide the account number and payment address for each card. The borrower promised to send her the information.

Four days later, the rescission period expired and the lender funded the loan. The closer contacted the borrower and asked him again for the payment information in order to send the payments for his credit cards. The borrower told her he would have to call her back. He did not. Eventually the closer sent the checks to the borrower to send in with his billing statements. He never did. The checks became dormant and were never cashed.

The closer never followed up. In 2013, the borrower finally called his closer back. He did not call her to provide her with the payment information. No, he was calling to complain.

The borrower decided to pursue a new career and become a police officer. He attended the police academy and successfully finished his training. Next, he had to pass a background and credit check. He authorized the police department to run these checks. He failed the credit check. The police department would not hire him because he had outstanding credit card debts; debts he thought were paid by the closer when she closed his refinance.

The customer called the closer and blamed her for his inability to be hired as a police officer. He threatened to bring legal action against the title company citing its failure to pay his debts and its interference with his ability to obtain a job. Unbelievable!

The closer reminded him she asked him for this information repeatedly. She also found it hard to believe he never received delinquent notices in the last year.

MORAL OF THE STORY

Right or wrong anyone can sue. Lawsuits cost money to defend. All of this could have been avoided if the closer had simply followed these steps:

1. **Refuse to close until she had all the information necessary to fully and properly disburse her file; including the credit card account numbers and payment addresses.**
2. **Sent the payments to the credit card companies herself and not the borrower.**
3. **Monitored her dormant funds to ensure the checks were cashed.**

Credit card payments are a nuisance, but following these steps ensures they do not continue to haunt you for years to come.

OPERATION accounting center (OAC)

Years ago under the direction of Jane Conklin, rather than each operation maintaining a staff of bookkeepers, the Company established regional accounting centers to serve direct operations across all brands on a regional basis. Seriously, the best idea ever!

The accounting centers process revenue, expenses, accounts payable, accounts receivable invoices and payments; but most importantly they serve as the check and balance with the escrow branch offices receiving and disbursing funds.

Sandra Sidor, an escrow trust account manager in the Denver OAC, was performing her monthly review of fee transfers for odd or small (less than $5) amounts. The audit is performed monthly to ensure escrow officers are not clearing positive balances in their files by posting additional revenue, instead of refunding money to the appropriate parties to the escrow.

The monthly audit includes a review of checks from the Company payable to the Company (e.g., checks drawn on a wholly owned Title Company account payable to the wholly owned Title Company) which could be evidence of improper file-to-file transfers to cover losses or shortages.

While reviewing an uncharacteristically small $4 fee transfer Sandra spotted an unrelated disbursement on a ledger that seemed out of place. The $4 was odd enough, but directly above the $4 disbursement was a check to a bank in the amount of $550.

The subject transaction was an all-cash sale with no payoff lender and no new lender. Sandra was puzzled why there was a disbursement to a bank. She reviewed the settlement statement and it did not reflect the $550 disbursement at all.

Sandra decided to investigate the suspicious disbursement. She contacted the bank which was shown as the payee on the check and

[Continued on pg 4]

[OPERATION accounting center (OAC) – continued]

discovered the check was a car loan payment for the escrow officer's own loan! As she looked into more of the escrow officer's closed files she discovered over $65,000 in disbursements to pay credit cards, mortgages and other personal bills.

Because of Sandra's tenacious efforts the escrow officer has been terminated and legal action is being pursued. The affected files have all been reconciled and any overcharges and post-closing refunds have been distributed to the rightful owner.

The employee's defalcation has been reported to the local police, the Department of Insurance where she holds a title producer's license and the Secretary of State where she is a commissioned notary. As a result of Sandra's detection of a defalcation, the Company has rewarded her $1,000 and presented her with a letter of recognition on behalf of the Company.

MORAL OF THE STORY

The danger in "back room" jobs like accounting is that in an effort to process work more efficiently we sometimes lose sight of the importance of the controls we provide. Sandra and her team at the Denver OAC take pride in not losing sight of these controls. In this case Sandra went above and beyond her normal review to stop a longstanding pattern of defalcation. In the past eight years, this is the fourth serious misappropriation she has discovered.

SAFE online shopping

SAFETY CORNER is dedicated to providing you with tips for being safe in your personal life.

As the holidays quickly approach, online shopping is more and more appealing. There are no crowds, nor is there any difficulty in finding a parking spot. Online retailers offer competitive prices and often include free shipping. Unfortunately the deals come with some additional risks. Here are a few tips to protect you from crimes committed over the Internet.

1. If you know what you are purchasing go directly to the retailer's website rather than using a search engine. It is quite simple to set up a fake website which could appear in the search results.
2. If you are using a site you have never used before – check them out. Websites like Epinions.com℠ or BizRate.com have customer evaluations which can help you determine a company's legitimacy and service levels.
3. If you are going to make a purchase be sure the site you are on is secure. Be sure it has SSL (Secure Sockets Layer) encryption. You will know if the site has SSL, because the URL (Uniform Resource Locator), better known as the website address, will start with http**s**:// (instead of http://) when you begin to checkout and pay for your purchases. Also, make sure there is a tiny closed padlock in the address bar.

Some retailers redirect shoppers to a third-party payment service. Be sure the payment service is secure before you make your payment. Lastly, watch your bank and credit card statements to ensure there is no unauthorized activity. Happy shopping and happy holiday wishes to you and yours!

SAFETY CORNER