

**CONVEYANCING**

**PROFESSOR CORSARO**

**FINAL EXAM S**  
**1992, 1993 & 1994**

REAL ESTATE FINANCING

Professor Carmen R. Corsaro

Spring Final Exam 1992

May 19, 1992

6 P.M. - 9 P.M.

This is a three hour exam. The three questions will be equally weighed and it is recommended that you spend approximately 60 minutes answering each question. Use the Blue Book for essays and to explain your entries in depth on any forms provided in depth. This is an open book exam and use of a calculator is permitted.

- II. Stubby Horn is a pig farmer. The old homestead farm has been in the family for over 100 years. In 1986, Stubby placed a mortgage on the farm to the Barn E. Fife Bank in the amount of \$250,000 and invested the money in pork belly processing equipment hoping to corner the local market. When the bottom fell out of the local economy, the bank, in dire need of capital, called in the note. Farmer Horn, who had depleted his life savings to keep his mortgage payments current, was angered by the actions of the bank. He became reclusive and refused to communicate with anyone, brandishing his trusty old shotgun whenever a stranger approached the entrance to the farm which had been posted with numerous "no trespassing" signs. Mrs. Horn, his 20 year old bride, couldn't take the pressure, left Stubby, and moved in with her mother.

Alone and destitute, one day he was shooting for some food, when up from the ground came some bubbling crude. Stubby was convinced he had struck oil; although he had heard that his great grandfather had, in the 1920's, allowed Grand Defunct Railroad the right to pipe in and store locomotive fuel near the abandoned railroad tracks which bordered the back twenty acres.

Assume that case and statutory law in Stubby Horn's home state is identical to Massachusetts law.

Comment upon which method or methods of foreclosure you as bank attorney might use to foreclose on this mortgage and any problem areas which might require special attention or consideration under the above facts.

## PART FOUR

III. A young associate has presented you with the following results of a title abstract and seeks your opinion, advice and counsel as to whether he should certify good marketable title of record in conjunction with an upcoming purchase of Massachusetts property. Advise your associate as to your opinion of the title and any steps which you would take relative to same. Closing is scheduled for July 1, 1992.

The abstract begins with a May 30, 1942 Executor's Fiduciary Deed to Pete First and Sadie First as Tenants-by-the Entirety given pursuant to a License to Sell of the Probate Court. The Fiduciary Deed contains the following title reference: "Being the same premises conveyed to John D. Seest and Joan D. Seest by deed of I.M. Stiff dated January 3, 1908."

John D. Seest's probate records indicate he died intestate leaving as his only heirs three children: Francis, Frances and Frank.

Pete and Sadie First were divorced in 1950 in Reno, Nevada. A certified copy of their divorce judgment is recorded. There is no mention of the real estate in the judgment, but it awards Pete custody of the parties' two children, Larry and Moe.

A death certificate is recorded indicating that Sadie died in 1952 in a Kansas trailer park tornado disaster.

A recorded death certificate shows Pete First died in 1954. Probate records indicate Uncle Ned First was appointed Guardian of Larry and Moe, minors.

In 1962, Larry was killed in a household accident. There is no probate on Larry's estate.

In 1965, Moe deeded the property to himself and his wife, Maureen First, as joint tenants. Maureen died in 1970 intestate.

In 1971, Moe joined the French Foreign Legion and before he left, deeded the property to Uncle Ned. This deed was not recorded until 1975. In 1973, Ned recorded a mortgage on the property to Tony Bookie as security for a personal debt. This mortgage is not discharged of record.

In 1982, Ned was married to Lulu First and died on his honeymoon. Lulu immediately probated Ned's estate and is shown as his only heir at law in probate documents.

In 1983, Lulu marries Tony Bookie and both have resided at the premises since. Lulu deeded the property to Anthony Bookie in 1984 and he deeded the property back to both himself and Lulu as Tenants-in-Common in 1985.

Tony and Lulu are now selling the premises to John Doe who has obtained a mortgage commitment from Our Bank.

