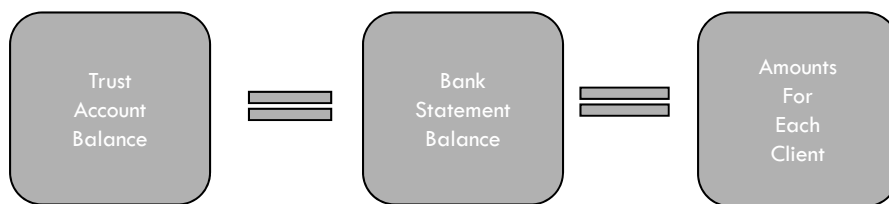


Trust Accounting- 3-way Reconciliation



- Proposed Opinion 2011 FEO 7: Law firm may use on-line banking but only if managing lawyers are regularly educated on security risks and actively maintain end-user security.
- Positive Pay
- Rynoh Live www.rynoh.com

NEW

**2011
Lawyer's
Trust
Account
Handbook**

www.ncbar.gov

Lawyer's Trust Account Handbook

The North Carolina State Bar



A publication designed to aid lawyers in understanding the procedures and guidelines for trust accounts.

Revised 05/2011

What Do We Do About This?

**Reconcile With Precision
Choose Precision
Reconciliation Services**

Special Offers!

All new PRS customers who sign up for our services will receive:

- Waived \$150 set-up fee; mention coupon code: PRS

This service is performed by a dedicated Reconciliation Specialist on the PRS team who will reconcile in your software using secure remote access. Our specialists reconcile, review and prepare monthly three-way reconciliation reports plus a monthly summary report of red flag items. Our specialists are also available to assist with researching and making corrections. We help you keep your escrow accounts clean, current and compliant.


Monthly rates start as low as \$65/month!

Benefits of Using PRS:

- Saves you money! Our service is less expensive, with monthly rates as low as \$65/month.
- Saves you time! Our service reduces the time spent on non-revenue producing activity.
- Reduces the potential for fraud by providing a separation of duties and a third-party perspective and review.
- Complies with Underwriter Quality Assurance/Audit and State Insurance Audit requirements.
- Our flexible format and knowledgeable staff enable us to reconcile in your existing accounting software.
- Escrow Reconciliation Services are currently available nationwide.

To take advantage of this offer or for more information, contact
Kenny Collier at 804.503.2380 or kcollier@prsecrow.com.

Visit us online at: www.prsecrow.com



**Do Not be
an easy target!**



Payoffs and Satisfactions of Prior Liens

- The lawyer's engagement letter, the lender's loan closing instructions, and the lawyer's representations to the clients establish the expectations of the clients.
- To avoid any misunderstanding, the lawyer must explain any limitations on her representation. Specifically, if she does not intend to obtain the cancellation of record of the paid deed of trust, she must so advise her clients.
- Explanation must sufficiently to allow the borrowers to make reasonably informed decisions about the representation

FRAUD #3: Twist on Disbursement Scam--Loss Mitigation

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- Attorney worked for months with a short sale specialist who was working with borrowers who were in foreclosure, found buyers who took out a reverse mortgage to purchase, seller cooperated, they paid off liens and cleared issues in order to close.
- For months the prior lender's loss mitigation department worked with them to get approval letters for the contract and revisions to allow for payment of up to \$30,000 in liens, one of them an unrecorded judgment. Price kept going up to cover new issues, but apparently common on short sales.
- Finally, in August, everything came together and the lender agreed to the terms of the pay off to close and release the mortgage.
- Wire instructions stated that there was an investor who would receive the funds, and it had to be a wire.
- Attorney is contacted in March, over 6 months later, by an attorney for the lender who claims to never have heard of the mitigation company and never received any pay off, never agreed to any short pay off.

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Short Sale Disbursement

M CASTER Home Finance

10790 Rancho Bernardo Road
San Diego, California 92127

Palm Harbor, Florida

September 17, 2010

Re: Account Number: 730044376
Mortgagor - Vincent Giordano
Property Address: 2942 GLENPARK RD PALM HARBOR 34683-

Dear: Vincent Giordano C/O Dorothea M Giordano

M. CASTER Home Finance (A PHH MORTGAGE ACCOUNT) has agreed to accept a short payoff on the above referenced account, contingent upon the following terms and conditions.

- Net proceeds based on sales price of **\$270,000.00**
- We would allow Jr. Liens up to **\$30,000.00** to be paid.
- The net proceeds to be submitted M. Caster Home Finance no less than **\$143,500.00**
- Total net proceeds must be received in our office no later than 09/23/2010. After this date a daily per diem of \$72.59 will be added to the approved short sale amount.
- Any funds held in our escrow/impound account will be considered the property of M. Caster Home Finance and will be applied toward our loss.
- Sellers are to receive no funds from the sales proceeds.
- Any overage are to be forwarded to M. Caster Home Finance
- A copy of the final Settlement Statement and the settlement check/wire confirmation must be emailed to us no later than 09/16/2010.
- Proof of Court Ordered Release to sell/refinance, or proof of Bankruptcy dismissal if applicable
- Signature on this document represents that Mortgagor has no other financial obligations to M. Caster Home Finance or any of it's trustees.

