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“\$1.2 MILLION transaction in Beverly Hills” is a story involving outstanding teamwork by Western States Underwriter Eldred Sotello, Title Manager Michael Merlo and Title Officer Jennifer Tayco, in preventing a fraudulent transaction from closing. In addition to pointing out the great work by these individuals, the story serves three important purposes:

1. **Stresses the importance of the Company’s strong relationships with law enforcement agencies**
2. **Highlights the rise in identity theft in real estate transactions in Southern California**
3. **Reiterates there are procedures and safeguards in place that prevent the Company from being affected by this type of crime**

Can you imagine owning your home long enough to pay the entire mortgage? The property owners in the story entitled “TALK to your neighbor” had owned their property for 45 years with no intention of

moving. Then all of a sudden uninvited guests began appearing on their property – first a hazard insurance company inspector and then a buyer!

The property owners immediately went to their neighbor, a real estate agent, and told her about the uninvited guests. This story is another heroic tale of teamwork between departments and even between sister companies.

Wow! Was that just like the Y2K scare or what? August 1, 2015 came and went with no changes to the way we do business. As promising as that was, however, the changes are still on the horizon.

The Consumer Financial Protection Bureau delayed the effective date of implementation of the new mortgage regulations until Saturday, October 3, 2015. Now you have more time to discover the impact the new rules and forms will have on virtually every residential loan closing. In this edition find out what a variance is and if the settlement agent is responsible for discovering a variance at closing by reading “TOLERANCE violations = variances.”

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\$1.2 MILLION transaction in Beverly Hills

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In late June 2015, a contact within the Los Angeles County Sheriff's Department-Real Estate Fraud Unit, as well as a detective with the Beverly Hills Police Department (BHPD), contacted the managers of several title companies in the Los Angeles area to alert them of a recent identity theft case involving a victim residing in Beverly Hills, California.

Law enforcement advised an unidentified suspect had used the victim's identity to seek multimillion dollar loans on at least three occasions which were to be secured against the victim's property. The notification was provided as a courtesy to title companies in the Los Angeles area with a request for the Company's assistance in the event we became aware of any further transactions involving the victim and subject property.

Mike Merlo, Title Manager for Lawyers Title in Burbank, forwarded the information to Eldred Sotello, a Western States Underwriter, for the purpose of placing an Office Information (OI) posting on the subject property. Eldred immediately created and distributed a confidential memorandum, as well as posted it to the Fraud Prevention database. He had the memorandum posted to the title plant for the benefit of all Company operations.



Sure enough, on July 7, 2015, a title office in Burbank, California received a title-only order for the subject property from an independent escrow company operating in Woodland Hills, California. The order involved a \$1.2 million loan from a private lender.

The initial title work revealed the OI fraud alert. Title Assistant Jennifer Tayco immediately contacted Eldred to alert him of the match on the new order. Eldred in turn advised Jennifer and Mike of the possibility of identity theft of the true owner of the subject property (based on the alert from law enforcement), and advised them not to proceed any further until discussing the order with him and the Company's Fraud Review Counsel.

The Fraud Review Counsel immediately contacted the Beverly Hills Police Department and advised the supervising detective of the new order. The detective provided further details on the extent of the fraud, including information that the suspect had been utilizing a Los Angeles area attorney through a forged power of attorney to facilitate these real estate transactions on his behalf.

The suspect was very cautious about exposing himself to anyone involved in the attempted transactions, and this was now the fifth attempt to perpetrate the fraud by using someone else's property to secure a \$1.2 million loan. As a result of the Company's alert to the BHPD, the detective asked for the cooperation of escrow and the private lender in a sting operation in an attempt to try and apprehend the suspect.

With this information at hand, Fraud Counsel, Underwriting and the title officer made the decision to immediately cancel the order and decline to insure. The Company prevented a potential \$1.2 million fraud claim.

As a result of her detection and prevention of the claim against the Company, Jennifer Tayco received a \$1,500 reward and a letter of recognition from the Company. She did exactly what she was trained to do when the initial title work revealed the Office Information and Fraud Prevention posting alert. She contacted the underwriter for further information and direction on how to proceed.

MORAL OF THE STORY

The Company's ongoing partnerships with various law enforcement agencies have resulted in the reduction or cancellation of several fraudulent transactions preventing potentially millions of dollars in claims exposure.

