



SCARY STORIES FROM A CLOSER

Part Two



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*A Washington State Approved Real Estate School for Clock Hour Education under
R.C.W.18.85.*

CORRESPONDENCE CLOCKHOURS

INSTRUCTIONS:

1. Print out the class
2. Read the class booklet
3. At the end of the material there is a quiz (all the answers are in the material that you have read).
4. Answer the questions
5. Return to me the Quiz, evaluation and a check for the class payable to **CLOCKHOURS BY ANGIE**, or complete your credit/debit card information on the sheet provided
6. Upon receipt, I will email you a certificate.

Disclaimer: I try very hard to have the latest known information on a subject in these classes, but, the real estate industry is forever changing with new updates all the time. The class materials are not to be used for legal advice. In our State, some items are handled different in the different regions. If you have any concerns, please do not hesitate to contact me at 509-216-3220 or at clockhoursbyangie@gmail.com

COURSE OBJECTIVE:

As a result of taking this class, the agent shall have a better understanding of how to avoid closing problems thru the mistakes of others. I have found that in most of my classes, the agent always remembers the “horror” story of the closings. Some of the memories they will retain:

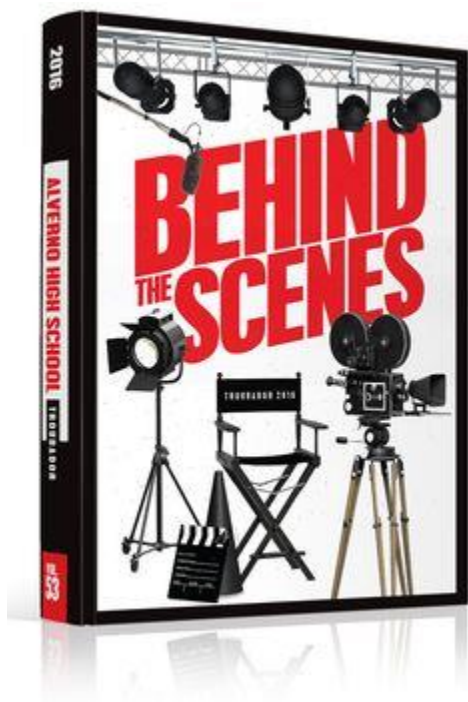
1. Mobile Home sales can be challenging... you need a lot more understanding of the forms and fees to accomplish a completed transaction
2. There is no such thing as a “standard” PSA
3. 1% does not always mean 1%
4. How a “funder” can change everything in the funding part of the transaction

And many more.....

CURRICULUM FOR SCARY STORIES FROM A CLOSER PART II

Minutes	Topics	Method
15	1. What the funder did?	Read material/discussion
15	2. I'm in a tax foreclosure!	Read material/discussion
15	3. What is in a trust?	Read material/discussion
15	4. But I paid for a title elimination!	Read material/discussion
15	5. For Sale by Owner?	Read material/discussion
20	6. When 1% means so many Different things!	Read material/discussion
15	7. Oh No!	Read material/discussion
10	8. Another mobile home horror Story!	Read material/discussion
15	9. Standard P&A?	Read material/discussion
15	10. What is a sub escrow?	Read material/discussion
15	11. Seller is a Foreign status seller	Read material/discussion
15	12. What is an MSO?	Read material/discussion

WHAT THE FUNDER DID!



Here is story for the books! I'll start with the purchase and sale agreement dated 5/14/19 with a projected closing date of 6/30/19, so far so good. Here are the general terms:

\$239,000.00 sales price, \$2,500.00 earnest money paid, purchaser will obtain financing. Seller agreed to pay \$6,000.00 of purchaser's costs. Purchaser was pre-approved for an 85/15 loan and had a letter from their lender. Lender was the one who told the selling agent that the purchaser's fees would be approximately \$6,000.00, so they knew they were right on the money there.

Some additional information: The property was a duplex and both sides were rented for \$650.00 per month and the seller held \$850.00 damage deposit on both. There were no leases as it was a month to month. The purchaser's interest in buying this property was to occupy one of the units so this was contingent upon the seller's giving notice to the renters in unit A that they had to vacate in 30 days. They were obtaining an owner-occupied loan. Purchaser used a credit card to pay for their appraisal fee upfront of \$850.00 and their agent told them they would be reimbursed for that from the \$6,000 the seller agreed to pay.

Lender contacted the closer for fees for the CD (closing disclosure) ahead of time, that is a normal procedure.

As the closing date approached, the lender sent the closer the lender's CD, which the closer reviewed and made any changes based on pro-rates or any other items directed by the title or Purchase and Sale Agreement (PSA). It was sent back to the lender showing the purchaser would owe \$32,192.68 at the signing appointment.

The lender said the projected closing date would be 6-27-19 and the final CD was created and sent to the purchasers on 6-27-19. With the Federal 3-day rule they could sign on 7/1/19 and funding would be 7/2/19.

Copies of the settlement statement were sent to both agents to review on 6/27/19 and seller's appointment was made for 7/1/19 at 9:00 and purchaser's for 10:30

Purchaser brought in a cashier's check for the \$32,192.68 and sellers' proceeds was to be \$137,716.17 Everyone was in agreement.

NOTE: SEE 1ST CLOSING STATEMENT ON PAGES 10 & 11

BUT when the funding and recording date came and everything changed!

Now in Washington State a closer who passed the test receives the designation Limited Practice Officer (or LPO) and typically has an assistant on her team.

Funder calls to the escrow assistant as the closer was out that day and wants to balance with her which should be a simple thing to do. Funder said there is a problem with the CD and some major adjustments must be made. Escrow assistant knew that the pro-rates would need to change because it was originally pro-rated to 6/27/19, so she updated all the pro-rates until the funding date of 7/2/19. The funder was very nasty on the phone and even swore a few times and asked the closer if this was her first funding. She even told the closer that she was handling the rent incorrectly since it was already July, the seller must have collected the rent and the pro-ration should be a charge to the seller and a credit to the purchaser from 7/2/19 – 8/1/19. After all these pro-rate changes were done, the bottom line showed the purchaser needed to bring in an additional \$943.32! And, the seller paid closing costs went from \$6,000.00 credit to only \$3,877.47! **NOTE: SEE 2ND CLOSING STATEMENT ON PAGES 12& 13**

Closer said, "How can that be? They already signed yesterday and deposited \$32,192.68 and now you want them to bring in an additional \$943.21! Will you have to do a new 3-day CD?" (On 10/3/19 a law was passed called TRID. FHA, VA and Conventional loans are subject to TRID which requires the lender to send out a new 3-day CD if the amounts changed by a certain

percentage, and closing had to be extended.) The funder said, "No, we are okay on that." The escrow assistant asked if the loan officer was going to call the purchasers to let them know about the additional amount due. Funder said, "No, you better do it as they need to get it to you within the next 45 minutes so you can send me a copy of the cashier's check so I can authorize the wire so this records and funds today. Their lock expires today and the PSA extension is only until today."

So, Escrow Assistant calls the purchasers and tells them when she was balancing with the funder, she made a few changes and they need to bring in an additional \$943.21 within the next 45 minutes so this can fund in time. Purchase said he needed to call his real estate agent and would get right back to her.

Purchaser calls their agent (who happened to be on vacation) and told him what was happening. The agent said that he had no control over the lender and what they were doing, and that he was not involved in any of the lending process and would need to perhaps contact the loan officer to see what the problem was. Purchaser tries to call loan officer and left messages.

He also left a text and emailed him. He waited 10 minutes, then called the closer and said, "I'm running to my bank right now to get a cashier's check; I should be there in about 30 minutes."

Buyer arrived 30 minutes later and closer scanned a copy of the cashier's check to funder and funder said she was wiring the funds and would authorize recording.

The wire arrived and closer authorized the E-recording of the documents, received the recording numbers about 25 minutes later, then called both agents to advise them it was recorded.

She then processed the file and wired out the seller's payoff and got all the checks ready for delivery or mail. She called the seller to let them know their check was ready and they asked if they could pick it up at the valley office, which was arranged for the next morning.

The closer sends copies of the revised settlement statement to both agents.

The closer receives an email from the listing agent the following morning:

"Sent: Tuesday, July 2, 2019 6:04PM

Re: Final settlement statement

Why is the amount for the seller credit reduced by \$850.00 to \$3,877.47 now on this last statement you sent me? And, the buyer's side is still showing \$943.32 amount due. So, is this the final statement or not?"

"sent July 3, 2019, at 5:31 am, closer to listing agent:

Yes, this is the final statement. You would need to talk to the lender as to why the full \$6,000.00 seller credit for the buyers was not used. Something about the buyer meeting his 15%. We originally had the CD approved from the lender using the \$6,000.00 Credit. We went to balance with the lender's funder and that is when everything changed."

"Wednesday, July 3, 2019 8:50 AM

Re: Final settlement statement

To me, this is unacceptable.

If I am understanding this all correctly....

- 1. Buyer was required to bring in 15% down. \$35,850 less his earnest money.*
- 2. Seller was paying \$6,000.00 in closing costs (all other costs should be eaten up here.)*
- 3. I'm seeing no credit of the appraisal fee from the seller (this money couldn't be used as a credit towards down payment as it was out on a card, should have been distributed by seller and lender refunded card)*
- 4. It appears that maybe rent pro-rations are being credited towards the closing costs? Leave the rent pro-rations out. If staying in, this should be cut back as a separate check and not figured into closing costs.*
- 5. I'm only showing one (if I'm reading it correctly) deposit being accounted for, there should be two.*

My client should be receiving two damage deposits.

