

# STREAMLINING YOUR CLOSING PRACTICE

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## **FIRST, ANALYZE YOUR PRACTICE.**

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It is helpful to analyze your closing practice, as you may be surprised to find out that your staff is not doing what you think that they are. You don't need to find out that your staff is not making copies of that great equityline cancellation notice that you designed, when that mortgage that you paid off gets drawn against for a new car. Look through your files at different steps in the closing process – including after the deal has closed – to find out what really happens in the closing process. As a first step, consult your closing secretary.

## **CLOSING SECRETARIES**

Just as your hard drive will one day fail, you will one day lose your closing secretary. If you are lucky enough to have a good one now, you will not always be so lucky. A training manual helps with training a new secretary and can help make a good closing secretary a great one. Even if you don't anticipate losing a secretary, a training manual makes a good reference for a temporary replacement. It is important to develop the manual while you have an experienced secretary, as what you don't know – you won't teach well. Your secretary will also deal with issues that you don't think of. You may find yourself reevaluating your role in the closing process as well. A training manual

should consist of checklists of things you want done in the closing process and a detailed explanation of important steps

#### **CHECKLISTS.**

Checklists are a great training tool. I've inserted a closing checklist in the addendum section of this handout. However, don't limit their use to your office staff. Preparation of checklists for local real estate agents can help greatly with the information-gathering phase of the closing practice. The more complete the initial submission from the real estate agent, the less time that your secretary will spend on this part of the closing. Also, callbacks take time. A checklist can help in getting the information the first time – while the file is out and in front of the secretary.

#### **ESTABLISH THE GOAL**

The goal is to get the deal closed. Don't lose sight of that. The normal activity in most real estate office is to try to handle the current emergency. This does not get the deal closed and rewards the inefficient or "problem" real estate agent. The agent who continually has problems from overlooked termite requests, failure to estimate closing costs, or failure to advise the buyer of the need for good funds at closing can take up all your time. Crisis management by definition is not management. Encourage your staff to review all of the steps in the closing process with the agent when the file is first received, establish responsibilities for the information to be gathered, and timelines for completion. Don't chase off the good agents by ignoring their deal while dealing with false emergencies.

## **THE ROLE OF THE REAL ESTATE AGENT**

The real estate agent or loan officer that sends you business is interested in achieving the same goal – closing the deal. A successful closing practice requires training these people to be more efficient in dealing with your staff. Providing checklists and spending time with new real estate agents or loan officers pays many dividends. It is an opportunity to show interest in that person and build a relationship and allows you to make them an extension of your office staff. Many of the local banks and real estate offices use transmittal or intake sheets that were established in our office. Since these sheets are designed to work with our checklists, a new secretary has no trouble in understanding the information received.

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## **STEPS IN THE CLOSING PROCESS**

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### **PRE-CLOSING**

#### REQUESTS FOR WORK

Upon receipt of a request for a Closing, the closing secretary or attorney should call the requesting party and confirm the actual deadlines for the work (all work cannot and should not be done ASAP). Thank them for the request, but decline the work if clearly impossible. Do not make promises that cannot be performed.

While on the telephone this is a good time to ask for missing information and confirm names of parties involved and commission or loan information. The closing checklist should be in the hands of the caller – especially if it is the attorney. Use of the checklist lets the secretary quickly review the

information and determine what is missing. Find out if some of the parties are in other states or have special deadlines.

#### SETTING UP FILES

In our office, we use multi-divided files to help organize closings. Simple closings use a four-fastener file and larger closings use a six-fastener file. The six-fastener file is broken down as follows:

- Closing Checklist – behind the checklist, the closing contract and initial transmittal information.
- Closing Instructions – Lender closing instruction.
- Mortgage, Note, Riders and Assignments – the closing package is divided into two sections<sup>1</sup> to avoid lengthy searching for documents.
- Other Closing Documents – any other document to be signed at closing, including all Seller documents clipped together.
- Payoffs, Transmittals & Correspondence – includes mortgage satisfaction requests and bills for survey, termite, etc.
- Title Notes and Tax Information – Includes title policies or opinions, copies of old surveys or prior title information from old files.

