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INTERNET searches prevent potential claims

By Lisa A. Tyler
National Escrow Administrator

Owning land in the U.S. has always been revered. It comes with a lot of pride especially since, for most it is their greatest asset. Because real property is valuable, many people want to claim ownership. "Titles" came about as a means of legally proving who owns the property. Through the centuries, however, a parcel of property may change hands dozens of times. At any point along the chain of ownership, problems may arise casting a "cloud" over a title, putting a claim of ownership in doubt which is why expert title examiners such as Tracy Smith with the Fidelity National Title Group in Philadelphia, are so important. Read Tracy's story entitled "130-year-old woman sells her home."

In 2011 we published an article entitled "Abuse Of Our Reputable Name" describing fraudsters who were using our Company's good name in an attempt to steal funds from owners of timeshares. This scheme has not gone away. It is important to recognize the signs and take the time to assist customers who might call to verify our affiliation with a company purporting to handle timeshare sales just like our two superstars,

Nate Hidalgo and Beau Johnson, did. Read about the steps they took to protect a customer in "DEFENDING the company's reputation."

Linda Dean, a talented title officer with Fidelity's Southwest Title Group in Phoenix, received an order for an \$80,000 cash sale of a single family residence located in Flagstaff, Arizona. The order originated from a Lawyers Title escrow office and the order sheet instructed the title officer to review documents for the record owner, including a Death Certificate, Affidavit for Transfer of Title of Real Property (used for estates valued at less than \$100,000) and a Power of Attorney. The documents appeared suspicious to Linda, find out why in the story entitled "ARIZONA department of corrections."

Divorce and refinance often occur hand-in-hand. One spouse typically buys the other spouse out of property as they split up their assets. As a result, one spouse is removed from title as a part of a refinance. The spouse granting their interest in the property will be paid a portion of the proceeds from the refinance and relieved of their portion of the existing loan; both reportable under the IRS regulations. Read "DIVORCE: a sale or refinance?" to discover how to properly report a transfer from one spouse to the other for consideration.

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130-year-old woman sells her home

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It is incredible how our Company and industry protect the American dream of homeownership. Our roots go all the way back to 1876 when the first title insurance company was formed — Real Estate Title Insurance Company. It was in that same year they issued the first modern day title policy. Since then title companies have protected property owner's rights and the integrity of the public record system. This story is an excellent example of how title examiners do just that.

A title order was placed with Tracy Smith, with the Fidelity National Title Group in Philadelphia. It was a loan only transaction where the Company would insure the lender's mortgage. The property was free and clear, and the current owner was a Limited Liability Company (LLC) who acquired title in 2015 by an uninsured deed. Prior to that, the last time a transfer of title was insured was in 1927.

The length of time caused Tracy to pull the deeds for further review. In 1927 a man deeded the property to his wife. Eighty years later, in 2007, the wife transferred title to a man named Ruben for \$5,000. Ruben sold the property in 2015 for \$6,100 to the LLC currently in title. Tracy was uncomfortable with her findings so she forwarded her search and documents to Jon Effner, Underwriting Counsel.

Jon reviewed Tracy's examination report. The property was a vacant lot between two buildings. One of the buildings adjacent to the lot was all boarded up. He agreed with Tracy's concerns and decided he would dig further in order to confirm their suspicions.

Jon turned to the internet and a website called Ancestry.com where he searched for information about the wife who was the grantee on the last insured transaction in 1927. He found her on the website and discovered she was born in 1877. This means she would have been 130 years old in 2007 when she deeded the property to Ruben. Amazing!

Jon contacted the title agent to notify them the Company was declining to insure a new loan and notified the Operations & Title Production Manager, Denis Golden, who nominated Tracy for a \$1,500 reward. Tracy followed sound title examination procedures in order to identify a potential forgery.

