FRAUD Insights

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FAMILY, friend or foe

By Lisa A. Tyler
National Escrow Administrator

The estimated annual losses from elder abuse range anywhere from $2.9 billion to $36.48 billion. It is difficult to determine an exact number due to many factors, including underreporting. Many times, the perpetrator is a close family member or trusted caregiver. Often crimes go unreported because the victim does not want the humiliation of reporting a family member, or admitting a scammer duped them, or they may not even be aware a crime has occurred. As our population is aging, when dealing with family members in a transaction it is important to be alert and know the warning signs of elder abuse — just as an astute escrow assistant demonstrates in the story entitled "ILLITERATE."

A title officer at Ticor Title in Los Angeles opened an order for a title report for a new loan in the amount of $275,000, to be secured by residential property. The closing was to be conducted by an independent escrow agent. The title report reflected the subject property as being free and clear from all liens. While examining the chain of title, the title officer became suspicious when he discovered an uninsured deed recorded in December 2017 conveying the property out of a family trust to a Mother and Son. Read "COMPETENT" to discover how the title officer prevented one family member from encumbering the family's property.

Read "TEAMWORK" to find out how the administration team of Ticor Title's Las Vegas operation was able to stop an absentee owner scam from occurring, just like the one we reported in the January 2018 edition. In this scam the borrowers were attempting to use someone else's properties – seven in all – to secure a $1.6 million loan.

Handling a closing where the signer has a disability may require additional planning and consideration. Settlement agents should make every effort to accommodate a principal's needs, while remaining compliant with state specific laws. Read "PRINCIPALS with special signing needs" to discover how to accommodate principals who are hearing or sight impaired.

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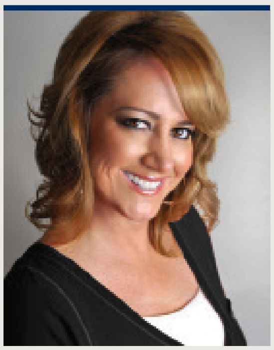

ILLITERATE

Coral Tudrick of Ticor Title opened a refinance transaction. The elderly borrower held title to the property in a trust. A power of attorney appointed the elderly borrower's daughter as his attorney-in-fact. Coral had difficulty contacting the daughter or borrower until the lender provided the daughter's phone number.

When scheduling the signing, the daughter told Coral her Father was "illiterate" and informed Coral she did not need to talk directly with her Father, the borrower. The daughter signed the documents through an approved notary.

When Coral received the documents, she reviewed them for a phone number of the borrower but did not find one. Without a way to verify or speak directly with the borrower, Coral made the decision to raise the issue to her branch manager, Linda Villa. Together, they discussed how the Daughter indicating her Father was illiterate could be a red flag for elder abuse and decided to bring this to the attention of the lender.

The lender requested a conference call with the elderly borrower, broker, escrow officer and title officer. The lender asked some very direct questions of the elderly borrower. The borrower stated he was "confused," or deferred to his Daughter.

When asked directly if the elderly borrower understood the Daughter was taking a loan out on the property he stated simply, "No." At that point, Coral and Linda obviously refused to proceed.

Coral's sharp perception helped recognize what could be a case of elder abuse. The decision to halt the transaction and talk with the borrower directly prevented the Daughter from defrauding her Father and prevented a potential claim to the Company.

In addition, Coral alerted her manager who in turn shared the incident with the national escrow administration team. The team provided direction for reporting the transaction and preventing future abuse against the homeowner. For her efforts, the Company rewarded Coral $1,500 and a letter of recognition.

Criminals, including family members of the elderly, often target elders for reasons including their wealth, mental state and less likelihood to report a crime. Many times the perpetrator is a known and trusted person. Being aware and recognizing potential abuses are key to stopping the crime in its tracks.

For more information on elder abuse, including a list of red flags, go to www.consumerfinance.gov and search for the Advisory and Report for Financial Institutions on Preventing Elder Financial Abuse.

This article was provided by contributing author, Scott Cummins, Advisory Director Fidelity National Title Group National Escrow Administration.

COMPETENT

Eric Curran, a title officer for Ticor's Los Angeles operation, opened the title only order for a $275,000 loan, secured by free and clear property. While preparing the title report he discovered a deed conveying the property from the family trust into the name of the Mother and one of her Sons, as joint tenants.

As he processed the file to close, Eric was provided with an Affidavit of Death of the Mother, extinguishing her ownership interest. According to the death certificate attached to the affidavit she had battled cancer and executed the deed just two months prior to her death. Eric requested a copy of the trust agreement to review.

In Eric's review he discovered there were two brothers, and according to the trust agreement — both were to act as co-trustees of the trust. The trust agreement also stated upon the death of the Mother, who was the original trustee of the trust, the property was to be conveyed to one of the brother's children. The child named is the offspring of the brother who was not shown on the recently recorded deed with the Mother.