#### *Filenames*

While the file is active and at your desk or secretary's desk, you will usually refer to it by a "filename". To avoid confusion each person in your office should use the same system for naming files. In our real estate practice, we reference the name of the buyer first, then the seller. We do this every time - even where we are representing the seller. When others call in to check the status of the

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<sup>1</sup> By centering these two tabs, the file can be opened to display all of the documents to be signed. Reminders from the secretary to collect documents and checks are placed on top.

file, the first question we ask to identify the file is “who is the Buyer?” Remember, the lender, homeowners insurance agent and one of the two real estate agents will think of the file by the Buyer’s name as well.

Also, we find that we deal with the same people repeatedly and the filename helps determine the role of a party in a particular transaction. When reviewing a list of files that we have opened that involve a party, the filename tells you whether the party was the buyer or seller for that file. An example of a standard file tab is shown below.

<b>Smith, Marvin p/f Jones, Bob</b>	<b>8456</b>
Atty: JMM	Code: CLOSING
Rec’d 2/3/00	

The information shown above gives you a simple way to organize your files, while in stand up racks or taken to the courthouse, alphabetically and when in the filing cabinet, numerically. We type the contact information in our database, then use a built-in macro to generate the file labels automatically – so that the information is only typed once and the labels are all in the same format. Label printers are inexpensive and can be easily networked. The font sizes can be varied to make tabs easy to read and file folders and checklists kept next to the printer.

### *File Numbers*

All transactions in our office are identified by a matter number, which is automatically assigned when the file is opened on our database. The file tab should always show the matter number. The

number shows at a glance the relative age of a file, gives a short and distinctive way to identify documents associated with the file<sup>2</sup> and to track financial information<sup>3</sup> and assists in closing files.

### *Electronic Files*

Create a separate electronic folder for each paper file. This is the simplest and best approach. I recommend using the file number as a folder name as this simplifies archival of old files. Also creating folders to hold groups of folders within a range of numbers can keep file access simple and avoids lengthy scrolling to access files.

### *Tracking Files*

In our office we use a contact manager called AbacusLaw<sup>©4</sup>, a database that allows events, files and people to be cross-referenced. It operates through use of screens that display name, address and other contact information, files linked to the name and events linked to the name. Other screens display all names linked to a file, all events links to a file and all documents associated with a file. With a couple of keystrokes, anyone in the office can locate the file, identify the parties involved [banker, real estate agents, buyer and seller, insurance company], time and date of closing or other events being tracked, and view and amend any correspondence or other documents associated with

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<sup>2</sup> Most word processors allow fields to be inserted in a document to allow document identification. In Microsoft Word, use the pull down menu to *Insert, Field, Document Information, Filename* into the file. By insertion of this information into your standard templates and by use of a standard file naming convention in creating and storing documents, the matter number can be shown as an inconspicuous footnote to documents prepared by your office. This greatly simplifies identifying a cancellation prepared months earlier with respect to a predecessor in title to your seller – something that is otherwise a knotty problem.

<sup>3</sup> Our closing checks and ledgers are sorted and filed by matter number.

<sup>4</sup> Abacus Data Systems, Inc. allows a sample program to be downloaded from their web page: <http://www.abacuslaw.com>

the file.<sup>5</sup> Our documents are scanned following closing for long-term storage and the images are cross-linked to this document index. Years after a file has closed, the HUD-1, survey or recorded deed may be viewed or printed without leaving the desk or having to put the caller on hold in order to search for information.

All electronic files should be kept on a central server, if in a networked environment. The advantage of networking is lost if you the document that you need is saved to “My Documents” at a computer that you don’t have access to. Also, backing up files is much easier from a centralized location, avoiding the need to move from desk to desk.