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REAL ESTATE CONVEYANCING AND FINANCING

Professor Carmen R. Corsaro

Spring Final Exam 1993

May 28, 1993

6 P.M. to 9 P.M.

This is a three hour exam. The three questions will be equally weighed and it is recommended that you spend approximately 60 minutes answering each question. Use the Blue Book for essays and to explain your entries on the form provided. Place your Social Security Number on the Blue Book, this exam, and also the form attached. Do not identify yourself by name. This is an open book exam and you may use any materials you wish.

Remember that spotting issues is a key to success in this exam. Read questions carefully. Express your answers in a scholarly manner. Clarity of thought and expression will lead to success. Good luck!

Question 1

On July 1, 1993, Lotty Byers contracted with Bill Derrink for the purchase of a single family home in Andover, Massachusetts. A Greater Boston Real Estate Board Purchase and Sales Agreement was executed without major amendments by the parties.

Byers has obtained a conventional 30 year mortgage loan commitment from Fleet Bank. Closing is scheduled for July 15, 1993

The Purchase and Sales Agreement provides:

Purchase Price	\$300,000
Deposit	\$15,000
Real Estate Broker's Commission	5%

The Mortgage Commitment provides:

Loan Amount	\$200,000
Loan Origination Fee	2%
Credit Report	\$150
Interest Rate	10%
Title Insurance	\$2.00 per Thousand
Mortgage Survey	\$150
First Mortgage Payment Due	September 1, 1993

Your Title Examination Reveals:

Yearly Municipal Taxes	\$ 3,600
(Paid to 6/30/93)	
Next tax bill due	September 1, 1993
Taxes payable quarterly	
Seller's Mortgage Pay off	\$283,274.30
as of July 15, 1993	

Seller's Per Diem Mortgage Interest \$69.90

Recording Fees

Deed	\$ 25
Mortgage	\$ 20
Mortgage Discharge	\$ 10

State Document Stamps

\$2.28 per \$500 or fraction thereof of Purchase Price

Shortly before closing, the parties agree that the rear deck will be enlarged at an additional cost to Buyer of \$3,000.00

Complete the accompanying Settlement Statement as fully as possible. Comment in Blue Book on your reasoning for any particular entries you feel appropriate and further information you may require from buyer, seller, or bank, if any.

Question 2

A young associate has presented you with the following results of a title abstract and seeks your opinion, advice, and counsel as to whether he should certify good marketable title of record. Advise your associate as to any further information which you would request and any steps which you would suggest be taken.

The abstract begins with a June 29, 1943 Administrator's Fiduciary Deed to Pete First and Pat First as Tenants by the Entirety, given pursuant to a License to Sell of the Probate Court granted to the Administrator of the Estate of John D. Seest. The Fiduciary Deed contains the following title reference: "Being the same premises conveyed to John D. Seest and Joan D. Seest by deed of I. M. Stiff dated January 3, 1908."

An abstract of John D. Seest's probate records indicates that he died intestate leaving as his only heirs three children: Francis, Frances, and Frank.

Pete and Pat First were divorced in 1950. There is no mention of the real estate in the divorce judgment, but it awards Pete custody of the parties two children, Larry and Moe.

A death certificate is recorded indicating Pat First died in 1952 in a Kansas trailer park tornado disaster. A deed of the premises from Pat First to Pete First, Trustee of the Larry and Moe Trust, dated January 5, 1951, and a Declaration of the Larry and Moe Trust, were both recorded on March 15, 1953.

Pete First died in 1954. Probate records indicate that he died intestate and left Larry and Moe as his heirs. Probate records further indicate that Uncle Ernie First was appointed Administrator of Pete's estate and guardian of Moe, a minor.

In 1960, Uncle Ernie mortgaged the premises to Tony Bookie as security for a personal debt. This mortgage is not discharged of record.

In 1962, Larry is killed in a household accident. There is no probate on Larry's estate.

In 1965, Moe deeded all his right, title, and interest in the premises to himself and his wife, Maureen First, as joint tenants. Maureen died in a household accident in 1970.

In 1971, Moe joined the French Foreign Legion and before he left, deeded the property to Uncle Ernie.

In 1985, Uncle Ernie married Lulu First and died on his honeymoon. Lulu was appointed administratrix of her husband's estate.

