

DIAMOND FARMING

PROBATE REAL ESTATE SYSTEM



25 YEARS PROVEN PROBATE SYSTEM
GARY DIGRAZIA SR

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Table of Contents

Introduction

Page:

1	Chapter 1: <u>What Is Probate Real Estate?</u> (How You Can Earn Thousands)
13	Chapter 2: <u>Probate Tracking Sheet</u> (Our Guide Per Property)
30	Chapter 3: <u>Contacting the Estate</u> (What to Do and Say for Estate Interest)
36	Chapter 4: <u>Examining the Property</u> (Know the Value)
43	Chapter 5: <u>Appraising the Property</u> (What Can You Pay to Flip)
46	Chapter 6: <u>Preparing Your Offer</u> (What Clauses You Need to Avoid Court)
63	Chapter 7: <u>Presenting Your Offer</u> (How to Get an Executor to Sign Your Offer)
77	Chapter 8: <u>Reselling Your Probate Property</u> (Flipping Within 90 Days)
84	Chapter 9: <u>After the Close</u> (You Still Have Work to Do)
88	Chapter 10: <u>Finding Partners</u> (If You Need Money or Real Estate Experience)
98	Chapter 11: <u>Level 2 Transaction</u> (Assign for Profit, Agents Broker for a Fee)
111	Chapter 12: <u>Level 3 Transaction</u> (Agents Get Listings, Investors Refer for Perks)
120	Chapter 13: <u>Level 4 Transaction</u> (How to Buy and a Discount at Court Overbids)
134	Chapter 14: <u>Level 5 Transaction</u> (Catch and Hold for Level 1 Profits)
138	Chapter 15: <u>Filing System</u> (You Must Be Organized)
142	Chapter 16: <u>Helpful Hints</u>

“DIAMOND FARMING” Probate Real Estate Investing

Welcome to the wonderful world of probate real estate. This is my 3rd revision since I wrote *Diamond Farming* in 1992. The reason for this revision is not to change the system, (the probate laws have remain the same, “DF” works just as well today as it did back then), but to add information and helpful tips I have learned from deals over the years. This system has consistently earned me 80% of my income, and I’m still amazed that so few have jumped on the bandwagon.

Back in the early 90s, there were just two of us probate guys selling systems. Today, many more have jumped aboard, and even a couple of students of mine are selling their version of my *Diamond Farming* course. None have stood the test of time, however, and I have been told by those in the know that most of these new guys are really just marketing people selling everything under the sun (foreclosures, REOs, fixers, probates, paper, and so on) without actually earning their living from doing it themselves. It’s OK. That’s what makes America great—free enterprise.

You have purchased what many have called the best working probate system around. I practice what I preach every week, and I’ve never really marketed this system the way it should be. I’m too busy buying and selling probates!

As a *Diamond Farming* student, you now have (Free) access to the student bulletin board, so make sure you use it. It allows you to post questions regarding probates, learn from other questions posted, interact with me and other students from around the country, recruit partners and money, and most importantly, have a support group of others who share your interest. As a student, you also have my direct phone, fax, and email, so you can ask me questions or receive help on your deals. I said MY PHONE not an 800 number where some 3rd party person talks with you.

I don’t sell other real estate niche systems (foreclosures, REOs, fixers, paper, or options), just probates. You have made the right choice in ordering *Diamond Farming*, so buckle up and let’s get going!

This probate system has been written for the investor who wants to buy/sell/keep and also for the agent who just wants another avenue to earn commissions. You don’t need a real estate license to make the DF system work, but a RE licenses will allow you to earn on all five levels of probate opportunities. Our largest paydays come from Levels 1, 4, and 5, where we buy probates at wholesale and resell at wholesale. Levels 2 and 3 give us nice paydays while we are waiting for the big ones. You can stay busy part-time or full-time with this system.

With this manual as your guide, you'll explore the world of probate real estate and learn where the gold mines and diamond fields are located. Read carefully, follow the maps I've prepared for you, and you can make a small fortune. Please understand, this is not a get rich quick scheme. I won't promise you the moon, but if you learn the system and have people skills (or partner with someone who does), you can earn an extra \$50K-\$100K part-time and more full-time. First, you must learn the system and understand what 99% of our fellow real estate investors and agents don't know about probate; then, you must have the persistence and fortitude to stick to it.

Just as I know how valuable this information can be for you, I also know that 95% of you probably won't find the success you are looking for with DF or any other system because you lack persistence. The easy part of this system is learning the paperwork, research, and rules. The real test is having the persistence to stick with it as you start your probate real estate business. People skills will also be important, so if you don't have them, find a partner who does. You will earn much more splitting profits with such a partner than trying to go it alone without all the tools (general real estate knowledge, people skills). I earn most of my yearly income buying, selling, and listing probates, and I have done so for the past 17+ years.

We make money from probate investing in either good or bad real estate times. In good times, it's harder to find them, but when we go to resell, since we usually sell under the market, we sell fast. In bad times (buyer markets), we have many more opportunities, since sellers (estates) are anxious to sell and will be more likely to listen to our proposals. I have learned during my 30 years in real estate that

in good or bad times, a property priced below market will sell. So, even in hard times, we prosper using my Diamond Farming system.

