

2009 Title “Oddities” Creating Claims

OR
Why Real Estate Practice **IS** the Professional
Practice of Law
(not some minor delegable process!)



Causes of *Preventable* Claims



- Lack of supervision;
inattention
- Haste & shortcuts
- Lack of current legal
training
- Unfamiliar
environments



Deeds and Conveyances



- Who's your client?
 - Deed warranties
 - Tacking
 - No survey risks
 - Full disclosures
 - Do *they know* who you represent?
- Who are ALL the parties with a potential interest?

NCARD

LAND RECORDS

COMMITTEE

Judy Martin, Register of
Deeds, Moore County, NC



Surname & Non-Human Name Dilemma

- Identifying the surnames
What are the surnames?
Where do names begin and end?
- Identifying parties
Who are the parties?

***4. HUMAN NAMES**

4.01 Surname.

For the purposes of alphabetizing, the surname shall be considered as one word, except for compound names as defined in Rule 4.01(c). If the surname on the document contains blank spaces, apostrophes, hyphens, etc., the blank spaces, apostrophes, hyphens, etc., shall be dropped and ignored in the indexing and alphabetization process.

What is Karen's surname?

Karen Dealmeida (Seal)
KAREN DEALMEIDA Borrower

Grantor

Adolfo Gerardo Almazan and Rocio Orozco De Almazan, Husband and Wife

Multiple entries are made when the surname isn't clear.

Document 20080327000073570
Date Recorded 3/27/2008 Time Recorded 3:55:30 PM
Document Type D/T Remarks
Document Desc DEED OF TRUST (D/T)
Amount 0 Consideration Amount 0
Pages 16
Type RB File ID#
Book 4489 Page

Grantors

Seq	Firm	Name
1	N	VANGOETHEM ANNA MINETTE
2	N	GOETHEM ANNA MINETTE VAN
3	N	VANGOETHEM STEPHEN CHRISTOPHER
4	N	GOETHEM STEPHEN CHRISTOPHER VAN
5	N	VAN STEPHEN CHRISTOPHER

Annaminette Van Goethem (Seal)
ANNA MINETTE VAN GOETHEM Borrower

Stephen Christopher Van Goethem (Seal)
STEPHEN CHRISTOPHER VAN -Borrower

- Multiple entries – Indexers dilemma!

Document 20080707000168320
Date Recorded 7/7/2008 **Time Recorded**
Document Type S/T **Remarks**
Document Desc SUBSTITUTION TRUSTEE (S/T)
Amount 0 **Consideration Amot**
Type RB **Pages**
Book 4564 **File ID#**
Page

Grantors

Seq	Firm	Name
1	N	VANNGUYEN MINH
2	N	NGUYEN MINH VAN
3	N	NGUYEN TRANG T
4	Y	CHASE HOME FINAN
5	Y	CHASE MANHATTAN

Grantees

Mortgagor(s) Minh Van Nguyen, married, and Trang T. Nguyen
Trustee: Constance R. Stienstra
Mortgagee: Chase Manhattan Mortgage Corporation
Dated: December 16, 2004
Recorded: December 16, 2004
Book: RB3634 **Page:** 57

Substitute Trustee: Lisa S Campbell
Current Beneficiary: Chase Home Finance LLC, successor by mer
 Manhattan Mortgage Corporation

- Note multiple hyphens – Does the second hyphen mean that “Pautz” is part of the surname?

DATE AND PARTIES. The date of this Deed of Trust (Security Instrument) is NOVEMBER 2ND, 2006

The parties and their addresses are:

GRANTOR: ANNA-CHRISTINA M PAUTZ-DE LA IGLESIA AND ALVARO JESUS DE LA IGLESIA



3.04 Names of All Parties.

a. The full name of each party to an instrument shall be indexed in the Consolidated Real Property Index, and the name of each party shall be entered into its proper alphabetical section or location of the Index.

But where does the name begin and where does it end?

- Signature Page:

LENDER:

LASALLE BANK NATIONAL ASSOCIATION, as Trustee for the Registered Holders of Bear Stearns Commercial Mortgage Securities, Inc., Commercial Mortgage Pass-Through Certificates, Series, 2005-

By: WELLS FARGO BANK, NATIONAL ASSOCIATION, as Master Servicer under the Pooling and Servicing Agreement dated October 1, 2005, by and among Bear Stearns Commercial Mortgage Securities, Inc., Wells Fargo Bank, National Association, Arcap Servicing, Inc., LaSalle Bank National Association, and ABN Amro Bank N.Y.