In 1986, Lulu married Tony Bookie and both have resided at the premises since. Lulu deeded the property to Anthony Bookie in 1987 and he simultaneously deeded the property back to both himself and Lulu as Tenants in Common. Tony and Lulu are now selling the premises to John Doe, who has obtained a mortgage commitment from Our Bank. Please advise.

### Question 3

Stubby Horn is a pig farmer. The old homestead farm has been in the family for over 100 years. In 1987, Stubby granted a commercial mortgage on the farm to the Barn E. Fife Bank to secure a loan in the amount of \$250,000 and invested the money in pork belly processing equipment hoping to make a killing in the local market. When the bottom fell out of the economy, the bank, in dire need of capital, called in Stubby's note along with all other commercial loans in the bank's portfolio.

Stubby, who had depleted his life savings to keep his mortgage payments current, couldn't understand how the bank could do this to him.

When he received notice of demand for payment in full of the note, he sought advice from his friend, Rob Realtor, who told him to try to sell the property as quickly as possible before the bank foreclosed. Stubby signed an agreement with Rob Realtor as his exclusive real estate agent for the sale of the property at a selling price of \$250,000.

In the next few days, Stubby became increasingly bitter, suspicious, and paranoid. He began to brandish his trusty old shotgun whenever a stranger approached the entrance to the farm which was now posted with "no trespassing" signs. Mrs. Horn, his 20 year old bride, couldn't take the pressure, so she left Stubby and moved to her mother's.

Now alone and destitute, one day Stubby was hunting by the old abandoned railroad tracks in the rear of the farm and while shooting for some food, up from the ground came some bubbling crude; oil that is. Stubby thought his prayers were answered.

Later that day, Stubby received a written offer to purchase the farm for \$250,000.00 from Jimmy Dean. Stubby refused to accept the offer and told Rob Realtor he wanted to think it over before signing.

The following day, Jimmy Dean found out that the bank was calling in its notes and withdrew his offer thinking he could get a better deal at foreclosure.

Rob Realtor has obtained an attachment on the property based on the amount of the commission he should have received if Jimmy Dean's offer had been accepted promptly by Stubby.

The Bank's title examination reveals that in 1920, Stubby's grandfather had granted to Grand Defunct Railroad the right to pipe in and store locomotive fuel underground in the area where Stubby had been hunting for food.

You are counsel for the Bank and are aware of the above facts. Assume law in Stubby's home state is identical to Massachusetts law.

Comment upon the various courses of action (including methods of foreclosure) available to the bank. Give due consideration to specific areas of concern which may require special attention or caution on the part of the Bank.



REALTOR

OFFER TO PURCHASE

From the Office of:

C.N.B.R.

Date: JUNE 1, 1994

I offer to MARY CONTRARY for the property located at 150 MAIN STREET in the City or Town of NORTH ANDOVER Massachusetts, containing \_\_\_\_\_ square feet of land, more or less, with the buildings thereon, the sum of \$ TWO THOUSAND FIVE THOUSAND dollars. To be paid as follows: \$ 5,500 cash, \$ 150,000 first mortgage of 2.5 years at 7 % This offer is subject to the Buyer and/or Broker being able to obtain bank financing in the above named terms within 30 days, failing which all monies shall be returned and all parties to this contract shall be discharged without further responsibility hereunder. I hand you \$ 1,000 to bind this offer, ~~to be returned to me if it is not accepted on or before~~ \_\_\_\_\_

If it is accepted, I agree to make an additional deposit of \$ \_\_\_\_\_ all deposits to be applied to the purchase price, and to take title on or before 7/15/94 (date).