#### SCHEDULING WORK

The real estate contract should show a deadline for closing. Unfortunately, this is all too often “ASAP” or is a date earlier than the date that the file was referred to the office. Set a realistic goal and put events on your calendar. Tentative events may be firmed up later and scheduling them gives greater control of your calendar. Remember again to make sure that the deadlines are realistic. When scheduling the closing, make sure that parties will be physically present. Real estate agents don’t get paid until the deal closes. They ignore the time required to overnight packages to sellers in other areas and are famous for asking that “the deed be sent to the seller” long before the HUD and other closing documents can be prepared.

#### EXAMINING TITLE

Whether ordering title work from a third party or doing it in-office, keep a few rules in mind.

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<sup>5</sup> Most contact managers will also allow documents and envelopes to be generated and printed directly from the program

- If description is poor, place a note on the file that survey or correction of the description may be needed. Review it against tax maps to see that it identifies the property.
- Prepare tax work up and assessment information early. The closing secretary will need to provide proration information to the lender. Pay special attention to whether taxes are paid by someone other than the owner, as it can alert you to mortgage holders and people buying under contract.
- If your secretary is under pressure for a quick closing and you have a difficult title, identify mortgage holders before completing the title exam so that payoffs can be requested. Some lenders require that their borrower sign payoff information requests – make special note of who does this and get that request in early.
- In examining title, be careful to note any exceptions and required title information for the typist. A highlighter is helpful here.
- Pay special attention to equityline mortgages and tax liens, as both require special handling. The IRS requires that the taxpayer sign requests for lien information<sup>6</sup> and equityline payoffs should be handled by 1) a request for payoff signed by the borrower and requesting that the equityline be frozen, 2) request for termination of the equityline, again signed by the borrower, which accompanies the payoff check, and 3) an indemnity agreement.

#### PREPARING OPINIONS/BINDER

Have the secretaries proofread all descriptions with another and check the printed opinion against the notes before giving it to the attorney to sign. The description should be typed only once. Use cut and paste commands to insert the description in other documents or use the merge functions of your word processor. Retyping gives the opportunity for an error and is inefficient.

When the title opinion or binder is prepared or reviewed, the attorney should identify all payoffs, correction documents and affidavits that will be required. Prepare a list of these documents and determine what signatures will be needed. If corrections require signature by third parties,

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itself, without exporting to a word processor, in the case of standard documents that don't require editing.

<sup>6</sup> IRS form 8821 – Tax Information Authorization. Appendix.

determine if the closing needs to be rescheduled. This is a good time to review the contract for indications that a termite inspection or survey is to be delivered to closing or that a special possession agreement is needed.

#### PAYOFF REQUESTS

If not prepared earlier, payoff requests should be made immediately following completion of the title exam.

#### **DOCUMENT PREPARATION**

Residential real estate closings differ substantially from a commercial closing practice. A commercial practitioner has the opportunity to customize a standard set of closing documents to a much greater extent than is normal in a residential practice, however developing your own forms of documents and checklists helps make for a more efficient closing. If you do a number of closings for a particular lender, you can prepare a group of standard documents for that lender's closings. These can include the HUD, lender affidavits, mortgages and other documents specific to the lender's needs.

Document preparation is a wonderful opportunity to streamline your closing practice. Document assembly is faster and avoids errors. By using the "find and replace" function of your word processor and by "cutting" and "pasting" the description and other long text items, typos can be avoided or quickly corrected. Even better is a document assembly system that uses the "Mail Merge" functions of your word processor. Sample documents for both systems are in the appendix.

## CLOSING STATEMENTS

Start preparation of the closing statement as early as possible in the process. This will insure that all the necessary information is on the closing statement before closing. No closing system that requires manual entry onto a paper HUD form can be efficient. Computer generated HUD programs automatically calculate totals, prorate taxes, calculate escrows and export check writing information to your check writing program. More advanced programs<sup>7</sup> are geared to document assembly systems and will export all of the information contained on the HUD, or contained in the program<sup>8</sup>, to HotDocs®<sup>9</sup> or directly to your word processor.

Whenever possible generate a Preclosing Draft of your HUD. This can be sent to your lender and real estate agents as a last check before closing and to allow estimates of closing costs to borrowers.