Eric inquired further with the brother who was attempting to leverage the property to obtain the $275,000 loan, and was told he had no contact with his brother or his brother's children and in fact did not know where they lived.

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Eric explained to him Ticor would not recognize the uninsured deed out of the trust as being valid without confirmation from his brother. Eric's biggest concern was whether or not the Mother was competent to sign the deed out of the trust, since she signed it in October 2017, and died shortly thereafter in December 2017. The would-be borrower told Eric he would go elsewhere for title insurance, rather than try to find his brother.

Eric confirmed the brothers and their children all lived within blocks of each other in Compton, California. He also was able to confirm the same order for title insurance was opened at a Fidelity National Title office. Eric picked up the phone and called the title officer at Fidelity National Title with his concerns. Fidelity National Title also declined to insure the transaction.

In February of 2018, the missing brother filed a Notice of Pendency of Action against his brother on behalf of the family trust, preventing the brother from leveraging the property for a loan or selling it, while the family sorts out the real legal owner of the property in court.

Eric's attention to detail and adherence to underwriting procedures, not only prevented Ticor from sustaining a claim on a loan policy of title insurance, but he also was able to locate where the subsequent order for title insurance was placed and alert them to potential issues that could have caused a sister company a claim. For his heroic efforts, Eric received a $1,500 reward from the Company along with a letter of recognition.

MORAL OF THE STORY

If the transaction closed and the Company issued a policy of title insurance to the lender, the policy could later be challenged by the insured lender if the brother who was not on title and his children were successful in overturning the uninsured deed as being invalid. If the uninsured deed is proved invalid in a court of law, then the brother currently in title has no authority to use the subject property for a $275,000 loan.

TEAMWORK

An assistant escrow officer at Ticor Title's Las Vegas operation opened seven loan transactions, secured by seven rental properties owned by a husband and wife. Shortly after opening the orders, the assistant learned the transaction would actually consist of one loan in the amount of $1.6 million secured by seven properties. She phoned her administrator for advice on how to close a loan secured by seven properties.

The administrator, Rozanne Smith, thought the transaction sounded strangely familiar. She had read of a similar transaction in a previous edition of *Fraud Insights* and recognized the tell-tale signs — private money loan, secured by multiple properties, all non-owner occupied properties. She called the title officer, Caesar Espinoza, to alert him of her suspicion that the borrowers might be imposters.

Caesar searched for information to verify the borrowers were in fact the true property owners, while Rozanne looked for previously filed documents containing the owners' signatures. In the meantime, the escrow branch received the loan package and scheduled a signing appointment for the borrowers. A manager was on-site at the escrow office to supervise the signing.

Luckily, Rozanne found previously signed documents to match the borrowers' signature against that of the true owners. They did not match. Rozanne found the telephone number for the true owners and called them. During the conversation, she confirmed her suspicions that the owners of the seven properties were not going through a loan process and were not currently in the Las Vegas area.

Together, Caesar and Rozanne alerted the manager stationed at the escrow branch. The borrowers were still in the office signing. The escrow office completed the signing appointment and the borrowers left without issue.

The escrow officer was made aware the people who just signed the loan documents were imposters! When learning this, the escrow officer said she felt eerie about the whole transaction. She called the lender to let them know the loan documents were signed by imposters and would be retained later for questioning by local law enforcement.

The lender thanked Ticor Title for preventing them from making a loan to imposters posing as the seven properties owners.

MORAL OF THE STORY

The loan policies of title insurance issued by the Company insure against forgery. Had the administrative team of Ticor's Las Vegas operation overlooked the tell-tale signs, the loan likely would have closed.

The borrowers realistically had no intention of making the loan payments and when the lender attempted to foreclose on their loan, the true property owners would be able to halt the process by proving they had never signed the loan documents. The administrative team at Ticor prevented a potential claim.

PRINCIPALS *with special signing needs*

Settlement agents must accommodate a principal who is hearing impaired. Since someone who is hearing impaired is able to read their closing documents, every effort should be made to deliver copies of their documents to them prior to their signing appointment. This provides them time to read through the documents and formulate any questions they may have.

At signing, a telecommunications device for the deaf (TDD) can be used to effectively communicate with the signer. A TDD is an electronic device for text communication via a telephone line, used when one or more of the parties have hearing or speech difficulties. Other names for TDD include TTY (telephone typewriter or teletypewriter).

The principal will set up the TDD service and appear in front of the notary. The notary must properly identify the principal and speak into the phone so the information is relayed to the signer through the system.

Proper execution and notarization of closing documents varies greatly from state-to-state for principals who are blind or otherwise physically disabled, and sign by mark or by mechanical means. It is important for settlement agents to familiarize themselves with the requirements of the state where the signing will be conducted. Most requirements are readily available on the secretary of state's website, but you can read more about signing with a mark in next month's edition.