BY: _____

Name: Tracy Mills-Smith

Title: Vice President

Index Arcap Servicing, Inc, ABN Amro Bank NY????? Are they parties to this instrument for indexing purposes?

REGISTERS' PROPOSAL

Notarized and signed by:
 E. William Wines, Attorney
 112 W. Rosewood Ave.
 Raleigh, NC 27615
 Also notarized and signed by:
 T. William Wines, Attorney
 112 W. Rosewood Ave.
 Raleigh, NC 27615
 Grantor's or donor's permanent mailing address:
 133 Highland Lane
 Raleigh, NC 27611

North Carolina Real Estate Indexing Registration Form
(Rev. 7/2017, 2018, 2019)

Resubmitting of Previously Recorded Instrument
 New Recording
 Certified Copy of Previously Recorded Instrument
 Submitted electronically by _____ (submitter's name)
 in compliance with North Carolina statute governing recordable documents and the terms of the submitter's
 agreement with _____ (insert county name) County Register of Deeds

Total Number of Pages Including Registration Form: \$
 Instrument Type: Deed Land Transfer Tax: _____ PIN: 9783-05-8778 PIN Verified by: AAF

Excise Tax: If checked - Original Recording Data: Book: _____ Page: _____ or Inst #: _____ (List
 subsequent instrument. If checked - Names will be indexed as provided below)
 indexed parties to this instrument and parties to the original instrument to which this instrument relates in their
 original capacities)

Grantors: (List Indexed Parties Below - Names will be indexed as provided below)
 Block 1 - Name Type (I = Individual, F = Entity), Block 2 - Surname or Entity Name, Block 3 - Given Names
 including Suffix, Block 4 - Status (Trustee, AIF, etc)
 JEFFRIES WILLIAM MAYNARD N/A
 JEFFRIES NANCY IRENE N/A
 JEFFRIES WILLIAM MAYNARD Attorney in Fact N/A

Grantees:
 HOWARD JOHNSTON INVESTMENTS OF RALEIGH NC N/A
 _____ N/A
 _____ N/A

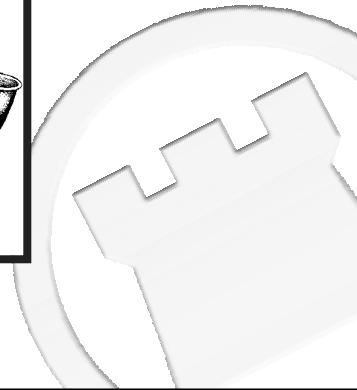
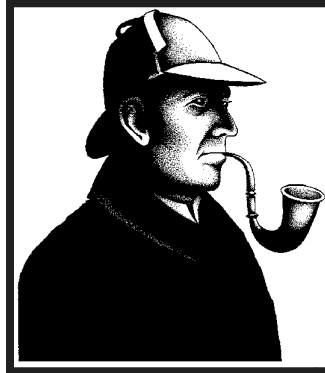
Remarks or Property Description for Index: Lot 14 Hidden Valley Estates
 Mark if parties are contained on an additional page

Surname Block

Name on Document: Lambert M. Vander Tag

Surname: Vandertag Lambert M

Fraud



CHICAGO BULL VOLUME 1, EDITION 38

Fraud Stories: Are You Watching Your Back?

Attorneys (and their clients) have recently been blindsided, suffered significant losses, even had to serve prison time, by not recognizing some key recurring *Fraudulent* schemes. So here are a few seemingly benign but highly toxic recipes for disaster!