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<sup>7</sup> Your author uses Power Closer™, a real estate closing software developed by Argosy Legal Systems, to generate the HUD-1 or HUD-1A, disbursement sheets, Seller's 1099's or exemptions from reporting and disbursement information. Sample programs and cost information are available at the seminar, but I do not have a relationship with the company - any mistakes or misrepresentations are my own. You may also contact this company at: <http://www.argosylegal.com>

<sup>8</sup> Power Closer calculates the amount of the monthly principal and interest payment, and exports the dates and amounts of first and last payment, interest rate and other information to your documents. It does not generate an amortization schedule showing principal and interest breakdowns for each payment.

<sup>9</sup> HotDocs® is a popular document assembly system which can accept information from database exports or from user entry to generate forms. The advantage of a document assembly system is that the document's form is generated as a result of the answer to a number of questions by the assembly program. The answer to each question posed determines the text to be included and the additional questions to be asked. For example, an attorney with a multi-state practice would first ask the state where the form is to be used as an obvious step in the process of determining clauses for a document. Only after the final form of the document is established does the merge function replace the names and other fields used in the document. The document can then be edited further with your word processor to reflect negotiated terms. LexisNexis™ allows downloads of sample programs from: <http://www.hotdocs.com>

## USE OF TEMPLATES

Avoid completing paper forms with a typewriter. Templates are much quicker, easier to correct, and avoid costly errors. We use Microsoft® Word® in our office and will describe that system here, but Word Perfect® and other word processors offer the same functions.

When you first unwrap Word, you will see a system of templates that can be used to create new documents. While the elegant memos and letters that result are pretty, most of the documents generated are useless in a law office and the template capabilities are frequently ignored. While a detailed discussion and explanation of templates is beyond the scope of this article, help is available to those interested.<sup>10</sup> In setting up your system, remember that you will want the system available to the entire office and that you want changes and corrections to apply to everyone in the office. For this reason, you will want all of the templates<sup>11</sup> and form files<sup>12</sup> to be set up on the server.

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<sup>10</sup> Microsoft has made special web pages available that are designed to assist lawyers in generating complex legal documents. See: <http://officeupdate.microsoft.com/legal> Also, Payne Consulting Group has written two excellent books, *Word 97 for Law Firms* and *Word 2000 for Law Firms* that are helpful in setting up word processing for your office.

<sup>11</sup> Templates are files with the \*.dot extension. To create a template, select a blank template and change the default fonts, margins, paper size and other settings to the format that you want to use for your closing document. I recommend using styles to create a master document template. Styles are a set of pre-defined formatting instructions that will be used repeatedly throughout your documents. For example, by using styles to define the way that a description will be formatted, you can set left and right margin indenting, spacing between paragraphs, tabs and type size relative to the rest of the document. Information inserted in the template will have the correct formatting without having to make these changes each time that the document is generated. If you decide to change the style of documents in your office, the style of the master template can be edited and then applied to all of the other templates based on that style for quick and consistent formatting. Create a separate master style for Closing Documents, Pleadings and Correspondence.

<sup>12</sup> A form file is a specialized document that you have drafted. Anytime that you draft a private easement maintenance agreement, escrow agreement or other specialized document, save a copy of the document to your forms files. By use of nested folders, files can be quickly found again for reuse. If you find yourself reusing a file on several occasions, the “find and replace” functions of your word processor can be used to replace client names with GTR, GTE, CORP, BNK and the like to make the file more user friendly. If you use the form constantly, elevate it to a template. This is done by selecting a template similar to the document and selecting the “create new template” option. Press CTRL + A, then CTRL X to select and delete the contents of the old template, then select *Insert, File* from the pull down menu to insert the file you wish to convert. Apply styles to the document and make of other changes, then save the document to the correct folder in your Workgroup Templates and the template will be available to everyone.

Make a new folder on a drive accessible to all workstations called “Workgroup Templates”. Identify that folder as the location of shared templates at each workstation<sup>13</sup>. Once this is done, each folder within the Workgroup Template folder will show as a separate tab on your list of templates available when opening a new file. You will need to limit the number of folders created to keep all tabs visible. Also, folders within folders will not display in your tabs list. Use of naming conventions for templates<sup>14</sup> will allow specific templates to be quickly found.

