

Preventing Shady Dealings

■ *Linda M. Hernandez, Florida State Underwriter*

It is crystal clear that Amanda Meshekey, an escrow closer in the New Port Richey office of Liberty Title, has certainly been doing her share of reading Old Republic Underwriting Bulletins!!

Last month Amanda astutely identified an illegal flip as it was about to unfold. It seems a customer wanted to buy a property and immediately resell it. He even had a buyer for it. So far, so good; however, the customer wanted to use the money from his sale to pay for his purchase and, of course, pocket the difference. Amanda quickly brought the matter to the attention of her supervisor and prevented both her company and Old Republic from becoming unwilling participants in a fraud.

Amanda told her customer that there were two ways in which he could accomplish the results he desired.

1. The contract or agreement between parties A and B is closed with A conveying the property to B. Thereafter, the contract or agreement between B and C is closed and B conveys the property to C.

She explained to her client that a commitment must be issued showing title

vested in "A" and requiring the conveyance from "A to B." Of course, a title premium would be collected on this conveyance. Further, the transaction between "A and B" must stand on its own with "B," independently, providing the funds necessary to close the transaction as reflected in the HUD-1 settlement statement. Likewise, the second part of the transaction between "B and C" must be properly documented. A second commitment would be issued showing title vested in "A" and requiring the conveyance from "A to B," as well as the one from "B to C." Title premiums would also be collected on the latter conveyance. Finally, she added that all disclosures required by his lender must be made and clearly documented in her files.

2. The contract or agreement between "A and B" is properly assigned to "C" and the closing takes place under that agreement with "A" conveying to "C." (See ORNTIC Bulletin No. **99-04** for a sample Assignment of Contract Form.)

"This second type of transaction is also permitted," she continued, "provided

the contract between 'A and B' is properly assigned to 'C' so that now 'C' owns the contract." The requirement for an assignment of contract must appear in the commitment and, as in the first transaction, this one must be properly documented by way of the HUD-1, to reflect all deposits and payments, including the payment due to "B" on the Assignment of Contract. An audit of Amanda's files in either of the situations described above would show that her settlement statement accurately reflected the transactions, i.e., the cancelled checks matched the disbursement items shown on each closing statement. Again, necessary disclosures to the lenders and other appropriate parties must be made.

By the time Amanda finished her explanation of what she is permitted to do, it was evident that her customer insisted on using the funds from the second transaction to fund the first—something strictly prohibited by ORNTIC. She courteously advised him that what he wanted was not a legal transaction and she would not assist him, after all.

THANKS, AMANDA!



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