The rent pro-ration can just be eliminated. (Her client hasn't received rent, not fair to charge this, as it was to close last month)

The appraisal needs to be added into closing costs.

Please verify this gets corrected before distributing funds."

The closer called the other office and said did you give the proceeds check to the seller yet and it was determined it had not. We called the seller to tell them that we were reviewing the settlement statement again and would call them when it was ready for pick up.

NOW, HERE COMES MY PERSONAL INVOLVMENT:

Escrow assistant brings me the email she got from the selling agent above. I read it and said, "Tell me what is happening." She explained and I asked her to bring me the closings statements – the first one that had the \$6,000 seller credit on, and the final one. I also asked to review the PSA.

I immediately starting changing the "final" closing statement in my own handwriting"

1. I crossed out the rent pro-rations, especially since I found out the rent was never paid to the seller. The lender included it in the seller paid closing costs! It never should have been on the closing statement.
2. This then brought the seller paid closing costs credit to \$5,135.53.
3. Adding up the \$2,500.00 earnest money plus \$32,406.68 plus \$943.32 = the \$35,850.00, the 15% that the purchasers had to bring in to equal the 15% paid.
4. I asked for clarification regarding the damage deposit. I was told that there was a letter in the file sent to one tenant that they had to vacate by 6/15/19 and the closer thought that meant there was only one damage deposit. Why did the closer allow the funder change the rent pro-rates to take in the whole month of July?
5. Regarding the \$850.00 appraisal fees paid outside of closing by purchaser, the purchaser should be reimbursed for that, as only \$5,135.53 of costs were used.

So, what to do? The lender will not be able to do anything. This is a TRID loan and it is not only recorded but also funded!

I talked to my manager and said that I'd like to send a copy of my rough-draft closing statement where I can prove the lender was wrong and we are able to use up most of the agreed upon \$6,000.00 seller paid closing costs.

The rents should not be part of this closing – the purchaser should collect the July rent outside of closing. And, the seller does owe the purchaser one more damage deposit so when the tenant moves out it is available for refund based on the move-out inspection. Plus, the seller does owe the purchaser the \$850.00 appraisal fee. So, if the seller were to give a check to the purchaser for \$1,700.00 this would be the way the parties originally intended before a "funder" got involved and changed things incorrectly.

Now, was this handled? I have nothing in my file that changed. But I did receive an email from the purchaser to tell us to release the seller's funds to them.

DISCUSSION:

1. The listing agent did exactly what she should have done. She talked with the purchaser's lender and asked what the closing costs would be and got it in writing that it would be \$6,000 so that part was done right
2. The CD that initially went out to the purchaser gave the purchaser a credit of the \$6,000 and that was done correctly.
3. The escrow assistant was correct to ask the funder if a new CD needed to be sent with another 3 day wait, per TRID. Was this closing a TRID violation? Absolutely!
4. Was there a comedy of errors? Absolutely!

1st closing statement (6/27/19) balanced with lender + copies sent to both agents

Disbursement Date: 6/27/2019

Seller		Description	Borrower	
Debit	Credit		Debit	Credit
		Deposits, Credits, Debits		
	\$239,000.00	Sale Price of Property	\$239,000.00	
\$8,000.00		Seller Credit		\$8,000.00
		Deposit		\$2,500.00
		Lender Credit from		\$14.02
		Prorations		
	\$17.47	Sewer (Paid) 6/27/2019 to 7/1/2019 @ \$131.02/Month	\$17.47	
	\$30.85	County Taxes 6/27/2019 to 7/1/2019 @ \$2,815.03/Year	\$30.85	
\$86.67		Init 6/27/2019 to 7/1/2019 @ \$650.00/Month		\$86.67
\$86.67		2/27/2019 to 7/1/2019 @ \$650.00/Month		\$86.67
		Payoffs		
\$73,225.51		Payoff of First Mortgage Loan to		
		Principal: \$72,861.03		
		Interest, 6/21/2019 to 6/28/2019 @ \$9.48/day: \$66.36		
		Recording Fee: \$99.00		
		Interest Due: \$199.12		
		Commissions		
\$7,170.00		Real Estate Commission 3.00 % to		
\$7,170.00		Real Estate Commission 3.00 % to		
		New Loans		
		Loan Amount to		\$203,150.00
		Appraisal Fee to Apex Appraisal (POC \$850.00 by		
		Credit Report to CoreLogic Credco	\$50.00	
		Prepaid Interest (25.0500 per day from 6/27/2019 to 7/1/2019)	\$100.20	
		Homeowner's Insurance Premium (12 mo.) to	\$1,238.00	
		Homeowner's Insurance \$103.17 per month for 3 mo.	\$309.51	
		Property Taxes \$234.59 per month for 5 mo.	\$1,172.95	
		Aggregate Adjustment		\$412.68
		Underwriting Fee to	\$745.00	
		Processing Fee to C	\$550.00	
		Title Charges		
		Title - Lender's Title Insurance to WFG National Title Company of Eastern WA, LLC	\$460.00	
\$790.00		Title - Owner's Title Insurance to WFG National Title Company of Eastern WA, LLC		
		Title - ALTA 22 Location (06-17-06) L - NC Endorsement(s) to WFG National Title Company of Eastern WA, LLC	\$0.00	
		Title - ALTA 8.1 Environmental Protection Lien (6-17-06) - NC Endorsement(s) to WFG National Title Company of Eastern WA, LLC	\$0.00	
		Title - ALTA 9.0 Restrictions, Encroachments, Minerals, Loan Policy (06-17-06) - NC Endorsement(s) to WFG National Title Company of Eastern WA, LLC	\$0.00	

		Government Recording and Transfer Charges			
\$4,259.20		Excise Tax Affidavit to Spokane County Treasurer			
		Recording fees: Deed \$101.00		\$101.00	
		Mortgage \$134.00		\$134.00	
		Additional Settlement Charges			
\$1,000.00		Holdback Final Water Bill to City of Spokane			
\$131.02		Payoff: June Sewer to Spokane County Environmental Services			
\$850.00		Boykin Deposit (includes \$200 per deposit) to T J. Vittore			
Seller		Borrower			
Debit	Credit			Debit	Credit
\$101,332.15	\$239,048.32	Subtotals		\$244,442.70	\$212,250.04
		Due From Borrower			\$32,192.66
\$137,716.17		Due To Seller			
\$239,048.32	\$239,048.32	Totals		\$244,442.70	\$244,442.70

Acknowledgement

We/I have carefully reviewed the ALTA Settlement Statement and find it to be a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction and further certify that I have received a copy of the ALTA Settlement Statement. We/I authorize WFG National Title Company of Eastern WA, LLC to cause the funds to be disbursed in accordance with this statement.

BORROWER(S)

SELLER(S)

SETTLEMENT COORDINATOR

2nd closing statement when "funder"
 balanced with assistant
 * Note 6000 seller credit
 changed to \$ 3,877.47 !

Disbursement Date: 7/2/2019

Seller		Description	Borrower	
Debit	Credit		Debit	Credit
		Deposits, Credits, Debits		
	\$239,000.00	Sale Price of Property	\$239,000.00	
3,877.47		Seller Credit		3,877.47
		Deposit		\$2,500.00
		Lender Credit from		\$14.02
		Funds to Close from		\$32,406.68
		Prorations		
	\$126.79	Sewer (Paid) 7/2/2019 to 8/1/2019 @ \$131.02/Month	\$126.79	
\$7.71		County Taxes 7/1/2019 to 7/2/2019 @ \$2,815.03/Year		\$7.71
629.03		Init 7/2/2019 to 8/1/2019 @ \$650.00/Month		629.03
629.03		7/2/2019 to 8/1/2019 @ \$650.00/Month		629.03
		Payoffs		
\$73,320.31		Payoff of First Mortgage Loan to		
		Principal: \$72,861.03		
		Interest: 6/21/2019 to 7/3/2019 @ \$9.48/day: \$113.76		
		Recording Fee: \$99.00		
		Interest Due: \$246.52		
		Commissions		
\$7,170.00		Real Estate Commission 3.00 % to		
\$7,170.00		Real Estate Commission 3.00 % to		
		New Loans		
		Loan Amount to . . . FSB		\$203,150.00
		Appraisal Fee to Apex Appraisal (POC \$850.00 by C Division of Flagstar, F)		
		Credit Report to CoreLogic Credco	\$64.02	
		Prepaid Interest (25.0500 per day from 7/1/2019 to 7/2/2019)		\$25.05
		Homeowner's Insurance Premium (12 mo.) to State Farm	\$1,238.00	
		Homeowner's Insurance \$103.17 per month for 3 mo.	\$309.51	
		Property Taxes \$234.59 per month for 5 mo.	\$1,172.95	
		Aggregate Adjustment		\$412.68
		Underwriting Fee to	\$745.00	
		Processing Fee to	\$550.00	
		Title Charges		
		Title - Lender's Title Insurance to WFG National Title Company of Eastern WA, LLC	\$460.00	
\$790.00		Title - Owner's Title Insurance to WFG National Title Company of Eastern WA, LLC		
		Title - ALTA 22 Location (06-17-06) L - NC Endorsement(s) to WFG National Title Company of Eastern WA, LLC	\$0.00	
		Title - ALTA 8.1 Environmental Protection Lien (6-17-06) - NC Endorsement(s) to WFG National Title Company of Eastern WA, LLC	\$0.00	

		Title - Sales Tax on Lender's Title Insurance to WFG National Title Company of Eastern WA, LLC	\$40.94	
		Government Recording and Transfer Charges		
\$4,259.20		Excise Tax Affidavit to Spokane County Treasurer		
		Recording fees: Deed \$101.00	\$101.00	
		Mortgage \$134.00	\$134.00	
		Additional Settlement Charges		
\$1,000.00		Holdback Final Water Bill to City of Spokane		
\$131.02		Payoff: June Sewer to Spokane County Environmental Services		
\$850.00		Notary Fee to r	\$160.00	
Seller			Borrower	
Debit	Credit		Debit	Credit
\$100,396.85	\$239,126.79	Subtotals	\$244,594.99	\$243,651.67
		Due From Borrower		\$943.32
		Due To Seller		
\$138,729.94	\$239,126.79	Totals	\$244,594.99	\$244,594.99

What do you mean a “tax foreclosure”?