Templates can contain several different documents. By inserting section breaks between documents, changes can be made between legal and letter size paper or page numbering that will affect only the documents in that section of the template. By grouping documents within a template, groups of documents that are used in each type of transaction can be selected quickly by an inexperienced closing secretary<sup>15</sup>. If “Find and Replace” is used, all documents can be changed at one time.

#### MERGE PRINTING DOCUMENTS

Both AbacusLaw and Power Closer allow information to be exported from the program to a word processor file that contains field names and information from the program for each field.

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<sup>13</sup> After opening a blank document, use the pull down menu to select “Tools, Options, File Locations, Workgroup Templates” and modify the location of workgroup templates to point to the folder that you have created on the server. If you use a laptop and want to have these templates available at home, open Windows explorer and find the Workgroup Templates folder on your server, then drag and drop it on your briefcase, then modify the file location to point at the folder in your briefcase. You will have to synchronize your briefcase to benefit from changes to the templates. Be careful – this changes files both ways. If several people are synchronizing to their laptops, make your server’s templates read only.

<sup>14</sup> For example, start all Warranty Deeds with WD, survivorship deeds with JS, etc. In this case, long filenames should be avoided as WD 1 to Corp is simple to understand and will fully display in a pull down list.

<sup>15</sup> For example, a template called “Refinance” could contain a borrower’s lien waiver, payoff requests and transmittal letters, privacy act notices and the like. It would not contain documents specific to sales.

Templates can be set up to import any of the exported information in a process called “mail merge” and the resulting document can be quickly edited or printed.

To set up a template for merge printing, first use AbacusLaw and Power Closer to create a sample data file that will contain all of the field names that are available<sup>16</sup>. Be sure to make note of where the sample data file is saved - you will need to know this in the next step. Switch to your word processor and open the template to edit it, and then select *Tools, Mail Merge, Create, Form Letters*, then *Active Window*. The next step is to Open your sample data source and merge the data with the document. Since your document does not yet contain any fields, it will remain unchanged, but you will then have a pull down menu of all of the available fields that can be used to modify your document for use with the exporting program. After inserting the field names in your document, save and close the template, then delete the sample data file and reopen the template. The template will keep all of the field names, but you will be told that “the merge data file is not found.” Select the option to remove the document’s association with that data file, save the template again, and close it.

After creating a template for use with your program, you can quickly generate deeds, lien waivers and more complicated documents through use of mail merge. If you use Power Closer to generate your HUD, all of the documents for your closing can be created from the exported information with each document containing the same spelling of names, property address, legal description and the like. If last minute changes occur, even during closing, the closing documents can be edited using “find and replace” or the HUD edited and the information re-exported and regenerated using mail merge. As the documents are created using mail merge, the names and other information will be

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<sup>16</sup> All field names that can be exported will be exported to the data files, even though you may not have an entry for the field in question. With complicated programs, this can be a daunting list. You may wish to print a copy of the data file and highlight the fieldnames that you will wish to use to make editing more easy.

consistent and easily replaced with no missing changes due to an extra blank space in the name or different typos.

Have your secretary print a copy of your documents before editing them. Any reformatting that the secretary routinely performs to your closing documents after mail merge should require editing the template. If you have a “zero tolerance” policy for errors in your templates, they will quickly become better and require less editing by your secretary.

### **THE CLOSING**

Every attorney develops their own closing style. I find it helpful to have all documents that are to be executed at closing Acco fastened in the file in the same location for each file. All other documents in the file are fastened in the appropriate section in the file and are out of the way during the closing process. If the Seller has a question about the payoff, any payoff statement can be quickly located without tearing the file apart or misplacing a document to be executed. Make sure that a reminder is in the file to collect any documents that are being brought to closing by the real estate agents or the parties. It is frustrating to have the termite inspection brought up as an afterthought when documents are being copied. If the inspection shows damage and is not brought up at closing, you may be liable for the omission.