The Company has long held mutually beneficial relationships with law enforcement agencies that we anticipate will continue to grow as real estate related fraud continues to increase and evolve. Underwriting utilized the information from law enforcement to create the proper alerts which ultimately prevented the order from moving forward.

If an employee ever has any suspicions at all of potential fraud, the underwriting department should be contacted for further review.

STOP

**TELL US HOW YOU
STOPPED
FRAUD**

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TALK to your neighbor



William and Eva had lived in their home for 45 years and had finished paying off their mortgage 15 years ago. Recently, they called their neighbor Debbie, concerned about an insurance man who had been in their yard taking pictures of their home. They asked him why he was taking photos. When he replied that they had applied for new insurance, William and Eva informed him he was wrong.

The next day another man showed up at their door and advised them that he was the “buyer” of their home. The “buyer” said the listing agent informed him that the couple in the home were tenants who were moving out. He said he was closing escrow on the purchase the very next day and would be starting to remodel the home the following day.

Debbie, a real estate agent for many years, called Janine Hook, her Account Executive at Ticor Title Company in Glendale, California, to report the fraudulent sale of her sweet neighbors’ property.

Janine contacted her Title Officer, Bob Taylor, to find out if he could track down the order and halt the fraudulent sale of William and Eva’s property which would allow crooks to walk away with the proceeds. Bob immediately investigated and found the open title-only order with Fidelity National Title in Long Beach, California. He called the branch and gave the details from the real estate agent to the Title Manager, Briget Fodor.

Briget confirmed they had money in their sub-escrow file, and the transaction was set to record and disburse the following morning. Can you imagine if Janine or Bob had hesitated to make their calls? A full policy loss would likely have resulted.

Briget promptly shut the transaction down by refusing to insure it. When she called the independent escrow company to make them aware of the foiled plot, she asked who witnessed the signing of the grant deed by the seller. The independent escrow company’s escrow officer stated the grant deed was delivered back to them already signed and notarized by the alleged owner’s son.

Briget tried to find the notary on the secretary of state’s website, but no such name existed, so they obviously were not a commissioned notary public in the state of California. Briget posted the property address to the plant records, so no other company would close a fraudulent sale of William and Eva’s house.

MORAL OF THE STORY

William and Eva were notified by their neighbor, Debbie, the sale had been stopped. They immediately went to the local police department to report the attempt. Had the transaction closed, Fidelity would have suffered a potential claim on the owner’s policy of title insurance for \$450,000 and would have had to restore title to subject property to the rightful owners, William and Eva.

Janine and Bob’s swift actions prevented the crime from occurring and for that the Company is eternally grateful, so much so they have been rewarded with \$1,500 to share, as well as letters of recognition from the Company.

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TOLERANCE *violations = variances*

The new rules – just like the existing RESPA rules – contain tolerance violations for charges that increase at the closing from the original charge on the initial estimate. The rules however, do not refer to them as tolerance violations, they refer to them as “variances.” The three categories are:

- 1. Charges that cannot increase at closing**
- 2. Charges that – in total – cannot increase more than ten percent**
- 3. Charges that can change**

The first category, charges that cannot increase, has been greatly expanded under the new rules to not only include origination fees and borrower paid transfer tax, but also fees charged by an affiliate of the creditor or broker, and charges for other types of services for which the borrower is not permitted to shop.

For instance, if the lender owns a subsidiary company that provides tax service notification and the subsidiary provides that service in connection with a loan, the charge for that service, once disclosed on the estimate, cannot increase at closing. If the borrower is not permitted to shop for a service such as appraisal, then that charge cannot increase at closing.

The second category of charges that, in the aggregate, cannot increase by more than ten percent include services such as recording fees and charges for services the consumer shopped for using the creditor’s provider list.

The third category reflect those charges that can change and includes prepaid interest, impound account set up, homeowner’s insurance, property taxes and charges for which the borrower chose a service provider not on the creditor’s list as well as any other non-loan related charges.

The Closing Disclosure neither groups the charges by category like the 2010 HUD, nor has a side-by-side itemized comparison of the estimated charges next to the actual charges. Therefore, the settlement agent will likely never be able to determine if there is a variance.

As a result, the new rules allow the lender thirty days post-closing to audit their files for a variance and another thirty days to refund money to the borrower to cure the variance for a total of sixty days. The payment to cure the variance would need to be shown on an amended Closing Disclosure by the preparer of the initial Closing Disclosure – either the lender or the settlement agent.