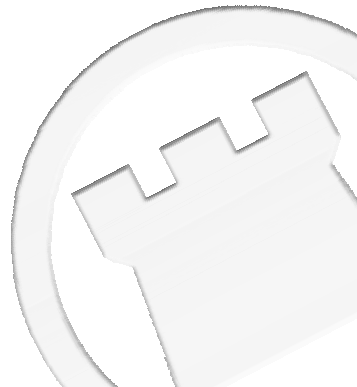
1. **Overstated Death?** Such as to
 - a. To unrelated third parties for no consideration (e.g. *Bequest*), or
 - b. To "handlers" (really whoelse-dealers?) who may or may not find buyers and may or may not make the mortgage payment with any real money ("Real Estate Karate Dealers" or "We Buy Houses" people), or
 - c. To out-of-state unrelated "trustees" proceeding to "administer your mortgage!"
2. **Mortgage Elimination Schemes!** Property owner conveys title to an out-of-state trustee who then conveys their own power of attorney prospectively on behalf of the lender, signs their own "satisfaction" as attorney-in-fact for the lender and quickly refinances without any profit (skating a split of the profits, of course!)
3. **Unexplained cancellations!** Did your seller submit a *Forma* recently or where did that payoff come from?
4. **Power of attorney**
 - a. To unrelated, non-bank attorneys in fact
 - b. To a relative who is using the principal's assets to pay their personal debt!
5. **Trusts with unrelated, non-bank trustees**
6. **Multiple deaths on a single property, either at closing or recently, for no apparent reason**
7. **ARMA "bidding"**, especially without change or with significantly increasing stamps and/or without disclosure to the true lender. See 24 CTR Part 203.37, HUD's explanation on buying / selling "twice."
8. **"Accommodation fees"** ("off the HUD") - "It's just between us, so one also needs to know!"
9. **Fun (or more) HUD's Endorsement Statements for a single closing** - "One is for the lender, the other is for..."
10. **Multiple inconsistent closings** - especially with significantly different purchase prices or parties.
11. **Names with pronunciation marks** instead of spaces, such as: "John.Smith.Jones". Have you heard of "Breanna"? How do you search that on a computer?
12. **Inaccurate stamps on deeds, especially higher than the statutory rate!** See 2001 FEO 12.
13. **Multiple recent transactions by a single investor** - How many "primary residences" can one person buy in 6 months?

WHAT YOU ALWAYS NEED TO KNOW!

- ⇒ *Does the transaction make sense?*
- ⇒ *Are there suddenly new parties?*
- ⇒ *Understand the transaction, look behind the surface - "Where is the Money?"*
- ⇒ *Are you and your title insurer caught with the "new file" of the transaction?*
- ⇒ *Is this realistic for this hour?*
- ⇒ *Are documents correct - i.e. not all saying "principal residences" if it's clearly not?*
- ⇒ *Remember Mortgage brokers, "handlers" is probably not the investor / lender!*

For even more information and resources, go to:
<http://www.FraudWatch.com/web/fraudwatch/bulls.html>

We invite you to view this and previous Chicago Bulls at
WWW.NORTHCAROLINA.CTT.COM





MORTGAGE FRAUD “THEMES” & “RED FLAGS”

- ◆ Multiple “primary residences” closed recently for same borrower
- ◆ Power of attorney to unrelated, non-bank attorney in fact
- ◆ Trust (especially “[Smith] Family Trust”) with unrelated, non-bank trustee
- ◆ Multiple deeds at closing
- ◆ Requesting changes in HUD or vesting at closing
- ◆ “Accommodation fees” (“off the HUD”)
- ◆ Two (or more) HUD-1 Settlement Statements
- ◆ Names with punctuation marks instead of spaces
EX: John;Smith-Jones

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		HUD FORM 1004	
SETTLEMENT STATEMENT		REV. 10-2003	
NOTE: This form is to be used to provide a statement of actual settlement costs. Receipts for the actual costs of the settlement are required. Do not use this form to report the closing fees or charges for the settlement process and are not subject to HUD rules.			
NAME OF BORROWER:			
ADDRESS:			
NAME OF SELLER:			
ADDRESS:			
NAME OF LENDER:			
ADDRESS:			
PROPERTY LOCATION:			
SETTLEMENT DATE:			
NAME OF SETTLEMENT AGENT:			
ADDRESS:			
NAME OF SETTLEMENT AGENT:			
ADDRESS:			
BORROWER'S SIGNATURE:			
DATE:			
SELLER'S SIGNATURE:			
DATE:			
LENDER'S SIGNATURE:			
DATE:			
SETTLEMENT AGENT'S SIGNATURE:			
DATE:			
TOTAL PAID BY BORROWER:			
TOTAL SETTLEMENT AGENT FEE:			
TOTAL PAID BY SELLER:			
TOTAL SETTLEMENT AGENT FEE:			
NET TO BORROWER:			
NET TO SELLER:			
TOTAL PAID BY BORROWER:			
TOTAL SETTLEMENT AGENT FEE:			
TOTAL PAID BY SELLER:			
TOTAL SETTLEMENT AGENT FEE:			
NET TO BORROWER:			
NET TO SELLER:			

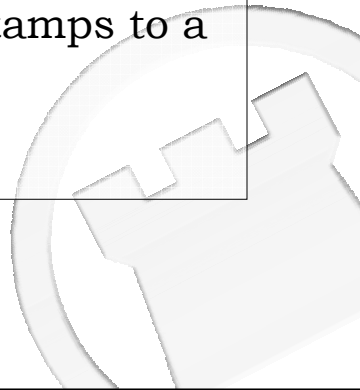


WARNING!!!!