### MAIL OUTS

If documents are mailed out, standard transmittal letters are very helpful. We have problems with documents that are sent out of state for execution. Out of state notaries do not like the Alabama form of acknowledgement that call for personal knowledge of the identity of the person executing the document. California notaries in particular like to alter instruments by stapling a

California acknowledgement to the document. A good cover letter<sup>17</sup> can avoid this and can save a number of phone calls to explain the enclosures.

#### CUTTING CHECKS

We use QuickBooks Pro© to maintain our trust account records. Power Closer and other HUD generation programs will allow information to be exported to QuickBooks© or Quicken© which allow quick and easy generation of closing checks. Always show the closing filename or file number in the check memo field to make it easier to reconcile cancelled checks.

Whatever system is used in your office, make sure that it meets Alabama State Bar guidelines for trust account use<sup>18</sup>. *Rule 1.15, Alabama Rules of Professional Conduct* governs the duties involved with safekeeping of client funds. It provides, in part, that all trust accounts, whether general or specific, as well as deposit slips and checks drawn thereon, be designated as an “Attorney Trust Account”, an “Attorney Escrow Account,” or an “Attorney Fiduciary Account.” An attorney is not allowed to disburse from an account containing funds of more than one client, unless the client’s funds are collected funds; unless, if he prudently believes that the funds will be collected promptly, he may do so at his own risk. If collection does not occur, then the responsible attorney must, as soon as practical, but in no event more than 5 working days after notice of non-collection, replace these

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<sup>17</sup> When mailing documents out of state, we use the following language: “It has been our experience in the past with out-of-state mailings, that the Notary Public will often attach a state specific notary acknowledgement to the document and return it to us. Alabama statutes require special language for notary acknowledgements conveying real property and the law in this area is extremely inflexible. If the Notary insists on using a different acknowledgment form, and refuses to complete the acknowledgment shown on the deed, the deed will not be valid in this state. If you have a problem finding a Notary Public who will use the Alabama acknowledgement, please go to the nearest Title Insurance Company office, present them with this letter and I believe they will assist you.”

<sup>18</sup> A properly maintained system has the following characteristics: 1) A separate ledger is maintained on each client’s funds. 2) A separate ledger is maintained on attorney funds in the account. 3) A running balance is kept of the total in the account. 4) All checks and deposits are regularly reconciled against bank statements. 5) A paper record must be kept. & 6) Regular backups are made and kept off premises.

funds from his own money. Informing all parties that good funds will be required at closing is extremely important.<sup>19</sup>

All funds received at closing should be placed in a deposit that is separate from other deposits that may be made to trust that day and the deposit slip should be numbered sequentially for easy identification of missing deposits. Once checks have been printed, two copies of the transaction report should be printed, showing all deposits and checks for that file. Using the matter number as the sorting device allows easy tracking of the trust funds for that specific transaction. One copy should be placed in the closing file and the other in a loose-leaf notebook maintained for your trust account. These client ledgers should zero out in most instances, but may have a small balance carried forward for satisfactions to be recorded.<sup>20</sup>

The deposit slip, checks and disbursement sheet or transaction report should be given to the attorney for review when signing checks. The account shown on the deposit should match the checks used and the account name on the disbursement sheet. A copy of the checks being deposited and the deposit slip should be made and kept in the file to insure against deposit errors by the bank. Keeping your deposit slips for the law firm's account at a different location in the office will avoid errors as well.

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<sup>19</sup> Our office policy manual contains the following statement: "Because bounced checks can cost the responsible attorney his license to practice law unless covered out of his own pocket - we must have cashier's checks requested from the client at closing. The client should be advised that failure to bring a cashier's check to closing for the estimated costs will postpone closing. Repeated failure to advise buyers of this requirement shows an extreme disregard to the well being of the responsible attorney and is considered grounds for dismissal."

In some cases, money is held “in escrow” for a long term following a closing. In this event, the reason for the funds being held should be noted on the client ledger and an estimate made as to when the matter should be resolved. In reconciling the account, overdue matters should be brought to the attention of the responsible attorney. A separate person should reconcile trust accounts from those preparing closing checks and deposits as a check against sloppy or dishonest maintenance of trust ledgers.