All deposits will be held in escrow by the listing Realtor. A fee for professional services of \_\_\_\_\_

This Offer is subject to the right of the Buyer to obtain, at his own expense, a home inspection of the premises by consultant(s) of his own choosing within ten (10) days after the parties' execution of this Offer to Purchase. The Buyer and his consultant(s) shall have the right of access to the premises at reasonable times and in the presence of the Seller, upon twenty-four (24) hours advance notice, for purposes of inspecting the condition of said premises. If the Buyer is not satisfied with the results of such inspection, this Offer may be terminated without legal or equitable recourse to either party by the Buyer at his election, the parties thereby releasing each other from all liability under this Offer, and the deposit shall be returned to the Buyer, provided, however, that the Buyer shall have notified the Seller and Broker(s) in writing, on or before the expiration date hereinafter specified of his intention to so terminate; failure to so notify will not excuse the Buyer from performance hereunder. In the event the Buyer does not elect to have such inspection or to so terminate within ten (10) days the Seller and the Broker(s) are hereby released from liability relating to defects in the premises which the Buyer or Buyer's consultant(s) could reasonably have been expected to discover.

The Buyer agrees that if any child 6 years of age or under resides in said premises after the time of the closing of this sale, that the buyer will be responsible for compliance with any provision of State Statutes or Building Code relating to or regulating levels of lead paint in said premises.

The Seller shall equip the residential structure(s) on the within described realty with approved smoke detectors, and furnish Buyer with Certificate of Approved Installation from the local Fire Department, no later than time of conveyance.

The Buyer acknowledges that he has not relied upon any warranties or representations not incorporated in this Offer, except for the following additional warranties and representations, if any, made by either the Seller or the Broker:

(If none, state "none"; if any listed, indicate by whom the warranty or representation was made.)  
Water bills, real estate taxes, fuel and collected rents to be pro-rated at passing of title.

Occupancy date: 7/15/94

Special Provisions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Presented to Listing Broker: \_\_\_\_\_  
Date \_\_\_\_\_ Time \_\_\_\_\_ Listing Broker \_\_\_\_\_  
Date Accepted 6/1/94 Seller Mary Contrary Seller \_\_\_\_\_  
Buyer John B. [Signature] Buyer \_\_\_\_\_

REJECTION OF OFFER: Date: \_\_\_\_\_ 19\_\_\_\_ Hour: \_\_\_\_\_ [A.M.][P.M.]

OWNER.....

"This is a legally binding contract, if not understood, seek competent advice".

Received Incomplete copy:		Received Completed copy:	
Date	Buyer	Date	Buyer
Date	Seller	Date	Seller
Original - Listing Broker	First copy - buyer	Second Copy - Buyer	Third Copy - Seller
			Fourth copy - Selling Broker

REAL ESTATE CONVEYANCING AND FINANCING

Professor Carmen R. Corsaro

Spring Final Exam 1994

May 25, 1994  
6 P.M. to 9 P.M.

This is a three hour exam. The three questions will be equally weighed and it is recommended that you spend approximately 60 minutes answering each question. Use the Blue Book for essays and to explain certain entries on the Settlement Statement if you feel it necessary. Place your Social Security Number on the Blue Book, this exam, and also the Settlement Statement. Do not identify yourself by name. This is an open book exam and you may use any materials you wish.

Remember that spotting issues is a key to success in this exam. Read questions carefully. Express your answers in a scholarly manner. Clarity of thought and expression will lead to success.

Legibility of script is essential. Write on only one side of each page.

When finished, place exam questions and Settlement Statement inside Blue Book and hand in all.

Write your Social Security Number here \_\_\_\_\_.

Question 1

On April 24, 1994, Connie Sumer contracted with Claricle Hammer for the purchase of a single family home in Andover, Massachusetts. A Greater Boston Real Estate Board Purchase and Sale Agreement was executed by the parties.

Sumer has obtained a conventional 25 year mortgage loan commitment from Community Bank. Closing is scheduled for July 25, 1994.

The Purchase and Sale Agreement provides as follows:

Purchase Price	\$259,900.00
Deposit	\$12,995.00
Real Estate Broker's Commission	6%

The Mortgage Commitment provides the Borrower is responsible for the following:

Loan Amount	\$200,000.00
Loan Origination Fee	1.5%
Application Fee	\$200.00
Interest Rate	9%
Title Insurance	\$2.00 per Thousand
Mortgage Survey	\$150.00

The First Mortgage Payment is Due September 1, 1994.