Please Email Final HUD to receive Wire Instructions

If there are any changes to the terms or conditions or sales, please contact me for consideration. Should there be any changes we do not agree with, M. Caster Home Finance reserves the right to withdraw this approval and deny an acceptance. Please feel free to contact me at tunkka.mcaster.finance@live.com.

Sincerely,
Tunkka Wonsuk
Senior Negotiator
Loss Mitigation

Mortgagor

Date

From: Tamkeia Womack [tamkeia.mcaster.finance@live.com]
 Sent: Friday, September 24, 2010 2:35 PM
 To: [REDACTED]
 Subject: RE: Dorothea Giordano, # 730048576

Cheryl,

I can't believe we actually closed. The investor for this loan is EYU, Inc.

The wire instructions would be as follows:

EYU, Inc.
 BB&T
 Rt# 263191387
 Acct # 0000148049009

Will this be wired today, I have to let senior management know.

> From: [REDACTED]
 > To: tamkeia.mcaster.finance@live.com
 > Subject: Dorothea Giordano, # 730048576
 > Date: Fri, 24 Sep 2010 13:50:55 -0400
 >
 > Tamkeia,
 >
 > Enclosed is a signed HUD and your estoppel letter for Girodano. Please
 > acknowledge and send over your wire instructions. In closing now, new lender
 > funds not received yet. Upon receipt of lender funds we will wire payoff to
 > you. Thank you for your assistance.

Short Sale FACTS

Short Sale Fraud Notice



From: jeremykoss@aol.com
 Sent: Wednesday, March 23, 2011 12:22 PM
 To: [REDACTED], jeremykoss@aol.com, tczochanski@alliedmortgage.net
 Subject: Giordano sale to Dvorak

Dear Cheryl,

Please be advised that I represent Allied Mortgage Investment Fund II, LLC ("AMIF"). AMIF has a mortgage on the subject property.

We have been advised by our borrower that the subject property was sold pursuant to an approved short sale. AMIF has searched its records and cannot find any short sale approval or receipt of any sale proceeds.

It is my understanding that your office handled the closing of the sale. Would you please be so kind as to send me a copy of the short sale approval, HUD-1 Settlement Statement, proof of disbursement of pay off funds (where the funds were sent and to whom) and satisfaction of mortgage.

Thank you.

Jeremy Koss
 Koss, Jacobs & Zilber, P.A.
 13680 N.W. 5th Street
 Suite 100
 Sunrise, Florida 33325
 305.807.4801
jeremykoss@aol.com

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FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS

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Previous on List Next on List Back to List Entity Name Search

Events No Name History [Submit]

Detail by Entity Name
Florida Non Profit Corporation
EVERYONE'S YOUTH UNITED INC.

Filing Information
Document Number NS0000091815
FEIEN Number 590928046
Date Filed 03/09/2009
State FL
Status ACTIVE
Last Event CANCEL ADM DISS/REV
Event Date Filed 10/09/2009
Event Effective Date NONE

Principal Address
1221 22ND STREET SOUTH
SUITE C
ST. PETERSBURG FL 33712
Changed 10/09/2009

Mailing Address
8810 16TH STREET SOUTH
TAMPA FL 33604
Changed 04/09/2010

Registered Agent Name & Address
GREEN, ERIC L
8510 16TH STREET NORTH
TAMPA FL 33604
Address Changed: 10/09/2009

Officer/Director Detail
Name & Address
Title CHAIR
LOUNELL, BRITT CHAIR
1221 22ND STREET SOUTH SUITE C
ST. PETERSBURG FL 33712
Title V CH
THOMAS, JACKSON V CHAIR
1221 22ND STREET SOUTH
ST. PETERSBURG FL 33712
Title S
AGNES, JACKSON SECRETARY
1221 22ND STREET SOUTH SUITE C
ST. PETERSBURG FL 33712

*Eric Green
599-9912*

Short Sale Fraud FACTS

Short Sale Fraud Losses

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- Possible losses----The lis pendens for the current foreclosure was filed in June of 2008.
- The foreclosure has now been completed and a sale is being held shortly. Seeking to recover the \$143,000 payoff to EYU. We have an owner's policy of \$270,000, new loan policy of \$190,000.
- It turns out the buyer of the short sale is an 80 year old friend of the 64 widower seller, and widower/borrower/seller still lives at the property with the buyer. Do we owe coverage to this person? This may even be a bigger fraud, more of a standard short sale fraud, but buyer and seller all thought they were following the directions of the foreclosure rescue realtor they knew from church.