#### COPIES AT CLOSING

We generally make copies of the documents for parties after they are signed. However, when preparing large closing packages, a great deal of time can be saved by having a secretary retrieve documents during the closing for copying or by making copies of the unsigned copies in advance. We always give copies of the signed HUD, deed and 1099-S at closing.

### **POST CLOSING**

#### DEPOSITS AND PAYOFFS

It is important to make deposits immediately following closing and to immediately transmit payoffs. If a secretary has to leave due to illness or emergency, be sure to have a procedure in place to make sure that this is handled by someone else in the office.

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<sup>20</sup> This transaction report must be reprinted each time that funds are deposited or withdrawn so that paper accounts are always current. The transaction report is “filtered” to show only the transactions involving the matter number and may be used as a ledger showing all deposits and disbursements made on the client’s file and the balance held in escrow. As an added advantage, the report will show whether checks have cleared the account as of the last reconciliation date. The report is placed in a loose-leaf notebook for the trust account used, arranged by matter number. When representation is completed and all funds have cleared in connection with a client’s representation, you can remove the ledger from the current trust ledgers notebook and move them to a closed ledger notebook. Rule 1.15, Supra requires that complete records of these accounts be maintained for six years after termination of the representation.

Alabama law provides for penalties to a lender who does not satisfy a mortgage within 30 days of a written request for satisfaction. Unfortunately, the habitual offenders in this area are likely to be your local lenders who refer business to you. Rather than threaten your friends and clients, make their job easy by sending a satisfaction request with the payoff check which identifies the account number, borrower names, amount being paid and mortgage information. We have the borrower sign our payoff requests to help guard against equity line problems. We also prepare the mortgage satisfaction or partial release needed in order to make it easier for the bank personnel to have the document signed then to find a place to put it away until later.

#### RECORDING

Our office is just across the street from the Courthouse so recording is easy. We do find it helpful to use recording folders for our documents. These clear plastic file folders protect the documents from weather, keep all documents from a closing together, and are marked with the firm name and secretary handling the file for easy return to the appropriate party following recording.

#### LENDER PACKAGES

Transmittal letters can be very helpful to avoid problems with lender packages. A checklist of the documents that are included with the package can help insure the proper documents are returned with the proper certifications. Many lenders require that packages be sent out within 24 hours of closing or of disbursement of a recission loan. A calendar entry should be made for both Disbursement and the Transmittal so that this is not overlooked if a secretary is ill.

## PACKAGES TO PARTIES

This is an excellent time to remind a new buyer of the need to assess property for taxation and is your last opportunity to make a good impression. Be sure and update your contact manager information to show the new addresses in sale transactions.

## WIRING FUNDS

Only attorneys are allowed to sign checks from an attorney trust account. Banks seem to understand checks, but will allow your new secretary to call and wire \$100,000.00 to another financial institution. Speak to your local bank and develop a form for use in your office to identify wire requests that must be signed by the closing attorney and faxed to the bank. This will solve many problems before they occur. Ask questions, if wires seem to be placed without your involvement. Errors can cause as great a loss as dishonesty.

## 1099 REPORTING

After each closing is disbursed and completed, we update Power Closer to show this. The program has a 1099 reporting module that allows easy generation of magnetic media filing in just a few minutes at year end, but this requires that all information be completed in the electronic file. Where the HUD statement is incomplete and social security numbers or addresses hand written at closing, it is important to update the information immediately following closing to avoid big headaches later. As an additional safeguard, we make a separate copy of each HUD-1 and 1099-S or Certification of Exemption from Reporting Requirements and place this in a separate file.

## SPECIAL ESCROWS

If we are going to hold funds of a client for a substantial period that are more than nominal in amount, we set up a separate interest bearing account for that client and have a separate written escrow agreement signed. This is most commonly done with estates where proceeds of a sale have to be escrowed until the conclusion of administration and the six-month claim period. Never close a file with funds in escrow. Ticklers should be made and the file kept in active files, as there is no “client liability account” to remind you of the need to clear this matter out of escrow.

