

[I'm reposting this article because the simplicity of an estate borrowing without residual fiduciary obligations post-administration solves so many current problems all at one time]

“Distributable” Without Recourse

by Rick Harmon

The surprisingly simple strategy that the administrator or executor may employ is to borrow enough cash to provide an easier way for a tight-fisted, resistant heir or beneficiary to **remain** in an estate or trust property and distribute the real estate subject the secured 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

“In a contest between the human will and mother nature, bet on Mom”.

~ Anthony De Mello, S.J.

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 watch videos at **CloseProbate.com/YouTube** or start their estate or trust loan **CloseProbate.com**)

Rick



Rick Harmon

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

Call me directly to discuss these (and other) property issues:

- Exigent & Urgent
- Creditors, Claims & Back Taxes
- Title or Dispute Workouts
- Elders or Relocation Challenges
- Property Preservation/Remediation Loans

(800) 779-2552

The Suburban Group

Loans + Solutions Probate Specialists

P.O. Box 9308 • Brea, California 92822-9308

Manage Your Subscription:
subscribe@closeprobate.com



Here's your **CloseProbate™** Network Letter

RICK'S RANTS:

"Sylvia Cynthia Sarah Stout would not take the garage out!"

Shel Silverstein's classic poem poked fun at a disorder that's growing visibly greater.

Hoarders and issues related to hoarding household items, trash, animals, cars, etc. isn't funny, especially when family or others are impacted, and someone's health is in jeopardy.

Expect more crackdowns from city officials who are being pressured to find more living space from available housing.

Last years defaulted property tax sales are resuming, bringing reclusive owner's nuisance property, and hoarding issues more visible to distress property hunters.

Health and Safety Violations are one of the limited few reasons that circumvent active eviction moratorium legislation.

Some frustrated landlords will utilize these laws too.

This will result in more Receiverships and Conservatorships cases and lawsuits dealing with the conflicts that may have developed over decades and come to ahead post-pandemic.

The antidote is to anticipate the problems that your estate clients will inherit from parents and other family who are or were unable to maintain property and get ahead of the enforcement agencies.

We have developed new financing products and serviced that support the securing and preservation of these properties. Look for more info in the coming months...

A handwritten signature in blue ink that reads "Rick".

We make loans to the people in charge of cash-poor estates and trusts in California.

Contact us when your client requires liquidity without selling or you wish to "strategize" financial and other solutions.

(800) 779-2552

Here are (4) ways I can help you CloseProbate™

- 1. WATCH:** "How-to" videos - CloseProbate.com/YouTube
- 2. READ:** Weekly "Rick's Rants" eLetter - RickHarmon.com
- 3. CALL:** Guidance & Resources (800) 779-2552
- 4. BORROW:** CloseProbate.com



Be the Hero™

© The Suburban Group - All Rights Reserved
CloseProbate.com | Rharmon@closeprobate.com