

“Distributable” Without Recourse

It's been said that Ideas are like slippery fish; you've got to spear them with a pencil.

by Rick Harmon

The surprisingly simple strategy for your PR client to employ is to borrow to provide an easier way for a tight-fisted, resistant heir or beneficiary to **remain** in an estate or trust property and distributing the real estate along with the debt.

It's tempting to complicate your client's responsibilities with concerns that just don't exist, so let's put your mind at ease...

Here's a quick summary:

Call it the “Distributable” Fiduciary Mortgage

- The real estate (Collateral) may be distributed “subject-to” the encumbrance (Deed of Trust)
- The Maker is the estate as an entity.
- Debt is Non-recourse; responsibility terminates upon fiduciary discharge of duties.
- Distributee makes payments for term of loan without need to formerly assume the debt.
- Encumbrance remains on property until debt satisfied.

Hardly a week goes by when I don't have a conversation that goes something like this:

Attorney: “Doesn't my client have an obligation to pay the debt?”

Rick: “The debtor, and therefore the loan's 'Maker,' is the estate or trust entity.”

That concept is a game changer for many of my attorney clients.

During the course administration, your client is responsible to marshal the trust or estate's assets. That is true.

However, when an asset is transferred subject-to a “**Distributable**” **Fiduciary Mortgage**, their responsibility for the asset and the encumbrance ends, even if not discharged from other fiduciary duties.

In a typical application, Linda is Administrator and Sally wishes to keep the family house and unable to obtain a bank loan to purchase the estate asset conventionally.

Linda, acting in her capacity as the PR, facilitates the estate borrowing the required funds to pay the other beneficiary, legal and court costs.

Linda's fiduciary responsibilities for the “distributable” mortgage ends when

“Some people try to turn back their odometers. Not me; I want people to know 'why' I look this way. I've traveled a long way, and some of the roads weren't paved.”

~ Will Rogers

the real estate is transferred, or she is discharged.

It is up to Sally alone to pay her inherited loan on her inherited home.

The non-recourse and other fiduciary provisions in the specialized documentation are just a few of the reasons why a comparison to loans offered by the hard money lenders (who primarily lend to house-flippers) is vastly inappropriate.

The “distributability-without-recourse” feature of the CloseProbate™ fiduciary mortgage is a tool that many trust and estate practitioners overlook or fail to accept its beautiful simplicity.

Don't you feel better, now that you know when to use this tool?

Questions? 1-800-779-2552 or Email me Rharmon@CloseProbate.com

(Have your clients begin at our CloseProbate.com or CloseProbate.com/YouTube)

Rick



Rick Harmon

“Property can be distributed and kept in the family just for now... or forever. CloseProbate™ Fiduciary Mortgages are equity-based and non-recourse”

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RICK'S RANTS:

Video conferencing is both one of the best ideas to come out of the pandemic and, let's face it, sometimes one of the most frustrating.

For those of us who use Zoom almost daily, it really has been a blessing. Up to a point, though...

Last week my media service clipped this out of a news release from Stanford University:

"The study, which is the first peer-reviewed article to look at the psychological consequences of spending so much time on video calls, highlights how stressful it is to stare at our co-workers on such a frequent basis.

When someone's face is that close to ours in real life, our brains interpret it as an intense situation that is either going to lead to mating or to conflict."

In case you misread that last line, it's a direct quote from the article.

I've yet to experience anything like the researchers' first reaction on any of my Zoom calls, especially with clients.

To their credit, Zoom IS keeping people connected. At least those

with access to devices and Wi-Fi.

The pandemic has forced people who would have never been open-minded to using Zoom prior to shutdown have learned to embrace it.

There may be downsides to video, however it's here to stay.

If you were on our last CloseProbate Roundtable Zoom meeting, you'll remember how I encouraged you to familiarize yourself with the basics: mute button, stop/start video, change screen name and raise hand features.

That can't always be said about your clients on Court Connect in open court.

If you want your clients to present well without risking a deer-in-the-headlights freeze or unexpected nausea, wouldn't it be great if you had a handout with a few tips that you can pass along to reinforce you as the trusted advisor that you really are?

Want a useful PDF of Zoom Meeting and Webinar Strategies for clients and staff? **Email me at: Rharmon@CloseProbate.com**

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