



▶ **LAST** *minute invoices*

A buyer searched and searched for the perfect home. She found it, made an offer and the seller accepted. During the inspection period, it was revealed the roof needed repairs. The seller agreed to pay for the repairs but did not want to pay until they knew for sure the buyer's loan would be approved.

The seller and buyer mutually agreed to the estimated amount due to the buyer at closing and the buyer would have the repairs done after closing. No one discussed this with the lender or escrow officer, Donna Santiago Woods, assistant vice president with Fidelity National Title in Corte Madera, California.

At closing, an invoice for \$22,340 was deposited into escrow with instructions to pay it from the seller's proceeds. Donna added the payment to the seller's closing statement and sent the statement to the lender with the following message:

Attached is an invoice and amended closing statement pertaining to the roof repairs being paid at closing per the request of the seller. If this payment is not acceptable to you, be sure to contact me prior to closing. Otherwise, your funding of the loan will be deemed your approval and acceptance.

The loan officer immediately contacted Donna. He argued the payment was being paid by the seller so she should have never sent an amended closing statement or required additional approval. She was shocked. Donna knows an escrow officer's responsibility is to disclose.

Prior to receiving the invoice, Donna already had the lender's approval of her closing statements. It was only after she received approval, did the seller and buyer remit the invoice to her. Donna did the right thing by disclosing this new payment to the lender.

It is up to the lender to investigate the payment and determine whether it affects their loan terms and/or the value of the property. An escrow officer must disclose all receipts and disbursements, regardless of who is paying them.

Clearly, Donna was the only one disclosing these repairs to the lender. The loan officer obviously had no intention of doing so. By disclosing material facts, she gave the lender the opportunity to determine whether the payment of this invoice was material to its underwriting of this loan.