Short Sales

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- The title is a misnomer. There isn't anything about them.
- Typically they involve detailed closing processes, with conditional mortgage payoff requirements.
- Often there are requirements tied to an on-going bankruptcy.
- READ YOUR LENDER'S CLOSING INSTRUCTIONS AND THE PAYOFF INSTRUCTIONS CAREFULLY.**
- Don't be pressured into quickly closing for a seller.
- We advise to seek advice from title counsel.

Short Sale Fraud Characteristics

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In short sale fraud, perpetrators are taking advantage of the fact that lenders, servicers and title companies are still refining their processes, including:

- Falsifying the parties to the transaction
- Falsifying the true value of the property
- Falsifying the amount owed
- Falsifying essentially any material and necessary information

Short Sale Fraud Characteristics

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“Red flags” of short sale fraud include:

- Sudden default, no workout discussions, and immediate offer at short sale price;
- Ambiguous or conflicting reasons for default;
- Mortgage delinquency is inconsistent with borrower’s spending, savings and other credit patterns;
- Short sale offer is from a related party;
- Short sale offering price is less than current market;
- Cash-back at closing to the delinquent borrower, or other disbursements that have not been expressly approved by the lender (sometimes disguised as “repairs” or other payouts).

Recent Short Sale Scheme

- Short sale approval letters appeared legitimate (i.e. closing costs predetermined, maximum commissions set, no monies to junior lien holders etc.), but were NOT CONFIRMED with BOA
- BOA allegedly approved short sales very quickly -- less than one month, and for amounts significantly less than the fair market value of the property (i.e. leaving equity behind)
- At closing, funds were wired to a legitimate BOA account
- TWO WEEKS later, BOA returned the funds because payoffs were not approved
- During the two week delay, insured grant deeds were recorded, and in some cases the properties had been flipped for considerable profit.

SHORT PAY FRAUD

- Seller was in the process of negotiating a short sale with his lender, Bank, through the services of a third-party "short sale negotiation company. "
- No real estate agents involved.
- Buyer was purchasing the property using a private lender and the sales price was \$200,000, pending approval from the existing lender.
- Bank issued their short pay letter approving the sale for \$200,000, no later than June 27, 2011.
- New lender's funds and extension letter (purportedly) from Bank and came in on June 28, 2011, extending short pay letter was July 1, 2011.
 - Contacted loss mitigator at Bank to confirm
 - Extension letter not from Bank's loss mitigation department, normal address, email, phone/fax
 - Bank responded that NOT AUTHORIZED letter – balance was over \$1,000,000
 - Seller, buyer, third party "short sale negotiation company" did not return calls
 - Buyer's lender requested their funds back – returned to exactly same account from which received

Moral Of The Story

- DO NOT RELY ON THIRD PARTY UNVERIFIED "NEGOTIATORS"
- CONFIRM WITH THE SHORT PAY LENDER'S DIRECT OPERATIONS

Preventing Short Sale Fraud

- Conduct an online search of the names of all parties to the transaction to see if anything unusual pops up
 - In the BOA scheme, the buyer had a prior recent arrest for fraud
- Contact the lender or the foreclosing attorney to verify that the short sale approval letter is legitimate
- If the lender won't provide the information directly to the title company, insist that the borrower/seller consents to allow the lender to provide the verification
- Disburse payoff funds directly to the lender – be very skeptical of any funds going to the borrower/seller or other third parties
- Get the executed mortgage satisfaction and record it as soon as possible after closing
- Freddie Mac now requires all parties in any short sale to sign an affidavit, "attesting that it is a true arms-length transaction."

Your Fraud Vaccine

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- Verify that the short sale mitigation company represents the prior lender, contact the prior lender directly.
- Contact the foreclosing law firm to verify have all funds included in pay off.
- Follow up to get the satisfaction quickly after payment.
- Disbursement: Wire needs to go into the account of the actual lender unless you have written proof from that lender that there is a servicing agreement in place and they consent to that payment. Do not pay an investor directly.
- Conduct an online search of everyone's name to see if anything pops up. This foreclosure rescuer realtor was reportedly arrested last December for some sort of rent fraud and his name came up on complaint boards before this closing.
- Listen to your gut.



Conduct an online search of everyone's name to see if anything pops up.

Frequently, the "rescuer's" name has come up on blogs and complaint sites previously.

The "rescuer" may already have posted arrests or a criminal record.



Fraud Vaccines

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- Settlement Statement must show EVERY disbursement & ACCURATE payee.
- NEVER reflect monies going into and out of your account unless they actually do.
- ALWAYS disclose to the lender if they are aware of any monies (or benefit of a forgiveness of a debt to the seller) going back to the borrower or his relative.
- ALWAYS make sure that the commitment accurately reflects the status of the vesting of title with the accurate number of deed transactions.