Although the property was a vacant lot, it appeared the property was increasing in value. In 2016 the Office of Property Assessment valued the property at \$9,400 and the 2017 market value at \$63,200. If it is true there was a forgery in the chain of title, the proposed insured lender's lien could be deemed invalid resulting in a full claim to our Company. Tracy's efforts perpetuated the industry's historic mission to protect the integrity of the public record system and resulted in her receiving a \$1,500 reward. Great job Tracy!

A red graphic featuring a white octagonal stop sign with the word "STOP" in white capital letters. Below the sign, the text "TELL US HOW YOU STOPPED FRAUD" is written in white, bold, capital letters. At the bottom, the contact information "settlement@fnf.com or 949.622.4425" is provided in white text.

STOP

TELL US HOW YOU STOPPED FRAUD

settlement@fnf.com or
949.622.4425



DEFENDING *the company's reputation*

Nate Hidalgo, Property Information Specialist for Chicago Title and Fidelity National Title in Vancouver, Washington, received a call from Jack Hammer, a timeshare owner. Jack explained he worked with Fidelity National Title Company in the past and was looking for an office that could assist him with an accommodation signing of the deed to his timeshare. He told Nate he was working with Anthony Martinez at Fidelity National Title in Denver, who contacted him about selling his timeshare in Cancun, Mexico.

Nate searched the global directory for Anthony Martinez but he did not find a match. He asked Jack for more information. Jack said Martinez called him stating they had a buyer, ABC Associates in Chicago, who was interested in buying his timeshare.

Jack was calling the office in Vancouver to inquire about two things. First, he wanted to find a Fidelity National Title office in Vancouver to handle the closing. Second, he wanted to verify Anthony Martinez worked for Fidelity National Title because there were a few things about his conversation with Martinez which made him uncomfortable.

Jack thought it was odd Fidelity was contacting him. Usually a title company is selected after the buyer and seller have successfully negotiated the purchase agreement. They are not usually involved in contacting owners on behalf of a buyer; that is what a real estate agent does. Second, Jack was not in the market to sell his timeshare so he was unsure why they thought to contact him.

Nate asked Jack if he had the contact information for Anthony Martinez and the Fidelity National Title office in Denver. Jack gave him the phone number for Martinez and the phone number for ABC Associates. Nate told Jack he would check into this further and get back to him.

Nate searched the phone number for Martinez using Google™. The search results included a website for FidelityTitle.org. He clicked

on the link but the website was blocked by the Company server. Nate pulled out his cell phone and entered the link. The web page opened but it did not look like any Fidelity Company website he had seen before. Upon closer review he noticed several typos. Nate shared his findings with his colleague Beau Johnson.

Beau searched FidelityTitle.org and found they were a limited liability company formed in 2004. He picked up the phone and called the number on the website. Beau asked the woman who answered if they were affiliated with Fidelity National Financial, Inc. She said, "Yes, we are."

That is when Beau introduced himself as an employee of Fidelity National Title Company. As soon as he introduced himself the woman began back peddling stating she did not really know whether they were affiliated with FNF, Inc. or not, and just did not know what else to say.

Beau called Jack to let him know Fidelity Title, LLC was not affiliated with Fidelity National Title in any way. He suggested to Jack he contact our FNF Timeshare division in Escondido, California, if and when he had a bona fide buyer for his timeshare. Jack thanked him and hung up the phone.

The Company does handle timeshare sales through Fidelity National Timeshare but they do not negotiate or put deals together. They handle the paperwork and money to consummate timeshare transactions already negotiated.

Jack's story did not feel right. Nate and Beau were concerned, and for good reason. They knew the details Jack shared did not fit with the Company's business model. They took the time to confirm their suspicions and protect a customer from being ripped off. For their efforts they are splitting the \$1,500 reward. Way to go gentlemen! Thank you for your efforts to protect the Company's excellent reputation and good name. The Company was successful in getting the FidelityTitle.org fraudulent website taken down by the web host.