Your Title Examination Reveals:

Yearly Municipal Taxes	\$4,000.00
(Paid to 06/30/94)	
Next Tax Bill Due August 1, 1994	
Taxes Payable Quarterly	
Seller's Mortgage Pay Off	\$129,940.40
As of July 25, 1994	
Seller's Per Diem Mortgage Interest	\$40.25
Recording Fees:	

Deed	\$25.00
Mortgage	\$10.00
Mortgage Discharge	\$10.00

State Document Stamps  
\$2.28 per \$500.00 or fraction thereof of Purchase Price

Complete the accompanying Settlement Statement as fully as possible. Comment in Blue Book on your reasoning for any particular entries you feel appropriate and further information you may require from buyer, seller, or bank, if any.

## Question 2

One day, Brad T. Broker, a licensed real estate agent, was driving down Main Street and saw a sign in front of a house which read "For Sale By Owner". He stopped and knocked on the door and an elderly woman answered. He identified himself and said he would like to help her sell her home. Mrs. Cellar explained that she and her husband, who had recently passed away, bought the house in 1960 and her son was helping handle things for her. Broker informed her that he knew of an individual who was being transferred here from out of state for employment reasons and was looking for a home like hers in the neighborhood.

Broker handed Mrs. Cellar a form entitled "Exclusive Listing Authorization" for her to sign. She said she appreciated his help, would discuss it with her son and took the form.

Broker was aware that the prospective buyer was visiting in town and telephoned him about the house. Buyer stopped at the house, loved it, and told Mrs. Cellar he would be in touch with her through Broker.

On his way to the airport, Buyer stopped at the Broker's office and left him the following note:

"Mrs. Buyer's house on Main Street is just what I've been looking for. Offering \$150,000.00 for same. Want to close by July 1, 1994. Can you help arrange for local financing in the amount of \$75,000.00. Here is check for \$7,500.00 as deposit. Will call you from Seattle." Signed, John Buyer.

When Mrs. Cellar's son came home that evening he found Broker and his mother sitting in the living room. Ever since his father passed away, he felt very protective of his mother; he being an only child.

Sonny saw that Broker had prepared a statement which stated:

"I hereby accept John Buyer's offer to purchase my home for the sum of \$150,000.00 on or before July 1, 1994, contingent upon his obtaining a commitment for financing in the amount of \$75,000.00 from Knightly Mortgage Company on or before June 7, 1994."

Mrs. Cellar had signed it just before her son walked into the room. Sonny became very angry and asked Broker to leave, thinking that Broker was taking advantage of his mother. Broker took the statement and left the house stating he would speak with them later when Sonny calmed down.

In fact, the \$150,000.00 was more than \$7,000.00 higher than the best offer received to date by Cellar on the house.

The next day, Mrs. Cellar called Broker and said that the agreement was okay and her son was being overly cautious.

Broker contacted his friend at Knightly Mortgage Company and asked him to help Buyer obtain financing. Knightly sent a mortgage application to Buyer which was processed.

In the meantime, Broker prepared a standard Greater Boston Real Estate Board Purchase and Sale Agreement and forwarded same to Buyer for his execution. Buyer's loan was approved and a commitment letter issued dated June 6, 1994 from Knightly Mortgage for a \$75,000.00 loan for 30 years at 8 1/2% interest. Buyer signed the mortgage commitment and the Purchase and Sale Agreement and mailed them on the same day, June 11, 1994. The mortgage contingency clause read "If despite the Buyer's diligent efforts, a commitment for such loan cannot be obtained on or before June 11, 1994, the Buyer may terminate this agreement by written notice to the Seller on or before said date."

On June 23, 1994, Knightly Mortgage Company filed for bankruptcy protection as its sources of funding dried up. It is now July 2, 1994 and the closing has not occurred. Mrs. Cellar passed away on July 2, 1994 without having signed the formal Purchase and Sales Agreement or the listing agreement.

Discuss the rights and liabilities of the parties.

### Question 3

Mr. and Mrs. Smith purchased a new single family home in July of 1991 from Joe Builder for \$130,000.00. They financed \$117,000.00 of the purchase price by a conventional purchase money mortgage through Friendly Bank. The property was in Haverhill, Massachusetts.