It started out as a normal Monday morning, whatever “normal” means. The closer got a call and asked me if I could help the very upset man on the phone. I took the call and he said he didn’t know who to call so he thought of our office first since we did the closing for him in 2019

I asked what the problem was and he informed me he got served papers today that his home was being foreclosed on because of delinquent taxes. He first called his lender and talked to them and they said that his taxes are current. They have records from the closing date of 10/1/19 showing the 2nd ½ taxes were to be paid at time of closing and they have paid taxes for every year from his reserve account and that the taxes are current as far as they are concerned.

Since this file was in storage, I told him I would make some calls, pull the file from storage and would get back to him the following day.

I immediately called the treasurer and was not able to get anything from the automated system. I had to call the treasurer directly to get information on this parcel. I called that number and found out that the property was in tax foreclosure because the 2nd ½ 2019 taxes were never paid! Now, I really needed to see that file that was in storage!

The following day I was delivered the file and dove right into it. I saw on the seller’s closing statement that we held back for the 2nd ½ taxes. I looked at the seller’s payoff statement from their lender and saw that the lender held back for the 2nd ½ taxes too. Then I looked at the check register and saw that we refunded the 2nd ½ taxes to the seller on 12/1/19!

Now, I was really concerned. I called the sellers lender and found out, yes, they did pay the 2nd half taxes from the reserve account on 10/2/19, but got a call from the sellers very upset. He said he just closed on his home and that closer held back 2nd ½ taxes as they were not able to

verify with the tax treasurer that the check from the lender was ever received yet. He told his lender, "I want you to request a refund for and return the check to me immediately." The lender said they would do it and they refunded the check to the seller about 2 weeks later.

I found a note in the file dated 10/9/19, "Called treasurer and the 2nd ½ taxes were paid by sellers' lender. Refund the tax holdback to the seller." It must have gotten busy or the file was put away in error. At year end the assistant was reviewing holdbacks and saw the note and the holdback and refunded the money to the seller. So, the seller got the 2nd ½ taxes from their lender and from us! The taxes were never paid. Now what to do. The property was going for tax sale!

I called and got penalties and interest on the 2019 taxes. WOW! The 2nd ½ taxes were only \$891.22 but the penalties and interest and the additional fees for going into tax foreclosure totaled \$1,922.01

This was our problem! I immediately put in for a "small claim" (that's what we call them) and received the check two days later and hand carried the check to the treasurer myself!

NOTE TO AGENTS:

Typically, how it works at the treasurer's office is that if the seller's lienholder sends a check and the closer sends a check, they will refund the 2nd check that was sent in. I have never heard of the treasurer refunding a check when the taxes were not paid. When I talked to the treasurer, they confirmed this with me and really don't know why the lender's tax check was refunded leaving the 2nd ½ taxes unpaid.

And, how about the buyer's lender. They received a tax statement 2019, 2020, 2021 and 2022 all saying the 2nd ½ 2019 taxes were delinquent and did absolutely nothing!

Just another Monday in escrow.....

DISCUSSION:

1. Are you aware that the treasurer has the right to foreclose on properties if the taxes are 3 and ½ years delinquent?
2. Do you know the two worst months for closers is April and October for pro-rates on taxes and if they are paid by the underlying lienholder or not?

3. When you are scheduled for closing in April or October closing, be sure to let the seller know that the closer may hold back for taxes until they are able to verify that the same were paid from the reserves.
4. That sellers' lenders when paying taxes for a state, will pay numerous parcel numbers in one check to the county usually April 1 or October 1. The treasurer will deposit the check immediately, but it is not posted to the individual parcel numbers until someone gets to the processing, which could be later in the month, so it does take time to post.

What is in a trust?



Every agent knows that when the purchaser or seller is a trust, the title officer must see a copy of the trust agreement to be sure the proper people are executing the documents on behalf of the trust agreement. I'm about to tell you about a transaction that involved a trust as the purchaser.

Here are some of the terms:

1978 Mobile home on land. Sales price is \$99,500.00 - \$50,000.00 down payment and seller carry back of \$49,500.00 at \$500.00 per month @5.5 interest. The agent filled out form 21 and form 22MH* As everyone knows, NWMLS Form 22MH says "title to be eliminated". At least that is what the version was before the new one came out on 7-1-19.

*see page 16 for copy of new form to review

The seller was an estate. We needed a copy of the death certificate, which was sent to title and everything was in order.

The purchaser was a trust and a copy of the trust agreement was requested from the selling agent and given title. It was reviewed by title and it was all in order with the proper person signing. The trust was set up by a father for his daughter to live on when he died. His daughter was not good with money and needed to have this type of supervision. The daughter found this property and the trustee agreed to the purchase.

The closer prepared the note and deed of trust per the terms. Then she prepared all the release documents on the mobile home and the title elimination forms. Both seller and purchaser signed and the sale was funded.

I don't know if everyone is aware that when the title is being eliminated, it is typically done AFTER closing as there are lots of steps. So, seller got their proceeds, everyone was paid and the following week the closer took all the documents to the courthouse to eliminate the title.

1. She went to Building & Planning (B&P) to get them to sign off. At that office they check to see when the mobile home was placed on that lot for the first time, and verify it is still the same mobile home. B&P looked this up and said that a permit was never taken out when it was placed, so a permit had to be purchased for \$67.50 and an inspection arranged.
2. Closer contacted the seller and explained and said she would pay for this, but nothing else, as the purchasers bought it "as is" and she doesn't really care or understand the elimination process. She brought in a check. Closer went back to B&P and paid for the permit and arranged with the new purchaser that an inspector would come out the next morning.
3. Inspector went out the next morning and determined he could not get under the mobile home- someone would have to open up the skirting and arrange for him to come back. Contacted the purchaser and they said they would arrange to have someone do that and make another appointment
4. Purchaser got the skirting open for the inspector. Inspector wrote up a "hit list" a mile high of all the things that would need to be done in order for the title to be eliminated – estimated at over \$6,000.00 in costs.
5. Trustee was contacted and he said he would not allow any more funds to fix up the mobile and asked if there was anything else that could be done. I told him we could "not eliminate" the title and just transfer the title to the purchaser and make the seller the lienholder. He said that would work as he didn't care if the title was eliminated.
6. Contacted both agents who thought this was "closed", and told them what had happened. They said they would draw up an addendum so we could proceed. Seller and purchaser both signed addenda.
7. Now, closer prepares all the correct mobile home documents transferring title to the purchaser and making the seller the lienholder.
8. So, off to the courthouse again to finalize the transfer. All was going well and DOL was reviewing the documents when all of a sudden, the clerk who was reviewing documents says, "Oh look, the trust says the money can be used to purchase any type of home, BUT

a mobile home!” I took the trust agreement from him and read it myself and could not believe it. Never have I seen this in a trust agreement. I went back to the office and called title who also reviewed the document and they also had never seen this in a document.

NOW WHAT DO WE DO?

The only thing we could do is “eliminate” the title so that this will no longer be a mobile home on land. Title would be eliminated and it would be merged with the land.

I called the trustee back and explained this. He said he did not know this was in the trust either. He knew the father hated mobile homes (which was all his daughter ever lived in) but did not know he added this to the agreement. He said, “What can we do?” I said, “The only thing you can do is eliminate the title. Pay all those fees so that it will pass inspection and then eliminate the title.” That is what they are doing right now.

DISUSSION:

1. The NWMLS revised the form 22MB on 7-1-19 - see attached copy
2. Have you ever been involved in a mobile home closing where title was eliminated?
3. Do you understand the process?

