

Good Note Information

AFFIDAVIT

THIS INSTRUMENT HEREBY ACKNOWLEDGES that the undersigned,

_____ [name], ("affiant"), residing at

_____ [address, city and state],

is of legal age, and does hereby swear and affirm that the following is true and accurate, to the best of [his/her] knowledge, under penalty of perjury:

[list facts to be attested to]

Signed this ____ day of _____, 20____.

Signature of Affiant

Print Name of Affiant

STATE OF _____

COUNTY OF _____

In _____, on the _____ day of _____, 20____, before me, a Notary Public in and for the above state and county, personally appeared _____, known to me or proved to be the person named in and who executed the foregoing instrument, and being first duly sworn, such person acknowledged that he or she executed said instrument for the purposes therein contained as his or her free and voluntary act and deed.

Type of ID Produced: _____

Affiant ___ is ___ is not personally known to me

NOTARY PUBLIC

My Commission Expires: _____
(SEAL)

PVs Without a Calculator

by Del Ashby

It is sometimes handy to have a way to "estimate" what you will pay for certain notes (income streams actually) without taking out your calculator. Since the 5, 7, and 8 year balloons are a popular form of loan format, let me show you how to derive a simple estimating formula.

Let's use a 5 year or 60 month cash flow as an example. In this scenario, we get to choose N for the number of payments as 60. We also get to choose the yield we require and I will set that at 24%. The payment is fixed by the note at some predetermined amount per month. Since we are buying payments only, the FV to us is zero. That only leaves PV, (the amount we will pay for the privilege of collecting 60 payments), to be calculated. Let's use the following approach to derive our simple estimating formula.

N I PMT PV FV

60 2(24%) 100 ? 0

The answer for PV is \$3476.09.

Now: $100/? = \$3476.09$? In other words, the payment divided by what equals \$3476.09? Rearranged once more mathematically it means the same thing if we say PAYMENT divided by $PV = ?$ or

100(pmt) =

PV

On our calculator we find that

100

3476.09 = .02877

If we round this upward (never round downward for this calculation) we have .03 as our "factor."

What this says is that anytime we have a 60 month cash flow stream, we can divide the payment by .03 and the answer will tell us what we can pay to get a slightly better than 24% yield.

Try it on some examples. What actual yield does the .03 factor really get you? Remember that .03 works ONLY for 60 payments and the 24%+ yield.

Insofar as yield is concerned, using this factor says that we don't care about the face interest rate of the note, the face value or anything else. Just tell me the exact amount of the payment I will receive and I will tell you what I will give you to collect 60 payments --period!! In even simpler terms, divide the payment by three and add two zero's to your answer and that is your PV. You can do that in your head or on a small piece of scratch paper.

Commercial Paper Niches With A Potential For Riches

by Braxton Thompson

Almost everyone knows about the active secondary market for residential mortgage paper. By contrast, I operate in the limited and little-known, but potentially "rich-niche" field of commercial property paper. In the \$100,000 to \$300,000 bracket, the field is wide open.

In the residential market, underwriting is fairly routine and only a comparable sales approach appraisal is needed. With commercial income-producing property, a comparable sales approach appraisal does not give investors assurance of value — or any assurance the income (on which the property value is actually based) will be constant for the life of the note.

As a result, there is far less commercial paper created, and the market has been restricted to local investors who can visit the property. At present the few national investors interested in commercial paper will buy only full notes, no partials or split balloons, and they require fairly high yields. Before being critical of these high yields, please bear in mind that one of the primary rules of investing is that yield is a function of risk. High yield requirements are somewhat justified because, even with the income approach to value, investors are only given an "instant snapshot" of the situation. There is no guarantee the property's management will produce a sufficient margin of income over debt service for the life of the note.

In spite of others seeing only problems, I am happy to report that my company, Pioneer Investments, saw opportunity and has now developed investors for commercial income property notes. Our investors are usually flexible enough to buy partials and split balloons or find other ways of accommodating note sellers' needs.

It's important for our investors to stay informed on income generated by the collateral property. To do this, we make it an *obligation* of the real estate broker representing the seller in the transaction to make sure that the note taken back is marketable. We require documentation including the requirement for the buyer to furnish operating data quarterly to any note holder for the life of the note.

In addition, we require a specific assurance, violation of which will trigger default, that debt coverage will not fall below 125, 135 or some negotiated ratio. In this way a note holder will sleep better knowing he will have some advance warning of changes which could affect the income stream of the note. As a result of this ability to monitor the note collateral, we have enabled our investors to be more flexible to note holder needs and to feel comfortable enough to ease yield requirements.

Some of my commercial real estate broker friends have opined that some buyers would not consent to having such strictures placed on notes they are asked to sign. This objection requires me to point out that such buyers are not bankable. If they were, their bank would probably be even tougher, requiring operating data monthly, frequent debt/equity ratios, balance sheets and cash flow statements on the buying entity and all partners.

Of course, the documentation I suggest must be in place before the seller decides he would like to sell all or part of the note he has taken back. If the deal is already done and you go back to the buyer to ask for information that would help an investor, chances are you will get a refusal. Your only hope then would be a motivated concession — such as a reduction of principal, lower interest rate, longer amortization, or some other give-away. Even so, your seller would probably be better off than having a non-marketable note or one with a low yield.