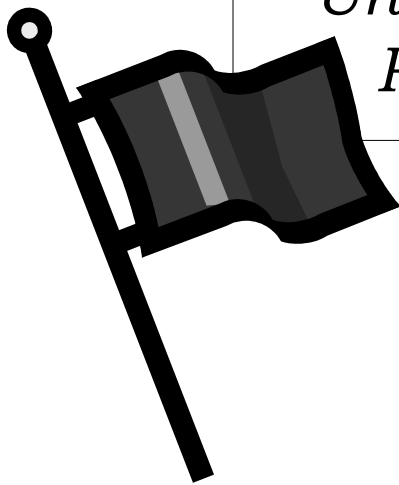
**HUD-1 MUST
BE COMPLETE
&
MUST SHOW ALL
ASPECTS OF
TRANSACTION!!!**

SPECIAL CASE:
Tax Stamps Must Be Accurate!

DO NOT
affix excess excise tax stamps to a
deed!
2001 FEO 12



*Unencumbered
Property!!!!*



PAYOFFS TO
LENDER
(**NOT** SELLER-
BUILDER)!!



Flips or Double Escrows

What can you do?

1. Use Title Commitment Flip Disclosure
2. Make Certain the New Lender (*not just broker*) Signs Approval of Flip
3. Make Sure All Monies Deposited Are Disclosed Properly
4. READ YOUR LENDER'S INSTRUCTIONS – See Actual Language

Flips by the Numbers

The Numbers:

Lease/Option:

(\$193K)

- New “contract”:
(\$330K)

- PMDOT:
(\$72K)

- Always carefully read the lender’s instructions;
- Bring discrepancies to the lender’s attention - both verbally and *in writing*;
- Communicate directly with the lender;
- Send information directly to the lender;
- If the lender says “all is well” or verbally instructs you to close contrary to the written instructions, then the lender *must* send revised, written loan closing instructions *before* we can close;
- Pay attention when receiving in funds and show the receipt from the remitter, get Third Party Deposit Escrow Instructions and send copies of all documents to the lender.

Mechanics’ Lien Fraud

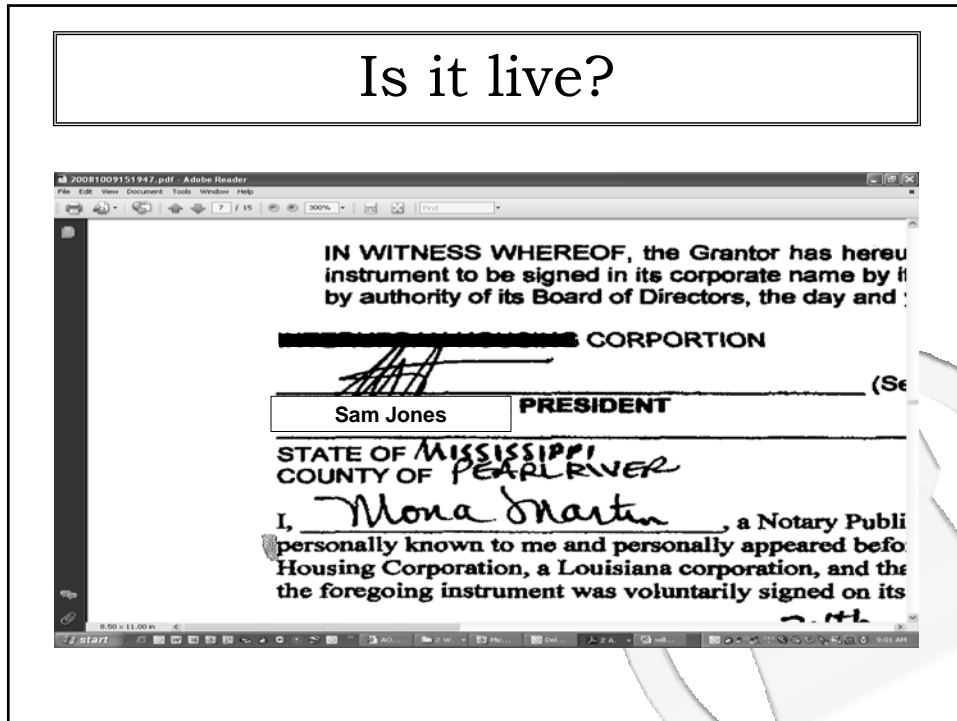
“Refinance” transaction

Recently recorded mechanic’s lien on the property (or one will appear)

Usually, requests updated commitment to reflect lien.

Often, lien is backdated but recently recorded. ***(First Clue!)***

Is it live?



Or is it “something else”?

