TICORTALKS... *Escrow*

Payments to Entities vs. Payments to Individuals

A sister branch of ours was handling a sale of property wherein the seller was a partnership. The partnership was receiving almost $2 million in proceeds. The managing partner was concerned about depositing all the proceeds into one bank since the FDIC only insures deposits up to $250,000 per depositor, per insured bank.

Can Proceeds be Disbursed to Partners of an Entity?

The managing partner asked our settlement agent handling the transaction to disburse the proceeds to the individual partners instead of the partnership. Our Company took a firm stance on this issue years ago: Seller proceeds are only made payable to the seller.

The escrow officer, Rodil San Diego, knew Company policy required the proceeds be disbursed to the partnership and explained to the managing partner he was unable to honor his request. The managing partner explained to Rodil his concerns about the stability of our nation's banks. He was concerned the bank the funds would be deposited into could fail and be taken over by the FDIC.

Proceeds May be Paid Only to the Partnership

As the managing partner, he felt he had to take every step to ensure protection of the partnership's proceeds. He was even considering opening seven different accounts at seven different banks in order to deposit funds which would not exceed the FDIC-insured limits. Rodil told the customer he would escalate the request. Rodil emailed the National Escrow Administration Department at settlement@fnf.com. Corporate Escrow Administrator, Diana Williams, responded by confirming that Rodil was correct and Company policy requires proceeds be paid only to the partnership. National Escrow Administration did recommend Rodil wire the proceeds to the seller so the funds could be accessed by the managing partner without delay and disbursed to the individual partners.

Seller proceeds are only made payable to the seller.

The managing partner received Diana's contact information and called to ask her to reconsider. She responded by confirming these types of payments are beyond the services Our Company has the ability to offer as the settlement agent. Paying the individual partners could impose additional reporting and/or withholding requirements the Company is not equipped to handle.

The Difference Between Paying the Partnership and Paying the Partners

He asked what the difference was between paying the partnership and the individual partners as all the payments would just be disbursements. Diana explained when the settlement agent pays the partnership, they are disbursing the proceeds from the sale of real property.

Paying the individual partners turns those disbursements into distributions, which are the responsibility of the partnership. Our Company does not keep specific details or status of each individual member that would allow us to know if withholding must be deducted or if their particular distribution must be reported to any state or federal agency. These are the duties of the managing partner.

The partner thanked Diana for taking the time to explain Our Company's position and said he would make other arrangements for the proceeds.

Moral of the Story

One of Our Company Precepts is "Customer- Oriented and Motivated." The Company stands behind this precept but it is important to keep in mind the exact services we offer. Our Company's policies and procedures are not implemented without careful consideration – which includes the effect they might have on the customer. In this story, the customer simply needed a clear explanation to understand why the Company was unable to honor his request.

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