It would appear that, even with our approach, it is highly unlikely that institutions active in the secondary market will become players in this market because the underwriting guidelines are so different from those used in residential paper. A great deal more analytical knowledge of real estate is required to assess this kind of paper, and I don't think institutions are willing to pay for, or acquire it, because of the relatively small amount of this paper compared with residential.

If I can help by suggesting documentation language or if I can refer your situation to one of our investors, I'll be happy to try to help.

Part II

An article yours truly wrote for the January issue of THE PAPER SOURCE has prompted several questions and comments from the commercial brokerage community. Therefore, a few more thoughts follow on seller-carried notes on commercial income-producing properties.

In the January article we discussed ways to structure documentation so our investors could sleep well. We do this by keeping them apprised, on a continuing basis, of the performance of the collateral property by requiring at least quarterly operating data and by a commitment to the maintenance of a debt coverage ratio of something like 130%, or more.

In my contacts with the commercial brokerage community, I frequently get comments like, "my seller expects to hold the note to maturity and he wants me to spend my efforts on improving the terms of sale, rather than on the verbiage of the documents."

My response to those brokers is, as part of their obligation to their clients, they should feel duty bound to provide for unexpected contingencies. The only thing we can guarantee is that change takes place unexpectedly and we should protect clients any way we can.

Clients will feel doubly indebted to their broker when they need to realize some cash from their note. Maybe only then will a client become aware that the note has been structured to be attractive to investors all across the country — rather than just local folks who might have a chance to visit the property to make a judgment as to the property's management.

They will also find that the operating data they have been receiving is vital to sparking interest in their note from investors over a wide area. And with the ability to monitor the property's performance, investors are frequently amendable to buying partials, fractionals, split balloons, reverse partials and the like, whereas up to now, a note holder was lucky to even interest an out of town investor in a full purchase.

Here is an example of how things change: We recently had a note seller who had sold a strip center a year or more ago. Now he has decided to unretire and do it again. He is pulling enough cash out of his note to buy a suitable tract for his new development.

In addition to providing a service to your client that he may only come to appreciate in the future, we should remember back a few years ago to the example of a California law firm that assiduously combed courthouse records and wrote letters to buyers of real property. They asked if the same real estate firm had handled the seller of the property as well as the buyer. Their next question was, did they, as buyer, feel they had received the representation they deserved? The law firm's letter went on to suggest, "come in and discuss your situation — no fee or expense if no recovery."

Picture this potential hair-raising scenario: your seller with a standard note form, later decides he would like to pull some cash out of a well performing note, only to find no takers at what he considers a fair price — and, no takers at all outside the local community. Enter a plaintiff's attorney. Guess who is going to be the note holder's source for the cash he needs.

In summation, the commercial brokerage community needs to stay aware of the many changes of our industry (witness the new definitions of agency), and that the best way to protect ourselves and our license is by going the extra mile in service to our clients. Don't forget, unforeseen consequences can arise even from seemingly mundane aspects of our activities.

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THIS CONTRACT IS OFFERED WITH NO WARRANTIES EXPRESSED OR IMPLIED. BEFORE YOU USE IT, YOU ARE ADVISED TO HAVE IT REVIEWED BY AN ATTORNEY FAMILIAR WITH THE APPLICABLE LAWS OF YOUR STATE.

STANDARD FORM PURCHASE CONTRACT (Full Purchase)

THIS CONTRACT entered into this ____ day of _____, _____, by and between
_____, hereinafter referred to as Seller, and
_____, hereinafter referred to as Purchaser.

1. Seller represents and warrants to Purchaser and Purchaser's assigns that he is the legal owner (or current assignee) of the following described note and (mortgage) (deed of trust) (contract for deed), hereinafter referred to as Note and Security Instrument, executed by _____, herinafter referred to as Payor, in favor of _____, original Principal Balance \$ _____ (_____) bearing interest at the rate of ____ percent per annum and being amortized over ____ (interest-only) (equal monthly principal and interest) payments of \$ _____ (_____), dated _____, with a final payment in the amount of \$ _____ (_____) due and payable _____, ____ and recorded in Deed Book _____, Page _____, _____ County records, State/Commonwealth of _____. Legal description of real property securing the Note and Security Instrument:

2. In consideration of the agreements contained herein, Seller agrees to sell, transfer, convey and assign to Purchaser and Purchaser agrees to purchase upon the terms and conditions hereinafter set out, all of Seller's rights, title, powers, interest in and to the above styled Note and Security Instrument, together with:

all of Seller's rights, claims and causes of action which Seller has or may have against the Payor of the Note and Security Instrument, and

all of Seller's rights, title, powers, interest in and to the real property which is described in the Note and Security Instrument, and

all of Seller's rights, title, powers, interest in and to any insurance policies, both title and property damage.

The purchase price shall be the sum of \$ _____ (_____), payable at (issuance of title insurance policy) (after ____ payments have been received by Seller) (Other:

subject to proportionate adjustment if the balances, terms, payments or conditions stated in Paragraph 1 are incorrect or inaccurate.