MANUFACTURED HOME ADDENDUM

The following is part of the Purchase and Sale Agreement dated _____ 1
 (the "Agreement") between _____ ("Buyer") 2
Buyer Buyer
 and _____ ("Seller") 3
Seller Seller
 concerning _____ (the "Property"). 4
Address City State Zip

- 1. Property Description.** Manufacturer: _____ 5
 VIN No.: _____ 6
 Year: _____ 7
- 2. Title Elimination.** The certificate of ownership ("Title") to the manufactured home on the Property shall be 8
 eliminated as provided for in Washington Administrative Code Section 308-56A-505 prior to Closing. Seller 9
 shall, at Seller's expense, make a good faith effort to eliminate Title and provide notice to Buyer thereof no 10
 less than _____ days (5 days, if not filled in) before Closing. If Seller fails to timely eliminate title and 11
 give notice thereof, then this Agreement shall terminate and the Earnest Money shall be refunded to Buyer. 12
- No Title Elimination.** The certificate of ownership ("Title") to the manufactured home on the Property will 13
 not be eliminated prior to Closing. The manufactured home shall be transferred as personal property 14
 pursuant to Washington Administrative Code Section 308-56A-525. 15
- 3. Department of Labor and Industries Compliance Inspection.** Buyer is advised that manufactured homes, 16
 including manufactured homes with title eliminated, are subject to regulation by the Washington State 17
 Department of Labor and Industries ("L&I"). L&I imposes special regulations on manufactured homes, including 18
 regulations pertaining to the permitting and inspection of alterations to manufactured homes. Accordingly, in 19
 addition to any inspection rights Buyer may have pursuant to this Agreement, including the Inspection Addendum 20
 (NWMLS Form 35), Buyer shall have _____ days (20 days, if not filled in) from mutual acceptance to 21
 inspect the manufactured home on the Property for the purposes of compliance with L&I regulations. On or 22
 before the end of this inspection period, Buyer may give notice of any L&I compliance deficiencies. Upon Buyer's 23
 notice, Seller shall have _____ (15 days, if not filled in) to give notice that Seller has remedied the 24
 deficiencies or this Agreement shall terminate and the Earnest Money shall be refunded to Buyer. 25
- 4. Conflicts Between Addendum and Agreement.** To the extent of any conflicts or inconsistencies between the 26
 Agreement and this Addendum, the terms of this Addendum shall control. 27

But I paid for a title elimination!



Sellers enter into a PSA with purchasers to sell their land with a mobile home on it. When the closing team received the PSA, they sent out their normal opening packages to both purchaser and seller. In the seller's opening packet it asks for information on any payoffs. Seller gives information on his form and sends to escrow. Escrow orders a payoff and asks lender if they are holding the original mobile home title. They stated in their payoff they are holding the title and they list the year, make, model and Vin number. Underlying lienholder never sent a copy of it to closer.

Title was not eliminated, and new lender for the sale instructed that it must be eliminated as part of the closing process. Closer prepared all the necessary documents to eliminate the title. The transaction closed. Closer sent payoff to the seller's lienholder and requested the original mobile home title. This is a normal process when there is a lienholder. That is why many times the mobile home portion of the closing is done so many weeks, even months, after closing.

Lienholder lender was a local lender and after about two weeks, the closer calls the lender and asks has the original mobile home title ever been sent out to us. The gal says, "Wait a minute," then came back on the line to say, "No, we do not have the original mobile home title. Our loan with the seller was a refinance from 2007 and title was eliminated at that time. We got the name of the other title company who is no longer in business.

We had to do some additional searching in order to complete this closing. First, I called the seller to ask him about his loan he did in 2007. He still had his papers and brought them into the office. I reviewed his closing statement, and sure enough on it was listed fees (from 2007 rates) for title elimination were listed.

Bear in mind the seller is accepting no responsibility for this at all. They said they paid for an elimination back in 2007 when they moved this brand-new mobile onto the property. And the seller will not pay any additional fees.

As a result, this has become our problem, all because when we requested a copy of the mobile home title we did not follow up and get a copy. If we did follow up and found out they did not have it, then we never would have closed it and it would be the seller's problem. But now it has become ours.

So, the moral of the story is, don't close mobile homes! Seriously, I mean that you should get a copy of what document is being held for collateral before proceeding with the closing as you may be inheriting someone else's problems (and expense).

DISCUSSION:

1. Mobile home closings can be tricky. The first thing the listing agent should do is find out if title was eliminated or not. A very easy thing to do. Just call your favorite title company and ask for the information department. Give them the address and ask if title was eliminated. If it was eliminated then ask for a copy, because it is a 3-page recordable document. When you receive your listing preliminary it will be an exception. The exception will show on the title. It will actually say a title elimination was recorded on a certain date and will list the recording number.
2. If title was not eliminated, ask your seller for a copy of the title. If the seller still owes money on the mobile, then they should have a copy showing the lienholder, but the lender will have the original. Get a copy of it.

FOR SALE BY OWNER...EASY, RIGHT? NOT!!!!!!!



I got a call from a “for sale by owner”. Really nice gal said that she is selling her mother’s home as she needs to put her mother into an extended care facility. She has a purchaser that wants to buy the home and would I help her with it. She said she had a power of attorney to sign on behalf of her mother. I asked if it was recorded and she said that it was not. I asked if it was an original and she said it was. I told her that we would need to record the original when we did the recording on the sale. She told me there was one minor problem in the sale and that was her 40-year-old brother who was still living in the home. She had already moved mom to a facility and told her brother he needed to find another place to live. He was upset she was selling the home and he had no money to move anywhere else. She proceeded to tell me that her brother has never had a job in his life and has always lived off mom! She said she will get her brother out of the home prior to the closing date of 5/1/23

I told her I’d need a purchase and sale agreement signed by all parties. She told me she will get one signed and bring it in later in the week.

Later in the week she brought in the completed purchase and sale agreement with a \$2,000 earnest money check from the purchaser. She also gave me the original power of attorney. Finally, she gave me information on the purchaser’s new lender.

We ordered title and set up the file and proceeded. Closing was projected for 5/1/23

Lender sent a request for CD fees from closer and everything was on track.

On 4/15/23, a man walked into our office and asked for me. He wanted to talk to me in private so I brought him into the conference room. He smelled terrible and had shabby dirty clothes. He put a form in front of me and said, “This is a legal form and I am serving you.”

I took a look at it and read it. And then I read it again and just looked at this guy and said I don't understand what this is. He said it is exactly what it says.

I asked him if he was an attorney or did he have an attorney draw this document. He said he was not an attorney and you do not need to be an attorney to draw up legal documents.

Here is what the document said:

April 15, 2023

To: Angie DeArth

Escrow Advisor

NOTICE OF DISPUTE

AND A RECISSION OF A SALES CONTRACT

ESCROW NUMBER #1234569

PROPERTY: 123 W. North Street

The undersigned person of real interest hereby declares:

All persons and parties of real interest in this matter are informed and advised that this 15th of April, 2023, the land and house in question and noticed above for purpose of sale is herein placed into dispute by the person listed below. A formal hearing to present documents will be requested in due course, pursuant to a prior and antecedent claim made by the person of real interest.

AFFIRMATION

I, Crazy Man, acting in my own behalf and real interest, do hereby affirm, aver and therefore invoke the specific Limited Power of Attorney granted unto me on the 30th day of January 2017, as I believe it is my right to do so.

IN WITNESS WHEREOF, signed and affirmed this 15th day of April, 2023 by:

Crazy Man

Copyright@clockhoursbyangie August 2019, July 2023

As you can see, I had to read it twice and then look at “crazy man”. So, I told him I would give this to my manager and get back to him. I asked for his phone number and he said, “No, I don’t want you to call me. I’ll stop back in tomorrow morning to see if you were able to stop this closing.”

I immediately called his sister and told her he was just in and what he handed to me. She said he has been a problem and will not move out of the house and doesn’t know what to do. She was going to contact an attorney and see what could be done.

The next day, Crazy Man came back in with another form exactly like the one he brought the previous day but he wanted me to sign and date it to prove he served me. So, I signed and dated it and he left and said, “You have not heard the last from me.” I wanted to tell him to take a shower and change his clothes as he was wearing the exact same clothes for a second day.

I didn’t hear from anyone until the lender sent the documents to us for a projected closing date of 5/1/23 which was only a couple of days away. I called the purchasers to tell them their documents were ready to sign and gave them their amount to close. They said they wanted to have a walk thru prior to signing. I told them they would have to arrange it with the sellers. They said they’d call me back and let me know.

The next morning, they said they are cancelling the transaction. They went to the house yesterday and the brother would not let them in and said it was an illegal transaction. The sister showed up when they were there and it was a huge fight between them. Purchasers said they didn’t want to be involved in this battle and were going to look for another home.

So, the brother got his way and is still living in Mama’s house for free! Some boys never grow up!

DISCUSSION:

1. Sometime, there is a “crazy man” involved in a transaction, whether it be listed with an agent or a FSBO. Have you ever had a “crazy man” involved in your transaction?
2. Here is a case of the “parties behind the scenes” not agreeing prior to entering a PSA.

When 1% means so many different things!

This was a new construction transaction. Sales price was \$304,399.00 and commission was 6% with 3% to listing agent and 3% to selling agent.

Purchase and sale agreement was under contract on 5/1/23 and projected closing date was 7/31/23. Closer asked both agents for their CDA's (Commission Disbursement Authorization) form showing the commission disbursements. Commission credit to borrowers should be \$3,043.99.

5/1/23 Selling agent sent in CDA that said:

\$308,999.00 sales price

6,269.97 commission (includes 1% to buyer concession)

BUT when the closer (and the lender) did the math, they came up with 1% credit to the purchasers to be \$3,089.99, which would make the net commission \$6,169.97

5/6/23 Closer contacted agent by email and told him the discrepancies.

5/7/23 He said he'd investigate it. And cc'd the office who issued the CDA

5/17/23 closer sent email to agent, no response.

5/29/23 closer sent email to agent, no response and called and left message.

6/4/23 closer calls agent and leaves a message as the lender ordered title for the sales price to be \$304,399.00 so closer needed an addendum and a correct CDA. The sales price was not \$308,999.00

6/17/23 closer emails agent again for addendum

6/21/23 closer receives a new CDA showing sales price is \$304,399.00 and the CDA says commission is \$9,062.45 with no concession to purchaser and if you do the math 3% of sales price is \$9,131.97

6/21/23 Lender sends out 3-day CD to purchaser with a copy to closer that showed sales price of \$304,399.00 and credit to purchaser to be 3,043.99

6/24/23 closer contacts agent's office to talk about the discrepancies and how she needs a revised CDA.