ARIZONA *department of corrections*

Linda Dean, Title Officer with Fidelity's Southwest Title Group in Phoenix, was reviewing documents which purported to transfer from the record owner's estate to an heir by means of a small estate affidavit. Linda noticed the return address on the Affidavit for Transfer of Title of Real Property was in care of another person not named in the affidavit. The Death Certificate which was recorded identified the person on the return address as the daughter-in-law of the now deceased record owner.

Linda questioned the daughter-in-law about the "in care of" return address on the affidavit. The daughter-in-law indicated the sole heir to her mother-in-law's estate was her son and the grandson of the now deceased owner. Her son — the grandson of the now deceased record owner — was currently in prison, so she had the document sent to her house after it was recorded.

Linda verified the information through the Arizona Department of Corrections website. The problem, she discovered, is he was incarcerated at the time he supposedly signed the Affidavit for Transfer of Title of Real Property, swearing the entire estate was less than \$100,000 and thereby transferring ownership to him.

Linda's research showed he had been in prison in Pinal County, Arizona, since January 2008 and was not scheduled to be released until January 2020. The affidavit was supposedly signed by him on August 19, 2016, in the presence of a notary public in Maricopa County, Arizona. Linda's research also revealed the notary did not work for the Arizona Department of Corrections and, in fact, did live close to the daughter-in-law.

Next, Linda reviewed the power of attorney granting the daughter-in-law the power to sell and sign on behalf of her incarcerated son. The signature on the power of attorney looked entirely different than the signature in the affidavit for the incarcerated son. The notary

on the power of attorney did work for the department of corrections, so the signature on that document was accepted as valid.

The deceased owner had transferred the property out of a trust prior to her death. Linda asked for a copy of the trust agreement to determine any successor beneficiaries to corroborate the statement that the grandson was the sole heir. The daughter-in-law indicated she did not know where to locate the trust agreement.

Linda pressed for a copy and the daughter-in-law was asked to contact the attorney listed on the deed conveying the subject property into the trust. The daughter-in-law's response was that the decedent did not finish paying the attorney so he would not provide a copy.

Linda decided to escalate her concerns to the chief title officer. After his review, the chief title officer told the escrow officer the Company was electing not to insure the transaction. Next, he added an office note to the title plant in case the same deal was opened at another Fidelity owned company. Then, he promptly sent us this story so Linda Dean would receive the \$1,500 reward she so rightly deserves.

MORAL OF THE STORY

Linda could have easily turned a blind eye to the fact the affidavit appeared to be forged, but she did not. She could have easily prepared the title commitment without calling for a copy of the trust agreement, ignoring the fact there might be more heirs to the estate, but she did not. Instead, she dug deeper until she was certain that issuing a policy of title insurance on sale of this property to a new owner would potentially end up in one or more title claims, so she halted the transaction and for that the Company is grateful.

DIVORCE: a sale or refinance?

The problem with one spouse buying out the interest of the other with the proceeds of a new loan is, it is not purely a refinance. The spouse being removed from title is, in fact, selling their ownership interest to the other person in exchange for proceeds or receiving debt relief as a result of the transfer or both.

Moreover, settlement agents handling the transfer of title must process the transfer and payment of consideration portion of the transaction as a sale, and not a refinance. The sale file handles the transfer of title and the loan is processed in a separate refinance file; both files close concurrently. The sale file is processed as a cash sale, where the seller must complete the Substitute 1099-S form or Certification for No Information Reporting along with all other forms and documents typically signed in a sale transaction.

If the principals prefer, they can have their attorney prepare the deed and deposit it into the refinance file. If this is done, a separate sale file does not need to be processed. The attorney needs to include a letter of instruction which states when the deed can be recorded, what is

due and whether an owner's policy of title insurance will be purchased by the remaining owner. The attorney will be responsible for any and all 1099-S reporting and/or withholding the transfer may impose.

Settlement agents must be on alert for transfers of title where consideration is received. Anytime a transfer of title results in consideration in the form of proceeds or debt relief, it is reportable to the Internal Revenue Service (IRS). More information can be found on the IRS website at www.irs.gov.