3. Purchaser shall receive (_____) _____ Note and Security Instrument payments (hereinafter referred to as payments) beginning on _____, 19____, and a final balloon payment of \$ _____ (_____) due and payable on _____, 19____.

4. Seller represents and warrants to Purchaser that the Payor has been late ____ times and the payments are now _____.

5. Time is of the essence of this Contract. Purchaser shall have thirty (30) days from the date of this Contract to examine all documents, property and information deemed necessary by Purchaser to satisfy all contingencies and to close the transaction contemplated by this Contract, and to cancel this Contract without penalty or liability if any of the same is found unsatisfactory to Purchaser as determined by Purchaser in his sole opinion. Seller shall cooperate with Purchaser or Purchaser's attorney in obtaining any information necessary for such timely examinations and verifications. Purchaser shall have the right to extend this date for a maximum of 15 days if in his sole opinion it is necessary in order to complete due diligence. The closing shall occur at a mutually agreed-upon time and place. In the event the transaction contemplated by this Contract is not completed within the above period including extension this Contract shall become null and void and there shall be no liability between the parties.

6. Closing costs, including attorney's fees, mortgagee's title insurance, appraisal and credit check shall be paid by (Seller) (Purchaser) (Other: _____).

7. At time of closing the principal balance due under the Note and Security Instrument shall be no less than \$ _____ (_____) or there shall be no less than ____ payments of \$ _____ (_____) each remaining due and owing on the Note and Security Instrument or an appropriate adjustment shall be made.

8. Any payments received by Seller during the term of this Contract or of any extension shall be credited to the cash required of Purchaser at closing and to the purchase price. There shall be no proration of interest.

9. Seller shall not sell, convey or assign any interest in said Note and Security Instrument or attempt to negotiate for the sale, conveyance or assignment of any interest of said Note and Security Instrument to any other party during the term of this Contract or any extension.

10. Seller authorizes Purchaser, its successors or assigns, to order, receive and review on Seller's behalf one or more consumer reports on any Mortgagor(s) in connection with this transaction from one or more consumer reporting agencies, all as permitted by the federal Fair Credit Reporting Act and applicable state law.

11. This Contract shall be construed in all respects with the laws of the State/Commonwealth of _____. It is the intention of Purchaser and Seller that this Contract be interpreted in conformity with those laws. If, however, any portion of this Contract is deemed unenforceable, the remaining portions shall remain in full force and effect and be fully binding on the respective parties. This Contract may not be assigned by Seller without the prior written permission of Purchaser. Handwritten or typewritten provisions initialed by all parties to this Contract shall control if inserted herein or attached as addenda hereto if in conflict with any provisions of this agreement. In the event of any litigation concerning this Contract the prevailing party shall be entitled to reasonable attorney's fees in addition to such other relief provided by the Court. Seller acknowledges that this Contract may be recorded in the appropriate county land records at Purchaser's option and that such recordation will cloud the title of the instruments.

12. This Contract shall inure to the benefit of, and be binding upon, the parties and their respective heirs, executors, administrators, legal representatives, successors and assigns.

13. Other terms and conditions:

14. This Contract represents the entire agreement between the parties on this subject matter and supersedes all prior agreements, written or oral and may not be amended except in writing signed by the parties. Addenda attached: YES ____ NO ____

This Contract is entered into the day and year first written above.

Seller

Seller

Purchaser



Sample Letters To Attorneys To Find Notes

Dale Ketcham is an active mortgage investor and PAPER SOURCE subscriber in Shawnee Mission, Kansas. He has developed a method of finding mortgages and has been kind enough to share it.

Dale recently sent this letter to all attorneys in his area and has given permission for you to use it (naturally substituting Mr. Terry's name and your own example of a transaction you completed from an attorney referral). It goes without saying that you should obtain permission from anyone to use their name.

Dear (name of attorney):

Jack C. Terry, an attorney at Independence, Missouri, recently called us for information so he could arrive at a price for an owner-held deed of trust. His client was entering a nursing home and the son was conservator of the estate.

The amount we paid for the deed of trust was satisfactory for all parties.

We would be happy to visit with you at anytime if you have a similar circumstance.

Enclosed is our brochure that might be of assistance in helping your clients.

Sincerely,

If you haven't completed any transactions with attorneys, use a letter like this:

Dear (name of attorney):

In your practice, you may occasionally have a client who, for one reason or another, wishes to sell a mortgage (or change to trust deed, contract for deed - whichever term is appropriate for your state).

I purchase mortgages, and would be happy to consider those that come to your attention. Please feel free to call me at any time.

Sincerely,

The Yellow Pages is your best source for attorneys in your area. You can also consult the Martindale-Hubbell directory, available in any law library. Some university libraries and public libraries have it, as do most attorneys.

This letter will work just as well for accountants, title company officials, bank trust department officers and others who may come into contact with notes.

Networking with professionals who frequently have notes crossing their desks is the best way to keep a steady supply of notes coming to you.

Marketing for Business Notes

by Ed Lisogar

As with any type of note, there are several strong avenues to market for business notes. Some will be costly, some will cost nothing but your time (which *is* a valuable commodity that is not to be wasted or taken for granted). The key to be successful is to strike a balance between the two, based on your budget (or lack of one) and the time you have available for one-on-one marketing, networking, follow-up, etc.

