



UNDERWRITING BULLETIN

FROM: Underwriting Department
DATE: March 8, 2013
TO: New Mexico Policy Issuing Agents
BULLETIN No.: NM 03082013
SUBJECT: FORGERY/FRAUD PREVENTION

Real estate and mortgage fraud costs everybody many millions of dollars every year. Title insurance companies and agents are particularly vulnerable and incur significant losses. As part of our efforts to collaborate with our agents, WFG has identified certain high risk situations based on its national experience that WFG wants to pass along to its agents for everybody's protection. Fraud prevention is everybody's business.

The first line of defense against fraud and forgery claims is due diligence on the part of the agent. Any situation that does not feel right justifies a pause in the transaction and a review within your company and/or with WFG underwriting counsel. Claims, no matter how small or meritless, generally exceed the premium earned by the underwriter. Trust your instincts.

The following situations are considered extra-hazardous risks. Although prior WFG underwriting approval must be obtained before issuing a commitment or a policy where indicated below, you should always contact underwriting counsel when questions arise. We are here to assist you and protect us both from these claims!

- 1. Seller or mortgagor has a deed to the real property within the past year that was not recorded by a title company.**

Many forgeries or fraudulent conveyances involve intra family fact patterns. Also, deeds not recorded by a title company between apparent strangers are a common start of a fraudulent transaction. Such deeds are frequently signed out-of-state.

- 2. Seller or mortgagor has a deed to the real property with a value of \$50,000 or more, but no mortgage or deed of trust within the past year.**

An acquisition deed by the current vested owner not accompanied by a concurrent purchase money deed of trust or mortgage instrument is rare. Most individuals are unable to make such a large purchase without financing. Although there may be unique circumstances that allow an individual the ability to finance a purchase of real property (i.e. inheritance, independent wealth, etc.), this must remain a red flag because most individuals do not have the financial resources to purchase real property without financing or a 1031 exchange. The explanation that the seller or borrower offers must be plausible. If it is not, contact WFG underwriting counsel for assistance.

If the deed is from an institution such a lender disposing of REO property, a check with the lender/seller confirming the validity of the deed is acceptable.

- 3. The name of the spouse joining in the deed with the seller or borrower is different than the name of the spouse on prior instruments such as a prior mortgage.**

A confirmation of which name is accurate as evidenced by a name affidavit is acceptable. If possible, check the affidavit signature against the signature on a previously recorded document.

- 4. Releases or Reconveyances unaccompanied by a new mortgage or deed of trust. Take exception under Schedule B for the mortgage or deed of trust and the respective release or reconveyance in any commitment you are provided satisfactory proof of payment.**

- 5. Power of Attorney coupled with over \$50,000 in proceeds to the seller or borrower without a reasonable explanation for the absence of the principal.**

Beware of other red flags. Powers of Attorney are particularly dangerous when dealing with reverse mortgages or other transactions involving elderly parties. Proceeds checks or wire transfers must be payable to the seller or borrower. Do not pay any money from escrow directly to the attorney-in-fact.

- 6. Seller's name is spelled differently than that of record title holder. The name of the seller has a different middle initial than the record title holder or the seller has a middle initial and the record title holder does not or vice versa without an affidavit identifying what is the correct name.**

Look for dissimilarity of signatures of the same party. (.e.g. Does the signature of a seller/borrower appear to be different than the signature appearing on a mortgage executed by the owner of record?).

- 7. Deed recorded several months or years after the execution date.**

Investigate the reason for the delay. If the deed is recorded after the death of the grantor, contact WFG underwriting counsel for assistance.

8. Unusual Consideration.

Worthless options, gold bonds or gemstones may tip off that the transaction is a sham. Anything other than available funds, as defined under Section 13.14.1.7, NMAC.

9. Assignments of mortgages or trust deeds within one year from non-institutional lenders with the assignee offering a payoff statement or release.

When dealing with a private beneficiary or hard money lender and you are asked to insure a release based on an assignment of a mortgage or deed of trust, you must require production of the original promissory note and original recorded mortgage or deed of trust and make sure that an endorsement of the note to the assignee has been made.

10. Seller's or borrower's proceeds exceeding \$100,000.

Although there are many legitimate transactions where the seller or borrower receives more than \$100,000 in proceeds, take extra time to review the file. Large proceeds should raise a red flag to a closing agent. Keep an eye open for other red flags when substantial proceeds are disbursed. Hard money loans, powers of attorney, vacant land are red flags. If you have any concerns, contact WFG underwriting counsel for assistance.

11. Corporate owner or LLC owner obtaining title before formation of corporate entity.

Review the chain of title in which a corporation or an LLC appears. The corporate entity should be formed and corporate documents properly filed before the acquisition of title.

In addition to the matters noted above, beware of the following situations that raise red flags.

1. Rushed transactions coupled with other red flags.

A customer requires you to move through all of the hoops at the speed of light without having the opportunity to ask any questions (i.e. little time to examine documents) coupled with a power of attorney. Slow down and take a fresh look at the transaction. The main reason may be that the customer doesn't want to provide an opportunity to scrutinize the documents that are being executed and submitted for recording.

Be wary of these situations. Use your best judgment and skill to determine whether this situation requires you to step back and really take the time to examine the documents, signatures, acknowledgements and notary seal or stamps. A rush transaction may be acceptable if there are no other red flags present.

2. A sale or finance of vacant land.

It is very easy to forge a signature and often such forgeries have out-of-state owners. Closers should scrutinize out of state identification forms. Hard money lenders with lower underwriting standards are frequently involved.

3. Deeds not signed in closer's presence.

If signing is to be outside of the closing, unless closed by the insured lender or known title company, examine the documents carefully, and, if there is any question, talk to the person who took the acknowledgement.

Approved signing services, other WFG agents or known title companies are much safer than relying on a broker's notary or an independent notary.

4. Requests for validity of closing proceeds check.

Be wary of situations in which a bank or check cashing operation calls you and asks you if your payoff or proceeds check to a seller is good. If a party to a closing does not deposit the proceeds into his own bank account then there is something wrong. Do not give them the OK until you have looked at the entire transaction again and have reviewed it with the underwriter for any red flags. The suspect is usually trying to break down any proceeds into smaller denominations for ease of use and to avoid having the money tied up by authorities.

NOTE: This Bulletin is intended for use by title issuing offices, title insurance agents and approved attorneys of WFG National Title Insurance Company and any reliance by any other person or entity is unauthorized. This bulletin is intended solely for the purpose of underwriting policies of WFG National Title Insurance Company.