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## **Creating a compliant office environment: The need for office policies and procedures**

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The desire to create a compliant work environment should be for the satisfaction of doing things correctly. However, human nature being what it is a little fear of getting into trouble for not following the rules also plays a part. If you or your office are ever involved in any investigation of wrong doing there is always an opportunity to dispute the allegation as the rogue act of an employee acting outside the scope of employment, policies and procedures. But, to take advantage of such a response, policies and procedures must be in place and communicated to employees. This article will look at two areas and provide some ideas on how to create a compliant office environment.

### **Loan Fraud**

As the mortgage lending market has slowed, participants have seen markets dry up and incomes decline. In some instances this has led to fraudulent behavior by industry insiders in order to "get the deal done". Statistically, the vast majority of mortgage loan fraud involves one or more inside parties. In order to protect your firm from being taken advantage of be alert for the 'red flags' to detect when something does not seem 'right'.

Could this be a "straw" transaction? Is there a Power of Attorney? If so, does it make sense? Is the person with the power appropriate to represent the principal (family, attorney), or related to transaction (real estate agent, loan broker)? Is it difficult to reach the parties directly, or do you need to 'go through' an intermediary? Could this be a land flip? Is the owner not the seller in P & S, or has it been very recently acquired? Are there multiple contracts for the sale or back to back closings, or large price increases? Are the parties not disclosing all terms to the lender? Does the Purchase and Sale have last minute addenda or inconsistencies?

Are there last minute adjustments such as additional deposits to the seller or new credits to buyer?

Are there unusual payees from proceeds to non-lien holder or non parties to transaction?

To protect yourself and your business take a proactive approach. Be sure that you have an open door policy for questions from staff even if it is a large or important customer or client. When in doubt about any term or condition, contact the funding lender and get specific approval for anything that seems odd. Make notes to the file of who spoke to whom and what documents were seen or faxed and print out emails. Get copies of identification and verify contact information for all the parties to the closing.

### **Internal Accounting**

Every month it should be standard policy to reconcile all accounts. The Uniform Commercial Code section 4-406 plainly puts the responsibility for reporting forgery or other alteration of a check on the account holder. The Code calls for the account holder to use "reasonable promptness" in examining bank statements and in reporting any irregularities to the bank; failure to do so relieves the bank of any liability for paying a check over an unauthorized signature. If you can establish that you

regularly conduct prompt reconciliations you will be in a stronger position relative to the bank should a problem arise.

When reconciling your trust account remember that the bank reconciliation should balance to the amount in the check book plus or minus any money in transit (un-cashed checks, most recent deposits) and that all money in transit must be accounted for. In addition, each client account (the money received and disbursed for each closing) should also be accounted for. Remember, even though there is money in the bank (no technical over draft) there may be an over draft at the client account level. At the close of each transaction the client account should balance to zero. Even if yours is a small office, don't rely on just one person to do all the monetary transactions. Letting the same person create the HUD and balance the check book and write the checks is a recipe for embezzlement.

### In Summary

Once all the policies and procedures are in place, the challenge is to enforce them in a consistent and professional manner. Let your employees and other vendors know where you stand and remain firm. Don't take less than good funds for a closing; don't let closers disregard the 'minor irritant' requirements of the lender's closing instructions; don't get lazy about monitoring funds because it takes too much time. Inform new hires that your rules may be different than those of the 'last place', and that there is a reason for it. Be wary of existing personnel who feel they know as much about your business as you do and use their internal "perceived authority" to undermine your rules. Be alert for the ploy of lip service but non-compliance.

Finally, remember that it is your business that is on the line. You have every right to insist on appropriate business practices from your employees, your vendors and your customers and that they should be thanking you for your commitment to a compliant workplace.

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