6/22/23 Closer sends out copies of settlement statement to both listing and selling agents.

6/25/23 Selling agent sends email to closer that says "Who authorized this?" and included an email e-signed by selling agent and purchasers "selling agent will contribute 1% of commission to go towards buyers upgrades for the purchase". This email was never received by either the closer or the lender. At this point the closer was very confused because anybody who knows basic math would compute 1% of commission would be about \$91.30! She contacted the selling agent's office and talked to the assistant who prepares the CDA's and agreed there was some confusion on this transaction as there have been over seven CDA's prepared. She said the agent really meant he would contribute 10% of his commission and would round up to \$1,000.00

6/26/23 Closer receives loan documents from lender – CD was balanced with sales price being \$304,399.00 and credit of commission is \$3,043.99.

6/26/23 Closer contacts agent by email and said, "Do we have any updates on commission issue? I must contact the lender as soon as possible if we need to re-schedule. The purchasers made their appointment for this afternoon at 1:00 as this is scheduled to close and fund tomorrow."

6/26/23 Agent sends email about 10 minutes later to closer and says "I'm trying to figure this out."

6/26/23 At noon, closer emails the agent and said, "Do you want me to re-schedule the closing appointment and have the lender redraw documents based on the \$1,000.00 credit?"

About 15 minutes later agent replies, "No, I don't want my purchasers to be affected in anyway – proceed with the closing". Closer answers and said, "I'll have them sign and process, but I still need the corrected CDA from your office."

6/26/23 Purchasers and sellers both come in to sign, docs get processed back to lender and it is set to record and fund in the morning on 6/27/23

6/27/23 lender calls to balance, wires funds and it is recorded. Selling agent gives keys to purchaser but never deposited a corrected CDA. It is month end, and a lot going on and closer attempts to call and email selling agent, but no return calls or email still. Closer funds the loan and holds back the commission for selling agents side. She got the verbal go ahead

from the agent, but still has nothing in writing from the company. This is not something she has ever done and is quite upset with herself at this time. She comes to me with all the facts and asks what she should do. I told her to go ahead and send out the commission and I'm sure someone will contact us eventually.

7/3/23 Email from managing broker to me directly telling me the commission was incorrect. I explained what the chain of events were and told him I'd send him the string of emails from closer to agent. He said he'd love to review them.

7/3/23 Email from managing broker. Agent told managing broker that the language he used in the paperwork was unclear. This is where the problem started. He said one of the main problems was that the closer was using an old email address and that was not him answering her. He also stated that he only had one phone call from her and that was at the 11th hour when it was too late! And he further said that there were 8 CDA's issued and everyone on both sides knew that there was much confusion regarding exactly what the credit to the purchasers would be and if it was approved by all. He really thought the entire commission would be held (three percent) until this was solved.

7/3/23 Closer replied back that the entire commission could not be held back because lender got documentation in the beginning of the 1% credit to the purchaser, so that part of the commission was gone from the beginning.

DISCUSSION:

1. How important are Commission Disbursement Authorizations.
2. Don't let pressure from others make you deviate for your normal procedures.
3. Always follow protocol and get everything in writing prior to the signing appointment.

OH NO.....

Here is another Commission Disbursement Authorization (CDA) problem, or was it?

A real estate firm called me and said, "Hey Angie, I think we have a major problem. I received our commission check today for a transaction that closed yesterday and our check is \$2,000.00 short!" She said she looked at the settlement statement and said, "I think you gave the purchaser credit for earnest money you thought we had in our trust account, and then you gave them credit for another \$2,000.00 you held in your trust account."

The closer was at lunch so I mentioned a little bit about the call to my boss. He and I immediately thought that this was an error the closer did in the system and we would have to put in a "small claim" for \$2,000.00 to be deposited into this account so we could get the agent the balance of their commission delivered before the end of the day. Of course, we'd have to go after the purchaser for the \$2,000.00 but fat chance in ever getting that back.

So, we put in the request immediately.

The escrow assistant pulled the file on her screen so we can see what happened, as the first thing we thought of was how did our Closing Disclosure balance with the lender's Closing Disclosure.

The assistant went into the file and looked at the CDA first. This is a form we MUST have from the agent's company PRIOR to funding a closing. We looked at it and it said -0- earnest money was to be held and the amount to collect was the amount the agent's office personal that works on commissions was looking for. It was definitely \$2,000.00 short.

The closer came back from lunch and we immediately hit her with this when she walked in. She had a very puzzled look on her face and said, "Let me review that file, I remember that one."

She came back to me, smiling, with a document in her hand. She presented me with an addendum signed by all parties that said:

"Selling agent agrees to credit purchasers \$2,000.00 of her commission"

This form was never presented to the managing broker! We immediately sent this to the agent's firm to see why we deducted \$2,000.00 The firm was pretty upset with the agent as the agent never got permission from the firm to reduce the commission>

We immediately cancelled the "small claim".

DISCUSSION:

1. Addendums getting to all the property parties
2. Closer should have asked the "office" to give us a new CDA and stopped everything until it was done.

ANOTHER MOBILE HOME HORROR STORY

7/20/22 Gigi purchases a mobile home and received in mail from her closer “validated copy of record” from State of Washington on Mobile Home Title in her name

7/31/22 Gigi enters into PSA to sell mobile home and closing is scheduled for 8/15/22. Gigi gives to her agent what she got from Department of licensing (DOL) who delivered to the closing agent.

8/15/22 –This transaction closes and closer heads to DOL to process to the new purchaser. It is rejected!

8/17/22– Gigi gets letter in the mail from DOL in Olympia that they are revoking the “copy of record” Spokane gave to them, as the documents that were signed by her seller, (a Trust), were not completed correctly, which means the recording that was just done for Gigi’s sale are not valid. The new purchaser is living in Mobile home, and the seller, agents, everyone got paid. But it is not in the purchaser’s name.

NOTE: closer finds out from DOL Spokane, that when they process the mobile into the purchaser’s name, and give us a receipt for it, it does not necessarily mean it is complete. DOL Spokane has to send all that information to DOL Olympia, who has 30 days to decide if all is correct in order to change into the purchaser’s name.

NOW, we have a problem, because Gigi did not hire a title company or attorney to do this closing when she purchased the mobile home. It was done between the parties themselves (to save money) and she is not able to reach the person who signed for the trust. Never got a phone number.

What happens now?

DISSCSSION:

1. Do you understand how the mobile home process all happens “after” closing?
2. Let’s review some of the procedures that closures do “after” closing.

STANDARD PURCHASE AND SALE AGREEMENT REALLY??

The following 3 pages are a copy of the “STANDARD PURCHASE AND SALE AGREEMENT” I received from a “For Sale by Owner” transaction. The purchaser dropped this off at our office and said they would like to open title and escrow. The form was given to me to review. Upon review I questioned so many items that my entire PSA was yellow with all the lines I highlighted. I immediately called the purchaser and seller and told them we’d have to pass on doing this closing as there were too many flags jumping off the page for us. Some of the items:

1. Title will be conveyed by “general warranty deed” (what is that?)
2. Take title subject to an existing first trust deed note. (I don’t think so)
3. Take title subject to an existing second trust deed note (What?)
4. Buyer will pay 100% of closings costs
5. Seller will assign to Buyer at no cost to buyer, seller’s escrow account and hazard insurance policy (What?)
6. Existing financing: Buyer will be taking the property subject to deed(s) of trust existing loans and is not expressly assuming responsibility through a formal assumption of said loans..... (No way!)

Standard Purchase and Sale Agreement

Parties: _____
"SELLER", and _____
"BUYER" (and/or assigns or nominees) which terms may be singular or plural and will include the heirs, successors, personal representatives and assigns of Seller and Buyer, hereby agree that Seller will sell and Buyer will buy the following property, upon the following terms and conditions if completed or marked.

1. **The Property:** The Property is located in and situate in the County of _____ State of _____ commonly Known as _____ APN: _____

It is understood that the Property will be conveyed by General Warranty Deed (unless otherwise required) subject to taxes, existing zoning, covenants, restrictions and easements of record. ①

1. **Total Purchase Price** to be paid by Buyer is payable as follows:

A. **EARNEST DEPOSIT.** Refundable Earnest money deposit check [] or promissory note [], which will remain as a binder until closing, and be held for Seller by closing agent (chosen by Buyer).....

B. **DOWN PAYMENT BALANCE AT CLOSING.** (not including Buyers closing costs, prepaid items or prorations) in U.S. cash or cashier check. Approximately []: Exactly []

C. **NEW LOAN.** Proceeds of a new loan to be executed by Buyer to any lender other than Seller;

② D. **TAKE TITLE SUBJECT TO AN EXISTING FIRST TRUST DEED NOTE**
held by _____ in an approximate unpaid amount of
payable \$ _____ monthly until paid, including interest not exceeding ____%.