Just prior to closing, Joe Builder convinced the Smiths to make \$3,000.00 worth of additional improvements to the property which would be paid to him after closing.

By December of 1991, Mr. Smith had left his wife and moved in with Ms. Wrecker, leaving Mrs. Smith in the home with their two young children.

During the divorce proceedings, it was stipulated that the house would be placed on the market and sold as soon as possible. In the meantime, Joe Builder, who hadn't been paid for the later improvements, filed suit against the Smiths and obtained an attachment of \$4,000.00 on the property.

Because of increasing financial pressures, the Smiths agreed that Mrs. Smith and the children would leave for Maine to live with her mother. The house could be rented pending its sale and the rent would help Mr. Smith make the periodic mortgage payments which he would assume responsibility for pending the sale of the house.

Mr. and Mrs. Renter moved into the premises and began paying rent at \$1,000.00 per month.

Over time, the highest offer received on the house was \$120,000.00 which was not enough to cover the mortgage balance, the attachment and costs of closing including realtor's commission.

In January of 1993, Mr. Smith began to pocket the rental payments and stopped paying the mortgage. In April of 1993, Mr. and Mrs. Smith each received a notice of default from Friendly Bank stating that the mortgage loan would be accelerated if payment of all arrearages was not made within seven days.

Mrs. Smith contacted her former husband who told her the tenants weren't paying him so he couldn't pay the bank. "Why don't we just sign over the house to the bank?", he suggested.

Mrs. Smith called the bank to ask if this was possible. The bank officer said he would look into it.

A week later, Mrs. Smith received a notice indicating that a proceeding in Land Court to foreclose the mortgage had been commenced. She wrote to the Court objecting to the proceeding on the grounds her husband was supposed to pay the mortgage, not her.

She also called the bank to see what was going on and was told by a bank officer that Joe Builder's lien would prevent the Smiths

from signing over the property.

Mrs. Smith called Joe Builder repeatedly, but he did not answer her calls.

In the meantime, a foreclosure sale was scheduled for December 1, 1993. In late October, Mrs. Smith was finally contacted by Joe Builder who said that if she and her ex-husband would pay him \$2,000.00 he would release his attachment on the house.

Mrs. Smith called her ex-husband who said he would come up with the money if the bank would take a deed for the property and forgive the mortgage debt. Friendly Bank agreed but stated this must be completed by November 30 or it would proceed with the foreclosure sale.

On November 30, 1993, Mr. Smith failed to come up with the \$2,000.00, and the Bank proceeded with the foreclosure on December 1, 1993.

The auction was held and only two qualified bidders attended, Joe Builder and Ms. Wrecker. The property was sold for \$84,000.00 to the highest bidder, Ms. Wrecker.

Just before taking title to the property Ms. Wrecker and Mr. Smith were married and now intend to live in the premises.

Discuss and explain the legal consequences of the various actions fo the parties hereto relative to their interests in the premises. Feel free to comment upon any additional information you might wish to ascertain in assessing the position of any parties as it affects title to the premises.

copy 5

REAL ESTATE CONVEYANCING AND FINANCING

Professor Carmen R. Corsaro

Summer Final Exam 1994

June 30, 1994  
6 P.M. to 9 P.M.

This is a three hour exam. It is recommended that you spend approximately 60 minutes answering the first question. The second question is lengthy and it is recommended that you spend approximately two hours answering same. Use the Blue Book for essays and to explain certain entries on the Settlement Statement if you feel it necessary. Place your Social Security Number on the Blue Book, this exam, and also the Settlement Statement. Do not identify yourself by name. This is an open book exam and you may use any materials you wish.

Remember that spotting issues is a key to success in this exam. Read questions carefully. Express your answers in a scholarly manner. Clarity of thought and expression will lead to success.

Legibility of script is essential. Write on only one side of each page.

When finished, place exam questions and Settlement Statement inside Blue Book and hand in all.

Write your Social Security Number here \_\_\_\_\_.

Question 1

On May 1, 1994, Connie Sumer contracted with Hard S. Nails for the purchase of a single family home in North Andover, Massachusetts. A Greater Boston Real Estate Board Purchase and Sale Agreement was executed by the parties.