It's not necessary to take out expensive ads in numerous publications to establish an effective marketing campaign. A key point to remember is that *ADVERTISING* is not *MARKETING*. Advertising is a *form* of marketing. Don't get the two confused.

When considering a marketing and business plan for your cash flow business, it's important to understand the industry as it pertains to business notes (or whatever note type you're pursuing for that matter). The better you understand your prey, the better prepared you'll be for the hunt. As the saying goes, "...only an idiot brings a knife to a gun fight." Understanding *why* business notes are created is just as important as knowing *where* to market for them. One will lead to the other.

Knowledge is Power

The banking industry is curious. We've experienced record low interest rates in 1998 and '99, but the ability to qualify for financing is as hard as ever. As a result, very creditworthy individuals are turned down for traditional financing everyday. This isn't necessarily due to bad credit. Self-employed, just moved to the state and do not have two years of local state tax returns, starting a new job, etc. are all reasons banks will turn very creditworthy applicants down. This is even more prevalent when it comes to borrowing money for the purchase of a small business. Most banks do not make small business loans *regardless* of the full page ads some banks run in *USA Today* boasting they're the "Friends of the small businessman." If there's so much money available the following would not be true:

80% of the small business sales in the U.S. are seller financed...80%!!

Every seller of a business will tell you that nine out of ten prospective buyers that have come through their door have asked if the seller would be willing to carry some of the financing. Initially, sellers are hoping for an all-cash buyer. Eventually, they come to the realization that if they are serious about selling the business, they will have to become the bank. They take a down payment from a buyer and agree to allow the balance to be paid *over time*. Problem is, most sellers are like you and me...entrepreneurs. Although the monthly payments are nice for a while, eventually the noteholder realizes the reason he was selling the business in the first place was to buy that other business down the road. The down payment he received from the sale is not enough to buy that business (unless *that* seller will carry the paper which is an invitation for you to go talk about *that* note too!!) and he needs cash. It's a vicious cycle.

So there you have it...no financing, sellers have to carry paper, sellers need cash, sellers liquidate all or part of the remaining payments. At this point you should be doing cartwheels as you realize the millions of dollars of business notes presently in the market, and the millions that are created every day, nationwide. So here's the \$64 question:

Where are all of these notes hiding?

Several places:

Business Brokers

Business brokers ("BB's") are your #1 source for business notes in this country. A very high percentage small business sales are transacted through BB's. Additionally, if 80% of all transactions involve seller financing, then your BB's filing cabinets are a *vault* just waiting to be cracked. BB's receive calls all the time from past clients asking them if they know anyone that would have an interest in buying the note that was created previously when they sold the business. Most BB's have a fair idea that the note is salable but have few *actual* investors that will take over these high risk notes. That's where you come in.

It is imperative that you are on a first-name basis with every BB in your city. It's time for the BB's of the world to stop turning their past clients away and start referring them to you. You can become the "alternative financing arm" of the business brokerage community.

No, if you are a business note buyer you are not a lender. However, if we are all in agreement that the sellers of the world will be carrying paper on 80% of the small business sales in this country, then you can become an integral part of the cycle. Past sellers are prime candidates for present and future listings the BB has. Problem is, they're not liquid...their capital is tied up in the note. If the seller can liquidate all or part of the note he's presently collecting, chances are good that he could be a *buyer* for one of the BB's present listings! Therefore, by helping you (through referrals and introductions to present noteholders) the BB is actually helping himself. How? Noteholder gets liquid, noteholder buys another business and...

BROKER POCKETS ANOTHER COMMISSION!

Design a nice brochure explaining how your services can assist an existing noteholder and anyone about to sell a business and carry the paper. Convince the BB that your company's services will be viewed as an added service to *his* clients. Your goal is to have him allow you to keep a nice acrylic brochure stand in his office (preferably at the receptionist's desk as well as in the board room where the closing documents are signed). This will be a terrific boost to your marketing and will bring you plenty of referrals.

Classified Advertisements

Look in your local paper under "Business Opportunities." You'll see lots of businesses for sale, some by business brokers, some For Sale By Owners, or "FISBO'S". The broker listings are another invitation to visit yet another business brokerage firm to discuss what we talked about above, in addition to the business he's advertising. The FISBO's are an avenue for you to call and explain how you can assist with a seller financed note, should the seller not be fortunate enough to sell for all cash. (Now, *you* know and *I* know that there's an 80% chance that a note will be created, but you don't want to imply that he will be unsuccessful in finding an "all cash buyer").

Working with notes that technically haven't been created yet is the way to eliminate the competition. Educating the sellers of the world BEFORE the sale and creation of the note makes you an integral part of the transaction, and it's unlikely the noteholder will work with anyone other than you when it's time to sell the note.

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STANDARD FORM PURCHASE CONTRACT (INSTALLMENT PURCHASE)

THIS CONTRACT entered into this ____ day of _____, ____, by and between _____, hereinafter referred to as Seller, and _____, hereinafter referred to as Purchaser.

