

## Beware of price inflation transactions

It has come to the DRE's attention that in recent months, there has been a number of purchase offers being negotiated throughout California that involve offers to purchase that significantly exceed the listing price. These purchase offers specify that the amount offered over the listing price be refunded to the buyer or to a third party at the close of escrow.

While there are many variations to these purchase transactions, it is typical for these offers to be \$70,000 to \$100,000 over the listing price. The purchase agreements often have addendum directing these monies to be paid through escrow either to the buyer, or to a third party sometimes described as a repairman. These transactions carry a high degree of risk of default and foreclosure for the lender because the buyer essentially has no money invested in a property that is most likely over encumbered.

While there is not a specific provision in the Real Estate Law that prohibits an arrangement such as the one described, these transactions raise significant concern that the lenders funding the loans are not aware of the terms and are being defrauded. Real estate licensees should exercise caution when representing parties in these transactions. Diligent efforts should be made to ensure that the lenders who ultimately fund the loans are aware of the original listing price and of the fact that there is cash being rebated through escrow at the direction of the buyer. One method for accomplishing this is for the listing and/or selling agent to require as a condition of closing escrow that the lender sign an

addendum acknowledging awareness that the property was sold for an amount over the actual listing price and that there are monies being refunded through escrow to the buyer or a third party.

Depending on the circumstances, real estate licensees who participate in these transactions subject themselves to potential disciplinary action under general statutes prohibiting participation in fraud or dishonest dealing. Also, the real estate appraisers involved in these transactions share in the risk of potential disciplinary action as their appraisals will be referred to the Office of Real Estate Appraisers to determine if the comparable sales used to justify the appraised value were valid. Moreover, in addition to potential license discipline and civil liability, there is also the prospect of criminal prosecution under federal or state law for defrauding a lending institution, and this applies not only for the real estate licensees involved, but also for the appraiser as well as for the buyer and seller.

When faced with the possibility of representing a buyer in one of these transactions, or when one of these offers is presented on a listed property, real estate licensees are well advised to take steps to ensure that the transaction terms are in the open for all parties to consider. To avoid potential consequences at a later date, remember the old adage: When in doubt, disclose, disclose, disclose, and do it in writing. In addition, a licensee may be best advised to seek their own legal counsel prior to being involved in any capacity in a transaction of this nature. 🏠

## Business advances

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receive a real estate license while administering exams in a more efficient and effective manner. With Electronic Examinations, no examination booklets or answer sheets will be used. Candidates will be tested using computer equipment in one of the Department's examination centers. Significant improvements in examination security will be featured in the new system. Examination grading will be performed automatically at the conclusion of the exam. Those examinees who pass the electronic exam and have satisfied all license



requirements including fingerprint clearance, can be immediately provided with a temporary license.

### Interactive Voice Response (IVR) System

✓ This project will replace the existing Licensing telephone system with a new, modern call center that will improve the services DRE provides while ameliorating the customer service and business problems associated with the existing telephone system. The new IVR system will upgrade the existing call center system to current technology, increase the number of telephone calls answered, provide a more suitable method for mobile clients to obtain information, and provide appropriate automated service for callers. DRE will significantly improve its service delivery and provide quality

customer assistance through this new, optimally configured IVR system.

### IT Infrastructure Replacement

✓ The Department currently uses personal computers purchased in 1998, laser printers purchased in 1999, and laptops and servers purchased in 2001. The infrastructure has reached the end of its product support life cycle and this upgrade is necessary to support the technology needs of the Department's operating programs.

✓ These new, multi-year technology projects will be instrumental in providing information to consumers and enhanced service to the real estate industry. 🏠