Sumer has obtained a conventional 30 year mortgage loan commitment from Community Bank. Closing is scheduled for July 25, 1994.

The Purchase and Sale Agreement provides as follows:

Purchase Price	\$275,000.00
Deposit	\$2,750.00
Real Estate Broker's Commission	6%

The Mortgage Commitment provides the Borrower is responsible for the following:

Loan Amount	\$225,000.00
Loan Origination Fee	1.5%
Application Fee	\$200.00
Interest Rate	9%
Title Insurance	\$2.00 per Thousand
Mortgage Survey	\$150.00

The First Mortgage Payment is Due September 1, 1994.

Your Title Examination Reveals:

Yearly Municipal Taxes	\$4,000.00
(Paid to 06/30/94)	
Next Tax Bill Due August 1, 1994	
Taxes Payable Quarterly	
Seller's Mortgage Pay Off	\$135,652.37
As of July 25, 1994	
Seller's Per Diem Mortgage Interest	\$40.25
Recording Fees:	
Deed	\$25.00
Mortgage	\$10.00
Mortgage Discharge	\$10.00

State Document Stamps  
\$2.28 per \$500.00 or fraction thereof of Purchase Price

Complete the accompanying Settlement Statement as fully as possible. Comment in Blue Book on your reasoning for any particular entries you feel appropriate and further information you may require from buyer, seller, or bank, if any.

Byers applied for and obtained financing through Flete Mortgage Company. On the day of the closing, July 15, Mrs. Contrary showed up alone at the Mortgage Company attorney's office at 3:00 p.m. Mr. Byers was present and the following occurred:

a) When she was asked for the deed, she presented a deed of the property from John Smith to her mother and father as joint tenants dated 1942. Her parents died in a plane crash in 1970. She was an only child.

b) When she was handed the settlement statement she objected to the following charges:

1) A tax adjustment for unpaid municipal taxes from July 1 to July 15 in the amount of \$150.00

2) A charge of \$50.00 to the Settlement Agent to obtain discharge of an old mortgage on the premises given by her parents in 1944 to Defunct Bank.

3) A charge of \$10.00 to record said discharge

4) An escrow amount of \$250.00 to be held pending receipt of a final water and sewer bill reading which was scheduled but not made because she was not home when the meter was to be read.

5) When asked to produce a smoke detector certificate, Mrs. Contrary asked "What's that?"

6) Mrs. Contrary demanded that she be paid in cash and that she would not accept a penny less than \$204,000.00 because she already received \$1,000.00.

7) Mrs. Contrary stated that she had been told by Byers that all papers that she had to sign were going to be presented to her at closing.

8) The attorney for the mortgage company stated that Mrs. Contrary must obtain a smoke detector certificate before he could close and that he would be happy to prepare a deed for her to sign at a charge of \$100.00.

Mr. Byers, whose furnishings were due to be delivered the next morning, said that he would pay any difference between the calculated figures and the \$204,000.00 to Mrs. Contrary out of his own pocket if they could close on time.

He then called the fire department and arranged for a smoke detector inspection to occur at 4:00 p.m. the next day which was the earliest available time.

After much discussion it was agreed to postpone the closing until 4:30 p.m. the next day.

On the morning of July 16, Mr. Byers furnishings were moved

## Question 2

Mary Contrary was being forced to sell her home in North Andover because of a bitter divorce proceeding. As a result, she no longer had faith in attorneys and refused to hire one to assist her in the sale.

She had placed a sign in front of her home which read "For Sale call 555-1212". Brad T. Broker, a licensed real estate agent, drove by the house with Bill Byers, a prospective home buyer from out of state who was being relocated to Andover for employment reasons. Broker and Byers had just finished visiting three other homes in the area which were on the market. Byers was determined to make a decision before he left for New Jersey that evening as to which house he would purchase because his transfer date was fast approaching.

Brad noticed the sign and asked Byer if he would be interested in this property. Byers stated, "Possibly."

Brad dropped Byers off at his hotel stating they should meet at 4:00 p.m. at his office to decide which house Byers would offer to buy.