1. Seller represents and warrants to Purchaser and Purchaser's assigns that he is the legal owner (or current assignee) of the following described note and (mortgage) (deed of trust) (contract for deed), hereinafter referred to as Note and Security Instrument, executed by _____, herinafter referred to as Payor, in favor of _____, original Principal Balance \$_____ (_____) bearing interest at the rate of ____ percent and being amortized over ____ (interest-only) (equal monthly principal and interest payments) of \$_____ (_____), dated _____, with a final payment in the amount of \$_____ (_____) due and payable _____, ____ and recorded in Deed Book _____, Page _____, _____ County records, State of _____. Legal description of real property securing the Note and Security Instrument:

2. Seller further represents and warrants to Purchaser that Seller is named as additional insured and loss payee on a title insurance policy and a hazard insurance policy on the real property securing the above styled Note and Security Instrument in an amount sufficient to cover the combined outstanding principal balance of the first and, if applicable, second mortgages (or applicable security instrument).

3. In consideration of the agreements contained herein, Seller agrees to sell, transfer, convey and assign to Purchaser and Purchaser agrees to purchase upon the terms and conditions hereinafter set out, all of Seller's rights, title, powers, interest in and to the above styled Note and Security Instrument, together with all of Seller's rights, claims and causes of action which Seller has or may have against the Payor of the Note and Security Instrument, together with all of Seller's rights, title, powers, interest in and to the real property which is described in the Note and Security Instrument, together with Seller's rights, title, powers, interest in and to any insurance policies, both title and property damage. The purchase price shall be the sum of \$_____ (_____), hereinafter referred to as Total Purchase Price. Simultaneously herewith Purchaser shall pay to Seller the sum of \$_____ (_____) toward the Total Purchase Price. The balance of the Total Purchase Price shall be paid in _____ (____) (annual) (other: _____) installments of \$_____ (_____) each, on the ____ day of _____ of each year, or on the following schedule:

with the first installment due and payable on _____, _____, or at (issuance of title insurance policy) (after _____ payments have been received by Seller) (Other: _____). The first installment shall be subject to proportionate adjustment if the balances, terms, payments or conditions stated in Paragraph 1 are incorrect or inaccurate. The installments shall be non-interest-bearing.

4. Purchaser shall receive (_____) _____ Note and Security Instrument payments (hereinafter referred to as payments) beginning on _____, 19____, and a final balloon payment of \$_____ (_____) due and payable on _____, 19____.

5. In the event that payment in full on the Note and Security Instrument is made to Purchaser, this Contract and Seller's rights under this Contract shall remain in full force and effect. The Purchaser will continue to be held responsible for making timely payments of the installments referenced in Paragraph 3 on the same schedule.

6. If Seller does not receive any installment payment by the due date, he shall notify Purchaser via certified mail, return receipt requested, of his failure to receive the payment. Purchaser shall have 30 days from the receipt of this notification to make the payment due. If he fails to remit payment within the said 30 days, this Contract shall be void and all rights to the Note and Security Instrument shall revert to Seller, and Purchaser shall immediately remit to Seller all original documents in his possession relating to the Note and Security Instrument including a re-assignment of same signed by Purchaser.

7. Seller represents and warrants to Purchaser that the Payor has been late _____ times and the payments are now _____.

8. The Contract is contingent upon the following: A) Purchaser's approval of all documents evidencing the Payor's obligation to seller; B) A title report prepared by Purchaser's attorney shall be acceptable to Purchaser as determined by Purchaser in his sole opinion; C) The creditworthiness of the Payors shall be acceptable to Purchaser as determined by Purchaser in his sole opinion; D) The value of the real estate securing the Note and Security Instrument at time of closing shall be acceptable to Purchaser as determined by Purchaser in his sole opinion.

9. Time is of the essence of this Contract. Purchaser shall have ninety (90) days from the date of this Contract to examine all documents, property and information deemed necessary by Purchaser to satisfy all contingencies and to close the transaction contemplated by this Contract, and to cancel this Contract without penalty or liability if any of the same is found unsatisfactory to Purchaser as determined by Purchaser in his sole opinion. Seller shall cooperate with Purchaser or Purchaser's attorney in obtaining any information necessary for such timely examinations and verifications. Purchaser shall have the right to extend this date for a maximum of 30 days if in his sole opinion it is necessary in order to complete due diligence. The closing shall occur at a mutually agreed-upon time and place. In the event the transaction contemplated by this Contract is not completed within the above period including extension this Contract shall become null and void and there shall be no liability between the parties hereof, except for the provisions of Paragraph 10 herein. Purchaser may, at his sole option, convey his rights and interest in this Contract to any other party without the consent of Seller.

10. Closing costs, including attorney's fees, mortgagee's title insurance, appraisal and credit check shall be paid by (Seller) (Purchaser) (Other: _____).