③ E. **TAKE TITLE SUBJECT TO AN EXISTING SECOND TRUST DEED NOTE**
held by _____ with an approximate unpaid amount of
payable \$ _____ monthly until paid, including interest not exceeding ____%

F. **TAKE TITLE SUBJECT TO AN EXISTING THIRD TRUST DEED NOTE**
held by _____ with an approximate unpaid amount of
payable \$ _____ monthly until paid, including interest not exceeding ____%

G. **A PROMISSORY NOTE** in the principal amount of
Promissory note to Seller on terms set forth in Paragraph 16.

H. **OTHER ENCUMBRANCES OR RECORD**.....
List other encumbrances: _____

④ **TOTAL PURCHASE PRICE IS THE AMOUNT OF**

1. **Buyer Will Pay:** Closing Costs: _____

2. **Seller Will Pay:**

A. Closing Costs: _____

B. All other charges required by lender which Buyer is prohibited from paying by law or regulation.

C. All mortgage payments or condominium and association fees will be current at Seller's expense at the time of closing.

⑤ **Prorations and Loan Balances:** Any accrued loan interest shall be prorated to the date of closing. Seller will assign to Buyer, at no cost to Buyer, Seller's escrow account and property hazard insurance policy, and/or any refunds which may issue, in lieu of prorations of all taxes, association fees, monthly hazard insurance premiums, and monthly mortgage insurance premiums as of the date of closing. Seller will bring any escrow shortage current at closing. In the absence of an escrow account, taxes shall be prorated as the date of closing. If the actual loan balance of said loan is less than as stated herein, the purchase price shall be reduced to reflect the difference; if the actual loan balance is more than as stated herein, then Buyer's required cash payment shall be reduced accordingly. If this is rental property, rents are to be prorated as of the date of closing and any deposits of any kind or nature shall be transferred to Buyer at closing.

2. **Payment of Expenses:** If Buyer fails to perform, then all closing costs incurred by Seller will be deducted from Buyer's earnest money deposit. If Seller fails to perform for any reason, all loan obligations, fee obligations, appraisal fees, survey fees, credit report costs,

application costs, sales processing and closing costs incurred, whether the same were to be paid by Seller or Buyer, will be the responsibility of Seller. Buyer will be entitled from Seller the return of all of Buyer's earnest money deposit.

3. Wood Destroying Organism Report: "Wood Destroying Organism" hereinafter referred to as "WDO" means any arthropod, plant life or growth, which damages a structure. Seller will have the property inspected by a State Certified Pest Control Firm within seven (7) days of the execution of this Agreement to determine whether there has been, or is currently, any WDO infestation or any structural damage from WDO to the property. Seller shall provide to Buyer notice of WDO infestation or structural damage including a complete and accurate copy and all reports generated within two (2) days of receiving the same. Seller shall have seven (7) days from receipt of written notice thereof within which to have all such wood destroying organism damages, whether visible or not inspected, estimated by a licensed building or general contractor. Seller will pay costs of treatment and repair of all structural damage up to two percent (2%) of the purchase price. If such costs exceed the amount agreed to be paid by Seller and Seller declines to treat and repair, Buyer will have the option of (a) terminating this Agreement, or (b) proceeding with the transaction, in which event Seller will bear costs equal to two percent (2%) of the purchase price.

4. Title Examination, Place and Time for Closing: **A.** If title evidence and survey show Seller is vested with a good, clear and marketable title, subject to permitted title exceptions contained in a national title insurance company commitment at its standard rates (permitted exceptions are for restrictive covenants, leases, survey, current taxes, zoning ordinances and easements of record only), the transaction will be closed and the deed and other closing papers shall be delivered on or about _____, plus any extensions necessary in order to complete paperwork, unless extended by other conditions of this Agreement or this Agreement is canceled by the Buyer. Buyer shall select closing attorney or title company. **B.** If title evidence or survey reveal any defects which render the title unclear, Buyer will have 7 days from receipt of title commitment and survey to notify Seller of such title defects and Seller agrees to cure such defects at Seller's expense within 30 days. In such event, Seller shall deliver written proof to Buyer that Seller has cured all defects with, and do so within two (2) days of the completion of such cures. Then, after Seller has cured and delivered to Buyer such proof of cure, this transaction shall close within 10 days. Seller agrees to pay for and discharge all due or delinquent taxes, liens and other encumbrances, unless otherwise agreed. The closing attorney or title company will then close upon the modified agreement. If Seller is unable to convey to Buyer a good, clear and marketable title, Buyer will have the right to terminate this Agreement.

5. Possession: _____ Seller shall surrender possession to the property on day of closing.

_____ In the event possession is not delivered at closing, buyer shall withhold proceeds from the sale in the amount of \$ _____ as security (see attached Holdover Occupancy Agreement for details).

1. Loss or Damage: If the property is damaged by fire or other casualty prior to closing, and cost of restoration does not exceed 3% of the assessed valuation of the improvements located on the Property, cost of restoration will be an obligation of the Seller and closing will proceed pursuant to the terms of this Agreement with cost thereof escrowing at closing. In the event cost of restoration exceeds 3% of the assessed valuation of the improvements and Seller declines to repair or restore, Buyer will have the option of either taking the Property as is, together with either the said 3% or any insurance proceeds payable by virtue of such loss or damage, with Seller paying Buyer in cash any insurance deductible, or canceling this Agreement.

2. Property Condition and Inspection: Seller shall deliver the Property in the same condition as it was on the date of this Agreement, and it shall be in a clean and ready to occupy condition. Seller further certifies and represents that Seller knows of no latent defects to the property and knows of no other defects in the property or of any facts materially or negatively affecting the value of the Property except the following: _____

This Agreement is subject to an inspection of the Property and approval by Buyer and/or his associates and assigns after acceptance of this Agreement by Seller. If not already on, Seller shall have all utilities on for inspection. In the event any system, appliance, roof or foundation defect is found it shall be remedied forthwith by Seller at his sole expense (in which case the time for closing shall be extended as may reasonably be necessary) or, in the event the cost of such repairs shall exceed 5% of the "Total Purchase Price", Seller may elect not to make such repairs and Buyer may elect to renegotiate this Agreement, accepting such amount as Seller may agree to pay, then take the Property in its 'AS-IS' condition, OR Buyer may elect to terminate this Agreement and receive a full refund of all earnest monies paid. Seller guarantees that the appliances are in correct operating condition at the time of closing.

1. Personal Property: Included in the purchase price are: all window treatments, built-in appliances, refrigerator, floor coverings, stove, air conditioner(s), ceiling fans, attached lighting fixtures, mailbox, fence, storage building, plants, yard ornaments and shrubbery as now installed on the property which items shall all be considered fixtures of the property. Additional items which will also be conveyed as fixtures at the closing are: _____

2. Default and Attorney's Fees: If Buyer defaults on this Agreement, all deposits will be retained by the Seller as full settlement of any claim, whereupon Buyer and Seller will be relieved of all obligations under this Agreement. If Seller defaults under this Agreement, the Buyer may seek specific performance or elect to receive the return of the Buyer's earnest money deposit(s) without thereby waiving any action for damages resulting from Seller's breach. If Seller refuses to sell for any reason, or fails to close for any reason, Buyer shall have a right to all damages, including, but not limited to, compensatory damages, consequential damages, attorney fees and all costs, including all costs of collections. Both Buyer and Seller waive trial by jury and agree to submit to the personal jurisdiction and venue of a court of subject matter jurisdiction located in the County in which the property is located. In such event, no action shall be entertained by said court or any court of competent jurisdiction if filed more than one year subsequent to the date the cause(s) of action accrued.

3. Zoning and Restrictions: Seller warrants Property is zoned residential. Should Buyer discover any proposed zoning change unacceptable to Buyer, Buyer may void this Agreement and maintain all rights to compensatory and consequential damages.

1. **Maintenance and Access:** Until title is delivered, Seller agrees to completely maintain all elements of the Property, including, but not limited to, the heating and air conditioning systems, the entire grounds, the roof, sewer, plumbing and electrical systems and any appliances remaining with the Property, and all other equipment, in normal and correct working order. Buyer has the right to make repairs, show the Property to prospects, lenders, contractors or partners, and to post signs for sale, rental or rent to own before closing. If Seller fails to maintain the Property, Buyer shall have the right, without further notice, to maintain the Property and make all needed repairs. The cost of such repairs may be deducted from the sales price at closing. If the property does not close, Buyer may file a lien on the Property with the County Recorder's office and keep it in place until such time that the amount of the maintenance and repairs have been paid by Seller to Buyer and Buyer shall have all legal and equitable rights to collect for such maintenance and repair.

1. **Promissory Note:** Seller agrees to take back a Purchase Money Note, as contained in paragraph 1G, for the amount of \$____ for a period of ____ months, at interest rate of ____%. Documents, which include principal and interest, in the amount of \$____ due on the first, and shall start/be payable on _____. In the event of default, Seller must notify Buyer, in writing by certified mail, of default, and give Buyer 30 days to cure default. This property shall be Seller's sole security for the Purchase Money Note. Buyer may at any time, without penalty, pay in part or in full the principal balance of the Purchase Money Note owing to Seller. Should Seller decide to sell the Purchase Money Note, the Buyer shall have the first right of refusal to buy Seller's interest. Any mortgage created by this transaction must include agreed provisions above and be acceptable to Buyer. Seller agrees not to further encumber the Property in any way.

1. **Existing Financing:** Buyer will be taking the property subject to deed(s) of trust existing on the property and the underlying existing loans and is not expressly assuming responsibility through a formal assumption of said loans. Commencing on _____, the Buyer shall pay all monthly obligations on the underlying loans and property taxes, assessments, homeowner's association dues (if applicable) and any other expenses related to the property. Seller is aware that this loan will not be satisfied in full at closing and may continue to appear on Seller credit file. Seller will provide Buyer with loan payment booklets and written permission to contact the holders of any debt securing a deed of trust on the property. Seller will execute Limited Power of Attorney pertaining to the subject property. Both Seller and Buyer acknowledge that the deed(s) of trust securing the property stated above may contain a "due on sale" provision giving the lender an option to call the loan immediately due and payable if all or any part of the Property is sold or transferred without satisfying the said loans.