When he arrived back at the Broker's office, Brad called Mrs. Contrary and identified himself as a real estate agent and said he knew of an interested buyer and would she be interested in using his services to help her sell her home. She replied that she had been attempting to sell the house herself as she needed at least \$200,000.00 from any sale; but if he could guarantee her that amount in her pocket, she would not mind paying a commission from the excess. Broker said that seemed fair and that he would be by with a formal agreement at 2:00 o'clock that afternoon.

In the meantime, Byers took a long walk to think things over. Along the way, he passed Mary Contrary's house. He knocked on the door and introduced himself to Mrs. Contrary stating that he was interested in her home. She invited him in and after a tour he decided that this house was as good or better than those he had seen and offered her \$205,000.00 for it.

This was the best offer Mrs. Contrary had received in the past three months. She said \$205,000.00 was acceptable and pulled out a printed form which a friend had given her and they filled it out together. A copy of the agreement is attached hereto. Mr. Byers gave Mrs. Contrary a check for \$1,000.00. Byers decided to leave early for New Jersey and called Broker's office leaving a message which said "found house, will call you later."

When Broker arrived at Mrs. Contrary's home at 2:00, Mrs. Contrary advised him that someone had come by earlier and offered her an acceptable price and she wouldn't need his services.

The next day Broker called Byers who told him that he had signed an agreement for the house that they had passed on the way to his hotel and thanked him for his trouble. Broker was furious.

to the premises. At 4:00, a smoke detector certificate was obtained.

At 4:30 p.m. the parties met again at the Settlement agent's office and completed the execution of documents. The attorney stated that he would not be able to record the deed and mortgage until the following morning as the Registry of Deeds was now closed.

Mrs. Contrary demanded that she be given her money immediately or else she would take back the deed.

It was agreed that she would meet the attorney at the Registry of Deeds the next morning to give him the deed and receive her proceeds of the sale.

Unknown to any of the parties, Mr. Broker on July 14, 1994 had obtained an ex parte attachment on the property to secure payment of commission in the sum of \$12,300.00 in a suit brought against both Mary Contrary and Bill Byers in the District Court.

This attachment was recorded at 4:00 p.m. on July 15, 1994. The attorney told Mrs. Contrary tht he could not record the deed unless the amount of the attachment was held back from her proceeds to insure payment of the attachment.

Mrs. Contrary refused, took the deed and stormed out of the Registry.

She drove immediately to the property and told Mr. Byers that the deal was off and that he must take all of his furniture out of the house immediately. Mr. Byers refused.

The premises and all its contents were destroyed by a suspicious fire that afternoon.

Discuss the rights and liabilities of the parties.

C47/68

- I. Stickem and Quick Builders have contracted to sell a home to Bob and Nancy Weiner. The Weiners have obtained a conventional residential real estate mortgage commitment from Feat Bank. Closing is scheduled for July 15, 1992.

Assume a Standard Greater Boston Real Estate Board Purchase and Sales Agreement has been executed, without major deletions, between the parties. Seller has agreed to pay \$5,000.00 towards Buyers' closing costs. Complete the accompanying HUD Settlement Statement as fully as possible based upon the information provided. Comment in the Blue Book on your reasoning for any particular entries you feel appropriate and any further information you may require from buyer, seller or bank.

Purchase Price	\$175,000
Yearly Municipal Taxes	\$2,400 paid through 6/30/92
Next Tax Bill Due December 1, 1992	
Mortgage Loan Advanced	\$125,000
Deposit	\$10,000
Loan Origination Fee	2%
Credit Report	\$100
Title Insurance \$1.00/Thousand	
Plot Plan Required	\$125
Recording Fees:	
Deed	\$25
Mortgage	\$20
Discharges	\$10 apiece
Real Estate Commission	6%
State Document Stamps:	\$2.28 per \$500 or any fraction thereof
Prepaid Interest (per diem)	\$34.25
First Mortgage Payoff	\$153,761.50
Second Mortgage Payoff	\$10,137.00

Assume standards similar to the Massachusetts Conveyancers Association standards apply to the facts of this case.