11. Seller agrees to execute an Assignment of the Note and Security Instrument and to endorse the same to Purchaser. Seller shall convey: 1) The Assignment and original endorsed Note and Security Instrument bearing

original signatures; 2) A Notice of Substitution of Additional Insured and Loss Payee addressed to the title company and hazard insurance company substituting the Purchaser for the Seller on said policies; 3) A signed Notice to Payor instructing Payor to make the monthly Note payments directly to Purchaser at an address to be provided by Purchaser, to the Escrow Agent, _____ at _____, on or before _____, _____. Escrow Agent shall hold the above in escrow until closing, at which time he will become an agent of Purchaser. Failure of Seller to deliver the assignment and endorsed Note and Security Instrument and notices by the deadline above shall constitute default of this Contract and the funds deposited with Escrow Agent as per Paragraph 10 herein shall be forfeited and become the property of Purchaser. Escrow Agent is instructed to release these funds immediately upon receipt of Purchaser's Affidavit of Default.

12. Seller shall deposit with Escrow Agent the sum of \$ _____ (_____), on or before _____, _____. Purchaser shall instruct Escrow Agent to release these funds to Seller upon Purchaser's receipt of the properly executed Note and Security Instrument and insurance notices including the Assignment bearing original signatures and evidence of recordation in the appropriate County records showing Purchaser's interest in the Note and Security Instrument.

13. If Purchaser cancels this Contract under the terms of Paragraph 6 above he shall immediately authorize the Escrow Agent to released the funds deposited by Seller back to Seller. Should Purchaser be ready, willing and able to close the transaction contemplated by this Contract and Seller is unable or unwilling to fulfill and in fact does not fulfill the terms of this Contract, the funds deposited with Escrow Agent shall be forfeited and become the property of Purchaser. Escrow Agent is instructed to release these funds immediately upon receipt of Purchaser's Affidavit of Default. In addition, in this event Seller shall immediately pay to Purchaser fifteen (15) percent of the original principal balance of said Note and Security Instrument, which sum shall serve as full liquidated damages to Purchaser.

14. At time of closing the principal balance due under the Note and Security Instrument shall be no less than \$ _____ (_____) or there shall be no less than _____ payments of \$ _____ (_____) each remaining due and owing on the Note and Security Instrument or an appropriate adjustment shall be made.

15. Any payments received by Seller during the term of this Contract or of any extension shall be credited to the cash required of Purchaser at closing and to the purchase price. There shall be no proration of interest.

16. Upon closing Purchaser reserves the right to hold back from the proceeds due to Seller at closing the amount of the next monthly installment payment due on the Note and Security Instrument. After Purchaser receives and credits said next installment the held-back payment will be released to Seller without interest. In the event Purchaser does not receive the next installment payment, Seller shall not, in any event, receive the amount of the installment withheld.

17. Seller warrants that his interest as mortgagee or current assignee in the real property which is the subject matter of the above described Note and Security Instrument is marketable and insurable. If a title examination reveals that it is not marketable and insurable, then Seller agrees to exercise diligent efforts to render his interest marketable and insurable. If Seller fails to so do to the satisfaction of Purchaser within 90 days of written notification from Purchaser or Purchaser's attorney, the funds deposited with Escrow Agent shall be forfeited and become the property of Purchaser. Escrow Agent is instructed to release these funds immediately upon receipt of Purchaser's Affidavit of Default. Purchaser shall not be responsible for any costs necessary to perfect title.

18. Seller agrees to provide all documents and information which may be reasonably required by Purchaser. In the event of default by Payor on the Note and Security Instrument, Purchaser shall have the exclusive and sole

discretion to prosecute the enforcement of the Note and Security Instrument and to otherwise realize on the property securing the same. Seller shall have no right to oppose any action by Purchaser in this event.

19. Seller shall not sell, convey or assign any interest in said Note and Security Instrument or attempt to negotiate for the sale, conveyance or assignment of any interest of said Note and Security Instrument to any other party during the term of this Contract or any extension thereof.

20. This Contract shall be construed in all respects with the laws of the State of _____. It is the intention of Purchaser and Seller that this Contract be interpreted in conformity with those laws. If, however, any portion of this Contract is deemed unenforceable, the remaining portions shall remain in full force and effect and be fully binding on the respective parties. This Contract may not be assigned by Seller without the prior written permission of Purchaser. Handwritten provisions shall control if inserted herein or attached as addenda hereto if in conflict with any provisions of this agreement.

21. In the event of any litigation concerning this Contract the prevailing party shall be entitled to reasonable attorney's fees in addition to such other relief provided by the Court.

22. The representations and warranties and undertaking set forth herein shall be continuing and any waiver of such shall not constitute a waiver of any subsequent breach. No waiver thereof shall be implied from any forbearances, failure or delay of enforcement thereof. The liability of the Seller in respect to any waiver or breach herein shall not be affected by the granting of extensions, adjustments, or compromises of claims by Purchaser or Purchaser's assigns. Seller hereby consents to and waives notice of any and all such extensions, adjustments, compromises or settlements in respect to the Note and Security Instrument.

23. Seller shall indemnify and hold harmless Purchaser and/or Purchaser's assigns from any liability, loss or damage Purchaser and/or Purchaser's assigns may suffer as a result of any claims, demands, costs or judgments which may result from the representations and warranties herein made being untrue.

24. Seller acknowledges that this Contract may be recorded in the appropriate county land records at Purchaser's option and that such recordation will cloud the title of the instruments.