1. **Survival of Agreement:** This Agreement shall survive the closing, execution and delivery of the Warranty Deed, as agreed herein by the undersigned. Buyer intends to buy, sell, rent or trade for a profit. Seller hereby gives their consent that buyer may file with the County Recorder an AFFIDAVIT AND MEMORANDUM OF PURCHASE AND SALE AGREEMENT to protect its interest in this contract. Seller agrees to execute such acknowledgement with the execution of this agreement.

1. **Assignment:** Parties hereto agree that Buyer shall have the right to assign this Agreement and the terms and provisions hereof shall be binding upon and inure to the benefit of the parties hereto, their successors, representatives, heirs and assigns.

1. **Additional Terms, Conditions or Exhibits (lettered A, B, C, D, etc.):** In any conflict of terms or conditions, that which is added will supersede that which is printed or marked.

1. **Full Understanding:** This legal and binding Agreement will be construed under _____ Law. The parties warrant that they have consulted an attorney if they have had any questions regarding this agreement. The parties, by signing below, acknowledge that they understand the agreement and assent to all of the terms and conditions herein. The parties further agree that this agreement is a negotiated effort and that any ambiguity herein shall not be construed against either party, but shall be enforceable to the extent of the letter and spirit of this agreement. If any signature is faxed or digitally produced it shall have the same legal force and effect as an original ink signature.

1. **Amendments:** No oral agreements have been entered into with respect to this written agreement. This agreement supersedes any oral agreement of any kind any time. This agreement, together with any attached exhibits or addendums, represents the entire agreement between Seller and Buyer may be modified only by a written agreement which is dated and signed by each party which clearly identified this agreement as the agreement to be modified and which clearly states the modification.

1. **TIME IS OF ESSENCE IN THIS AGREEMENT.** Unless this offer is signed by Seller and personally received by Buyer, by _____ at ____ AM/PM, the offer shall be deemed revoked and the deposit shall be returned.

Buyer (s): _____, Date of Offer: _____

Seller: _____, SSN: _____, DOB: _____, Date: _____

Seller: _____, SSN: _____, DOB: _____, Date: _____ 20____.

What is a sub-escrow?

Here is a story about a purchase and sale agreement where the selling agent and listing agent could not come to an agreement on title/escrow. They both had their “teams” in order and didn’t want to budge on who would do what, so they decided to split it! So, we had the escrow and XYZ Title had the title. You would think this would not cause a problem, but it did.

The lender required a CPL (Customer Protection Letter) as do most lenders. The title company is the one who can do this letter for the lender, BUT in order to do so they need to be the company receiving the wire. This CPL has language in it that protects the lender that the underlying lienholder (sellers’ payoff) would be paid in full and their deed of trust to the purchaser would be in first position. The only way you could do this was to be the one receiving the wire, paying off the sellers’ lien and any other lienable items on title. Typically, a sub-escrow costs the buyer anywhere between \$150.00 - \$250.00 plus tax depending on the title companies posted fees with the OIC (Office of the Insurance Commissioner).

So, the escrow company had to set up a sub-escrow with the title company and got their fees and included them in the CD (Closing Disclosure) for the lender.

One day after entering into the PSA the seller received a letter from her lender that the loan was sold to ABC Lending and all future correspondence should be sent to them. The next payment due was in 30 days and it was indicated that that payment should be remitted to them.

When the seller received our “opening package” from the escrow department, it had information to be completed regarding the lender so she called and told escrow that her loan had just been sold and gave her the information. Escrow called the new servicer and they said they did not have any of this information yet. Escrow called previous servicer and they told her they no longer serviced this account and had to call the new servicer. Closing was to occur in 18 days. Escrow took the time to call the new servicer every day until the day before closing and nothing yet. She explained that this was closing and she must have that information in order for this to close.

Seller was leaving the day before closing to move back East and came into sign her documents which the proceeds had an * on it that said, less payoff. All agents were informed of this. We

were able to determine based on the seller's last statement from the old servicer that the sellers estimated payoff would be netting them well over \$100,000.00! But, what to do, we had nothing in writing. And, don't forget, this was a sub-escrow so the other title company need this payoff in order to proceed.

The seller even sent a letter to the title company and said, please let this record without you having a payoff and you can hold our entire proceeds along with what we think the payoff would be. This had to close and fund by the end of the week – we only had two days left.

Purchasers were furious as they had no place to sleep if this did not fund and record on Friday and it happened to be a “dominos effect” transaction with 3 more sales beneath it! So, a lot of people were depending on this to happen timely.

Lender's documents did not arrive until Friday morning scheduled to be a same day sign and fund which seems to be the norm lately, unfortunately. Still no payoff. Escrow was able to get a verbal payoff from underlying servicer, but they indicated they would not have anything written until Monday and the required wiring instructions. Both managers of each of the title companies got on the phone trying to see what to do to accommodate this transaction. Purchasers signed at 10:00 am on Friday and funds were wired into the title company Sub-Escrow Department. Now, what to do with the money and when to record so the purchaser could have possession and the other three transactions could proceed.

At 1:45 the written payoff came in with the wiring instructions of the new servicer. Payoff was sent out and documents were released for recording.

The Sub Escrow then had to wire the balance of the lenders funds to escrow, but unfortunately, they did not make the wire cut off. So, it was officially recorded but not funded. Escrow would not receive funds until Monday. Listing agent contacted the seller and let them know what has happened and they agreed to let the purchasers move in anyway.

Escrow got the money on Monday and it funded.

Discussion:

1. Did you know what a sub-escrow is and why it could complicate the transaction by more money owed by the purchaser and one day delay for the funding?
2. Servicers selling the loan.....can be tricky if you are in the middle of the time frame of them accepting the loan from the previous servicer and setting it up on their computer and assigning it a new loan number!

Seller is a “Foreign Status” seller

Purchase and sale agreement was for \$180,000.00 and had an address on it. Closer “assumed” it was a land and home.

There was a 22E in associated documents in the MLS that the seller signed that said he “WAS” a foreign status seller. Purchaser checked the box on that form that said “they will occupy”. It also stated that because the sales price was under \$300,000.00 and the US buyer intended to occupy, then the seller was exempt from FIRPTA. We were good to go!

Seller lived in another country. We had to line up an interpreter to review the documents with him ahead of time from our company. Found out later that our interpreter did not speak the seller’s type of language, as in this country it was 4 various types. Have to find another person with the title company to interpret, which we did.

Almost time for closing and we sent the purchasers their documents to sign, including our form like the 22E to sign. This is when they really read the document and called and said that the property was land, and they do intend to occupy once they build the home, but that would not be for 3 or 4 years. So, they wanted to know how the “retracted” that statement that was sent with the original PSA? I told them to contact their agent who would contact the listing agent and tell them about the change.

Of course, my phone blew up and my email from everyone involved, including the managing brokers.

So now everything changed. We did receive an addendum retracting that 22E statement. Now the seller was going to be subject to FIRPTA which meant 15% of his sales price which would be \$27,000.00 would be held back from his proceeds and remitted to the IRS with forms.

“Section 1445 of the U.S. Internal Revenue Code provides that a buyer of a U.S. Real Property interest must withhold tax if the Seller is a foreign person.” So, now, it puts the responsibility of the money being withheld, the proper IRS documents completed by the parties and remitted in the time frame allowed by law on the back of the purchaser! Because this is such a sensitive item and subject to time frames, our office will not do this type of closing unless the seller retains an attorney to handle the preparation of the forms and the demand from escrow of the

money, then the attorney sends all to the IRS and takes this responsibility away from the closing.

So, the listing agent said the seller agreed to have this happen and wanted to know if we know of any attorneys in our area do FIRPTA documents and I gave him the name of 3.

They chose one and we sent the attorney the PSA and title report so they could prepare the documents. So, this part of the transaction was handled.

Now, we just had to get documents to the seller and interpreter so the documents could be explained for signature. Then the seller had to line up a notary in their country that would be acceptable to our State. Then, overnight the documents back to us, which really would not be “overnight” as in one day, it took 5 working days for us to get the documents back.

And, to add more to this story, the seller’s money had to be wired by international wiring instructions which were so complex it took three people to figure it out and the wire took an additional 3 days.

So, all in all, the all the problems, this closing was delayed 3 entire weeks.

This was a free and clear cash transaction = a closer’s dream! NOT

DISCUSSION:

1. When completing a 22E, please be sure your client reads the entire paragraph, as it does talk about the time frame when the purchaser must reside in
2. If you know you have a “Foreign Status Seller” and the sales price is over \$300,000.00 be sure to contact your closing when you take the listing so you will know what to do ahead of time and inform your seller

I have attached on the following pages:

NWMLS Form 22E

Purchasers intent to reside



**BUYER'S STATEMENT OF INTENT TO RESIDE -Foreign Investment in Real Estate Act (FIRPTA)
INDIVIDUAL ACQUIRING PROPERTY FOR USE AS A RESIDENCE-
PURCHASE PRICE OF \$300,000.00 OR LESS**

Escrow No:
Real Property:

NOTE FOR INFORMATIONAL PURPOSES ONLY: The disposition of a U.S. real property interest by a foreign person (the transferor or Seller) is subject to the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) income tax withholding. FIRPTA authorized the United States to tax foreign persons on dispositions of U.S. real property interests.