## FOLLOW UPS

Before putting a file away for any length of time, account for all documents in file and dispose of rough drafts and unneeded notes. Note all required follow up actions on the face of the file [yellow slips may be stapled to the front of the file] and on your calendar system, particularly that money is held in escrow or mortgages require satisfaction.

When closing a loan and paying off prior lien holders, we are allowed to issue the final title policy prior to satisfaction of the mortgage of record. The title insurance company already has liability through our insured-closing letter. Our practice is to issue the policy and place the file in a drawer labeled *Mortgages to be Satisfied* for updating.

When doing title opinions, we do not issue final titles where mortgages are to be satisfied. We prepare an intermediate title opinion showing “paid from closing, to be satisfied” to send to the lender with the mortgage. The file can then be put in *Mortgages to be Satisfied*.

Where we do not handle the closing, but expect the lender to forward the documents to us for recording, we place the file in a drawer marked *Updates*. Once the mortgage is of record, we can

issue an intermediate opinion referencing any mortgages to be satisfied and move the file to the *Mortgages to be Satisfied* for updating or prepare a final title document and move the file to a file drawer for *Files to be Closed*.<sup>21</sup>

The files in *Mortgages to be Satisfied* and *Updates* should be examined periodically to determine if mortgages have been satisfied and follow up letters written where mortgages are not satisfied promptly. Particular attention should be paid to equity line mortgages, as failure to satisfy the mortgage may indicate that the line of credit is still open. Make a tickler file or keep a master index of files with open mortgages. By cutting and pasting mortgage information from your title binder or payoff requests to a master list, satisfaction of mortgages can be quickly checked without taking a large bundle of files to the courthouse.

#### **CLOSING THE FILE**

As each file is closed, title work is filed by the description of the property, either by Subdivision Lot and Block or by Section, Township and Range. This making finding earlier work on a specific property easy. Unnecessary paper is destroyed and the file is checked one last time for name indexes to be returned to our master files and for outstanding balances in escrow.

Closed file storage should always be by file number. It is easy to store a numbered paper file without constantly reorganizing your files for the new batch of "A's" to be closed out. Numbered files are easily sorted by the age of the file. Also, this makes periodic destruction of old files much easier.

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<sup>21</sup> Each time that a file is moved to a different location in the office, or even a different file drawer, the location of the file is changed in the AbacusLaw screen for that matter.

Before destruction of files or long-term storage, documents can be added into your electronic files using a digital scanner to create images<sup>22</sup> for easy storage or retrieval. With the advent of inexpensive and large hard drives and CD-Writers, large files may be conveniently stored electronically. Up to 15,000 TIFF images can be archived on one CD-ROM disk, providing convenient access to any document stored off site without expensive tape drives<sup>23</sup>. Also, compare the costs of copying a CD-ROM to that of making an additional photocopy of a filing cabinet full of files and the advantage of imaging is clear. When paper copies are needed, the document may be sent to a printer without editing.

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<sup>22</sup> Images are an electronic picture of a document. The most common image format is TIFF (Tagged Information File Format), which can be viewed by most image viewing software. The resolution of an image is designated in dots per inch (DPI). The higher the DPI, the greater the resolution and the image will appear sharper. This sharper image has a cost in increased file storage requirements. For most purposes a resolution of 200 dpi may be used. This gives an acceptable resolution with no larger storage requirements than for a word processor document of the same length. If the image is to be converted to text by OCR [Optical Character Recognition] software, a resolution of 300 DPI is best.

<sup>23</sup> Tape drives are great for unattended daily backups of your system and are highly recommended. CD-ROM backups can be accessed quickly in the event that fire or flood injures your office system and your tape drive. Be sure to make backup copies of the programs used by your office and any identification keys required for installation for storage offsite as well.

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**APPENDIX**

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2. HUD-1 – two pages
3. HUD-1A –Marked Pre-Closing Draft
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14. Notice of Availability of Title Insurance
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