25. This Contract shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

26. Seller acknowledges that he has had adequate time to read and understand this Contract and has done so and that he has been requested by Purchaser to seek the advice and counsel of an attorney of his own choice and at his own expense to review the terms of this Contract.

27. Seller acknowledges that Purchaser is purchasing the Note and Security Instrument outright and specifically acknowledges that this is not a loan or loan-type transaction. Seller shall indemnify and hold harmless Purchaser from any liability, loss, damage or additional expense which Purchaser may suffer as a result of any claim that this is a loan or loan-type transaction.

28. All notices which may be required under this Contract shall be mailed via certified United States mail, return receipt requested, to the last address given in writing by one party to the other, and shall be deemed given when deposited in the mail.

29. Other terms and conditions:

30. This Contract represents the entire agreement between the parties on this subject matter and supersedes all prior agreements, written or oral and may not be amended except in writing signed by the parties hereto.

Addenda attached: YES ____ NO ____

This Contract is entered into the day and year first written above.

Seller Purchaser

Seller

State of _____)

) ss

County of _____)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that _____ whose name is signed to the foregoing as Seller, appeared before me this _____ day of _____, _____, and acknowledged that the foregoing is their true act and deed.

Notary Public

My Commission Expires: (Seal)

State of _____)

) ss

County of _____)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that _____ whose name is signed to the foregoing as Seller, appeared before me this _____ day of _____, _____, and acknowledged that the foregoing is their true act and deed.

Notary Public

My Commission Expires: (Seal)

State of _____)

) ss

County of _____)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that _____ whose name is signed to the foregoing as Purchaser, appeared before me this _____ day of _____, _____, and acknowledged that the foregoing is their true act and deed.

Why Invest In Tax Liens?

by John Beck, Attorney-at-Law

Knowledgeable real estate paper investors can obtain far higher yields than most other people. While not federally insured, these high yields will be extraordinarily well secured in a highly lucrative but little-known investment.

How can this be done? By investing in local government tax lien certificates.

What exactly are tax lien certificates? They are a form of real estate paper. Essentially, an investor pays a county treasurer the amount of any delinquent real property taxes due on a particular parcel of real estate. The investor receives from the treasurer a document called a tax certificate (often more formally referred to as a Certificate of Purchase). That certificate is secured by an assignment to the investor of the county's real property tax lien. The property owner must then repay (or, as it is said, "redeem") the taxes paid by the investor plus a proscribed yield — or lose the property.

Tax lien certificates are available in most, but not all, states. Further, the yields investors can obtain differ with each state offering this investment (and, in Maryland, differ from county to county).

Iowa provides one of the most impressive yields available: 24% per annum simple interest! Clearly, an extraordinary return!!

Actually, the yield is even more extraordinary. Technically the yield is "two percent per month, counting each fraction of a month as an entire month, from the month of sale." For instance, if you were to buy a certificate that was paid off the next day, then you would receive 2% on your invested money. Two percent in one day verses 3% or so in one year from your bank's money market account — not bad!

But what about security? Bank money market accounts and 90-day Treasury Bills clearly have substantially lower returns, but they are federally insured. Each tax certificate is secured by the real property tax lien against the particular property upon which the delinquent property taxes were paid.

That lien is a special "priority" lien. The lien takes its priority not based upon the date and time of its recording, but by special statutory provision.

Under Iowa law the tax lien is senior to all mortgages, mechanics liens, judgment liens, state and federal tax liens, etc., no matter when they were originated or recorded. By operation of law, it is *the* first lien against the property.

And if a certificate isn't redeemed within one year and nine months from the date of sale, then the certificate holder can "foreclose out" that right of redemption by serving the owner and any lien holders a 90-day Notice of Expiration of Right of Redemption. If the certificate is not redeemed before the expiration of the 90 day period, the investor takes title to the property:

"Immediately after the expiration of ninety days from the date of completed service...the county treasurer shall make out a deed for each parcel sold and unredeemed, and deliver it to the purchaser upon the return of the certificate of purchase."

The tax certificate investor takes title to the property **free and clear** of all liens for, in effect, just three year's back taxes, penalties, interest and "foreclosure" costs!

A bank or thrift borrows your money paying you 3, 4, 5 or 6%. It then lends that money out to home buyers at 8% to 8.7% on 30-year fully amortized, fixed interest rate loans secured by first deeds of trust or mortgages with (at the time of origination) 80 to 95% loan-to-value ratios. And if the borrower defaults, the thrift will probably get a repossessed (or REO) property — which it will probably sell at a loss.

However, if you'd taken that same money and bought Iowa tax lien certificates, you could have received a 24% return (about three times that currently received by banks and thrifts) and had that yield secured by a first lien (not just a first deed of trust or mortgage) with (at the time of origination) a 3% (or less) loan-to-value ratio!! And if the property owner defaulted, you'd have gotten the property — for a mere fraction of what it was worth!

Obviously, if you have cash to invest, Iowa tax lien certificates are worth investigation. And if you are interested in further investigating this extraordinary opportunity, you should start now. All 99 of Iowa's counties will be selling their tax certificates this coming July.