Under FIRPTA, persons purchasing U.S. real property interests (transferees or "Buyers") from foreign persons (transferors or "Sellers"), are generally required to withhold a portion of the amount realized on the disposition for remittance to the IRS. In most cases, the Buyer is the "Withholding Agent." If the Seller is a foreign person and a Buyer fails to withhold, Buyer may be held liable for the tax. Generally speaking if a Seller is foreign, the IRS requires that Buyer withhold 15% of the gross sales price from the foreign seller's sales proceeds and send it to the IRS within 20 days of closing. No withholding or smaller amounts of withholding MAY be allowed by the IRS however. E.G. the IRS requires no federal tax withholding if the sale price of the Subject Property is \$300,000.00 or less and Buyer meets IRS requirements concerning "residential use" of the property. The IRS requires withholding at the rate of 10% of the amount realized by Seller (sale price) when the sale price is over \$300,000, but is not more than \$1,000,000 and Buyer meets IRS requirements concerning residential use. The IRS requires withholding at the rate of 15% of the amount realized by Seller (sale price) withholding i) if the sale price exceeds \$1,000,000 and/or ii) upon IRS determination that use of real property does not meet its residential use standards, regardless of the sale price.

The undersigned after being duly sworn hereby affirms the following:

1. The undersigned is the Buyer of the above-referenced real property
2. The undersigned is an individual and not a partnership, limited liability company, corporation or other entity.
3. The sale price of subject property does not exceed \$300,000.00.
4. The undersigned is acquiring the real property for use as a residence as that term is defined by the IRS, or in other words, the undersigned or a member of my/our family has definite plans to reside at the property for at least 50% of the number of days the property is used by any person during each of the first two 12-month periods following the date of transfer.
5. I am making this affidavit in order to establish an exemption from withholding a portion of the sales price of the property under FIRPTA.
6. I understand that if the information in this affidavit is incorrect or if unforeseen circumstances within the 24-month period disqualify me from the exemption, I may be liable to the IRS for sums including but not necessarily limited to 15% of the sales price of the property, plus interest and penalties.

Because FIRPTA can result in a Buyer having significant liability to the IRS, WFG urged us to consult our own tax advisors or other tax resources before signing this affidavit, if we have any questions about its contents, its effect on us, the liability that exists if any of our affirmations in this affidavit are deemed by the IRS to be untrue, and our rights, duties, risks and alternative options regarding FIRPTA.

Buyer

State of _____

County of _____

Subscribed and sworn to before me this _____ day of August, 2019 by _____

Notary Public
My Commission Expires: _____

What is an MSO?

I had an agent call me who was getting ready to list a property that had a 1991 mobile home on the land. He took my mobile home title class previously and remembered there were some things to check on prior to listing it. The sellers bought this property in 1992. One of the sellers was deceased the other was an elderly gentleman.

I immediately called by source at Department of licensing at the courthouse and gave him the address and the VIN number of the mobile home. He said there is no mobile home on this property. I called title department and they said the taxes are showing there are improvements on it and assessor had a picture of the mobile. Because the mobile had never been transferred, title had to put an exception on title that basically says "there appears to be a mobile home on this property....." This is a reminder to the closer, something had to happen. Either we transferred the mobile home title to the purchaser and the value of the mobile would be excluded from the title report, or we would eliminate the title and the title would cover both the mobile and land.

I called Spokane Building and Planning. They checked and said yes, in 1991 a mobile home was placed on this property and they paid for a permit.

Okay, so we know there is a mobile, B&P recognizes it, and so does our treasurer as they are collecting taxes on it, but DOL does not. When it was placed on the lot, whoever placed it did not "title" it with DOL. That means the MSO (Manufacturers Statement of Origin) was never delivered to DOL with the vehicle registration forms to transfer into the owner's name. The MSO is like the birth certificate for the mobile. Seller did not have it.

Listing agent sent me a picture of a form that was posted on the wall of the mobile that had the address of the company where it was purchased, in Oregon. I called them to see if I could get a duplicate MSO. They said they were not the original company. The original company went into receivership in 1986 and all documents were destroyed. No birth certificate.

The only thing left was a Bonded Title, which takes 3 years. Listing agent knew this was beyond the scope of understanding for his elderly gentleman seller and called a couple of attorneys to

see how much money they would want to do this Bonded Title – the average they wanted was a deposit of \$2,500.00

Now the sales price is \$150,000.00 cash and the purchaser is an elderly lady. She needs to move into this mobile next week!

Sellers granddaughter called listing agent to say that she did find a bunch of documents on the mobile home when gramps bought it. I told listing agent to bring them all to me and maybe we will be lucky.

He brought to me and we found the original purchase documents from 1992, but the title company and the escrow company are both out of business. So, nothing there.

Then there was a packet from another title company who is in business. In 1996 the sellers refinanced the property. BINGO I thought! Someone there should have eliminated the title. I reviewed all the documents and called the manager and he pulled the file from storage. Turns out when the closer did the refinance she found out the exact same thing about the MSO being missing and the title could not be eliminated. And she explained it to the lender who agreed to loan on just the land, as they felt there was not much value in the mobile home. So, once again, we not nowhere else to go, but the Bonded Title road.

Listing agent asked me what we could do. Purchaser had no place to live and wanted this property. I told him the only thing we could do was close on the land only and have a statement from the parties the mobile home transfer would occur outside of escrow.

So, listing and selling put their heads together and came up with agreeable terms. Sales price was lowered by \$5,000.00 so the purchaser would have plenty of money to hire an attorney to do the Bonded Title, whenever she wanted to. We got an addendum that disclosed mobile home would be handled outside of escrow and purchaser received copies of the RCW on bonded title and was fine with it.

It closed. Purchaser said, I may never apply for a Bonded Title, I'll let my estate handle it!

DISCUSSION:

1. Do you know the correct questions to ask your seller so you can do some checking on things prior to listing? If not, ask Angie for her new flyer called "THINGS FOR A LISTING AGENT TO DO ON MOBILE HOMES"
2. Did you know there are more than 18,000 mobile homes in Spokane County alone?

WAC 308-56A-210 OWNERSHIP IN DOUBT- BONDED TITLE OR THREE-YEAR REGISTRATION WITHOUT TITLE

1. What is Ownership in Doubt? Ownership in doubt is when a vehicle owner(s) is unable to obtain satisfactory evidence of ownership or release of interest as described in WAC308-056A-265
2. What options are available in an ownership in doubt situation? When in an ownership in doubt situation, the owner may:
 - a. Apply for three-year registration without title; or
 - b. Apply for a bonded title described in RCW46.12.151; or
 - c. Petition any district or superior court of any county of this state to receive a judgment awarding ownership of the vehicle. This is required if ownership of the vehicle is contested after the applicant makes application for ownership in doubt and before the three-year ownership in doubt period has lapsed.

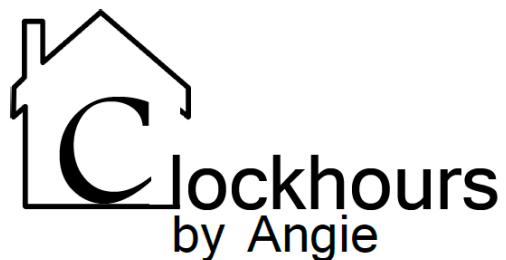
TEST FOR: Scary Stories from a Closer II

1	A "CD" is commonly known in real estate as a closing disclosure.	True	False
2	An extension agreement must be prepared by a real estate agent.		
3	Every lender establishes a certain cut-off time for wires.	True	False
4	The loan officer is the person who calls the closer to balance and release.	True	False
5	Some lenders do not want to see rent pro-rations on the closing statement	True	False
6	If property taxes are 3- ½ years delinquent tax foreclosure proceedings start.	True	False
7	Real Estate property taxes are due in April and October.	True	False
8	All mobile home sales must be eliminated.	True	False
9	Department of Licensing and Building and Planning are part of mobile home title elimination process.	True	False
10	There are two forms with NWMLS used for mobile home sales.	True	False
11	Most lenders require the mobile home title to be eliminated.	True	False
12	A commission disbursement authorization is known as a "CDA".	True	False
13	A broker must get permission from their managing broker to credit the purchaser a portion of their commission.	True	False
14	A closer should always send both agents a settlement statement to look at ahead of the signing appointment.	True	False
15	Closers are also known as Limited Practice Officers in Washington State if they passed the LPO test.	True	False
16	FHA, VA and Conventional loans are all subject to TRID and the 3-day rule of delivery of CD prior to signing dated.	True	False
17	Not all loans are subject to TRID	True	False
18	10/3/15 is the date that the government rolled out TRID	True	False
19	"FSBO" obtain PSA from the internet and they all have the same language in them.	True	False
20	A closer cannot legally turn down any type of sale.	True	False

I hereby attest that I have read the material and answered the questions.

Signature

Date _____



**Mandatory Evaluation for
SCARY STORIES FROM CLOSER II**

Please fill out the following form and return
with your completed clock hour class quiz.

Name/ Company: _____

Address: _____

City, State, Zip: _____

Phone: (personal) _____ (work) _____

Email: _____

License Renewal Date: _____

Signature: _____ Date: _____

1. What are 3 things that you learned from this course?

1. _____
2. _____
3. _____

2. Do you feel the clock hour material was easy to follow? _____

3. Did the material give you information to help you in your profession? _____

4. Will the material help you with future transactions? _____

5. Why did you choose to take this course? Topic __ Time __ Cost __ Ease __ Other __

6. How long did this class take you to complete? _____ (a "clock hour" is 50 minute)

How will you pay for this correspondence class?

_____ cash _____ check _____ debit/credit information needed:

Card number _____ exp. date _____

3 digits on back _____ zip code of where bill is mailed _____