John Beck is a California attorney and paper investor who has produced "Free and Clear: Investing In Tax Liens." It is by far the most complete tax sale investment program ever produced. It is the only program currently marketed which explains how investors like yourself can use the tax sale process to buy free and clear real estate for just a few pennies on the dollar. The Free and Clear program includes the following material:

Success Stories: *This 44 page booklet provides information about 34 separate free and clear properties (being 31 single family dwellings and three duplexes) which were bought in two different Oklahoma Counties (Oklahoma and Tulsa Counties) through the tax lien certificate process for just a few pennies on the dollar. Prices range from .01 (that's right 1/10th of 1%) to 5.4 cents on the dollar. This booklet includes a color photograph of each property together with a description of the property (e.g., square footage of living space together with the number of rooms, bedrooms and baths and the lot size.) Additionally, a copy of the Oklahoma County Treasurer's Certificate Tax Deed showing the actual sum paid for each property is provided.*

Real Estate for Pennies on the Dollar: *This 200 page book details how free and clear real estate (like the properties shown in the Success Stories booklet) can be bought for literally just a few pennies on the dollar using the tax sale process in both the United States and Canada. Two basic strategies are covered in detail: Using the tax lien certificate process and using the tax sale process coupled with the doctrine of adverse possession.*

Audio Cassette Tapes: *John Beck's Free and Clear program includes eight audio cassette tapes which include four hours of discussion by John Beck about how to use the tax sale process in both the United States and Canada to buy free and clear real estate for just a few pennies on the dollar and to make high, well-secured interest rate returns.*

Free and Clear Through the Internet Compact Disc: *This 468K compact disc provides tax sale information on all 50 states together with the District of Columbia, various United State Territories and all ten Canadian Provinces. Special emphasis was placed on Internet sites which provide additional education on tax sale investing and which provide information on upcoming tax sales, including tax certificates and tax sale properties which are currently available for purchase.*

Buying Tax Liens & Deeds by Mail: *This 24 page booklet provides information on how tax lien certificates and tax deeds to free and clear real estate for pennies on the dollar can be obtained through the mail.*

Earn Up to 300% with Tax Liens: *This 131 page book details how investor can obtain extra-ordinarily high, well-secured annualized interest rate returns by investing in tax lien certificates and tax deeds with rights of redemption in various states, the District of Columbia, various United States Territories and certain Canadian Provinces.*

Secrets of Getting Started Fast Video Cassette Tape: *This video cassette tape provides a quick start introduction into the basic vocabulary of tax sale investing.*

For more information on John Beck's "Free and Clear: Investing In Tax Liens" visit www.johnbeck.net

The Law On Paying Real Estate Agents Referral Fees For Notes

by John J. Merchant, J.D.

Here is the basic law in all states regarding paying real estate agents:

The agent himself is never allowed to accept any money from anyone except his broker. Every dollar the agent takes in must be payable to the broker and go through the broker's account, from which the broker pays the agent as agreed upon between themselves.

You, as the note investor or broker, property buyer or seller, are never really dealing with the agent, although some agents would try to snow the outsider that he or she is the decision maker.

Now, on referral fees: Agency law deals with the subject of an agent, including a real estate broker and his agents, and generally the real estate broker or agent can ONLY get paid as per his or her signed sales agreement with his or her client, and then he or she has a legal duty to inform the client of every dollar taken in.

Think of it in these terms: You hire an agent (and his broker and company) to sell a house for you. You agree in writing, in the listing agreement, to pay them X percent of the selling price if he/they find you a buyer.

If you learn that they've taken money from somebody else, to do something else with your

property, might you be a little concerned? Absolutely! First, the agent and his company are supposed to be working for YOU, nobody else! And what exactly might they have been doing for somebody else on YOUR property? Maybe like agreeing NOT to show it until somebody else's property got sold? Maybe like NOT showing it to a person of a certain racial makeup?

If this happened, you'd have a legitimate complaint about the broker and the agent, and they'd probably both lose their real estate licenses.

Ask the agent some questions about who he is representing, how they getting paid, etc. If the real estate agent is not representing any of the parties, he may have a legal right to take your money if you find a buyer for their note. That could be a very clean deal, and you could pay them something without a problem.

For example, let's take the case of a sale that the agent and his company handled last year in which the seller took back a note. The agent now remembers the transaction and thinks perhaps the note holder would be interested in selling his note. The agent refers the matter to you. As long as they do not still have some agency duty to their former client, it would probably be all right for her and her broker to accept a referral fee from you.

Remember: Never pay an agent directly on ANY kind of a real estate deal. He can't legally take ANY money outside that does not first go to and through the broker. If you knowingly do so, you'd be a conspirator in an unlawful scheme and you might face criminal or civil penalties for your part in the deal.

John J. Merchant is a retired attorney and note investor in Tacoma, Washington. He stands ready to assist any note seller structure and create his/her own sales transaction and/or an owner's carryback note so it will be LEGALLY marketable and saleable and not carry with it those explosive qualities that stand ready to kill and maim deals, note buyers or brokers. John J. Merchant, J.D. Prosperitas Financial Services "I Buy Notes and Judgments" 2522 N. Proctor #222 Tacoma WA 98406 phone: 253-503-3886 e-mail: jmer1627@aol.com

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