Before I introduce you to my system, allow me to introduce myself and share with you how I became involved with this unique income opportunity.

In 1974, I was licensed to sell real estate in California. For the next 12 years, I listed and sold over 300 homes, won numerous awards for top production, and even co-owned a real estate office.

And yet, year in and year out, I was always on a financial roller coaster. I would work hard, get many escrows going, then spend the next three months closing them and dealing with problems. While I was working on the closings, my sales and listings would drop and so would my income. I would earn \$10-\$15K one month, then nothing for the next two. This drove me crazy and I was determined to change the pattern.

Let me explain what I was looking for. I wanted to change my pattern for generating income from real estate. I wanted unlimited inventory, limited competition from other agents and investors, and a minimum of \$10K per payday for every buy/sell property I could find. If I didn't buy the property, I wanted to be able to earn a 6% commission by selling it to another buyer. I felt this would pay me enough between escrows to meet my goal of no downtime (cash flow-wise). I also wanted to start a retirement program and save a percentage of my real estate income while maintaining my standard of living. I was determined to reach my goals, and I did. Since there are only so many hours in a day, I needed to work smart, not just hard.

Based on my goals, I had to gross six-figures per year. Even after taxes, this would allow me to keep my standard of living and invest for my retirement. I knew from experience that I didn't want to deal in the foreclosure or REO arena, since there was just too much competition and the information was too easy to obtain. So I started looking at other real estate avenues.

As I continued my search, sometime in 1986, I discovered probate real estate. There was very little information available, so I had to fork over \$200 for my first look. After reviewing the materials, I knew right then and there that this was what I wanted to do, providing the information was correct. Since I was a seasoned agent at the time, I soon realized the average person could not do this. I saw its potential and felt the competition would be almost nothing, but I also knew that I would have to dive into the trenches and learn from scratch.

Thanks to J.B. for pointing the way, but as I tell those who ask, there were many holes to fill. Over the next two years, working week in and week out, I perfected a system to consistently purchase probates under market and flip them for a profit. I also learned how, as an agent, I could increase my production and income by listing and selling those probates I couldn't purchase at the right discount.

What I found was a financial gold mine! There was essentially no competition compared to foreclosures and REOs, plus there were new files opened every week, so I had plenty of leads. I could have doubled—maybe tripled—my previous 12 years' real estate income had I known the secrets of working probate real estate. Even so, I started cautiously, unable to believe that everyone could be wrong regarding the potential of probate real estate.

I soon reached my goals buying and selling probates, but it was after many missed deals and mistakes. I could have quit and moved on to another golden goose, but I hung in there because I knew I was on to something. Success just doesn't happen overnight, and that's the beauty of it; most real-estate-minded people won't be patient, and they'll quit before they find probate success or any success with investing.

Investors! Just doing this part-time (5-10 hrs/week) can give you the potential to earn \$50-\$100K per year! Agents! Heirs are usually confused and in need of an expert to assist them in selling estate property. If you follow the Golden Rule and act with compassion and integrity, you will earn thousands in commissions. You will not be an order-taker selling carpet, drapes, and paint, but an advisor who helps heirs through the difficult experience of selling a piece of property in probate. An extra escrow per month is very obtainable if you know what you're doing. And you will soon, if you stick with me!

Read this manual twice before you attempt to follow my system. Remember, *Diamond Farming* is based on California probate law, and your state's laws may be different. However, California's probate process makes it the hardest place to do this type of investing, so it may well be easier in your area! Just learn how we do it in California, then compare and adjust the process to your area once you know what to look for. (There are five earning levels with probates, and only Level 1 deals with the IAEA in California.)

Since 1992, we have sold DF systems in just about every state in the country, along with Canada and the UK, so we know you can make it work for you. Put some effort into this gold mine and it will reap you the rewards. I had to pay my dues and learn this on my own, so you should be able to put some

effort into this if you really want it. Don't take any shortcuts until you have tried DF my way a few times. Most importantly, don't give up. I promise you the deals will come. After paying some dues and staying with the system, you'll be able to pick and choose deals rather than accept whatever comes along.

Agents and potential buyers now call me for probate properties, since over the years I have established a successful track record of finding good deals. In fact, most of my probate properties that I don't buy myself are sold to other agents' clients. I very seldom have to find my own buyer for a probate that I couldn't get at my price but tied up.

I will guide you through five levels of probate income opportunities; you can earn at each level. Levels 1, 4, and 5 are where we find our big paydays, while Levels 2 and 3 allow us to earn while waiting for the big deals. Let's take a brief look at each level and what you can expect to earn there if you work the system every week, bounce back from setbacks, and have real estate savvy with people skills. Remember, it took me a while before I had the system down, and I lost thousands of dollars in potential profits because I didn't know what I was doing. However, each loss placed me one step closer to the right way to locate good probate deals, and more importantly, the way to work one to a payday after finding it.

NOTE: You or your partner will need to have general real estate savvy (contracts, evaluation, escrow, finance), or you will find it very hard to succeed at this. DF assumes you have all these basic skills, so brush up or partner up with one who does until you learn all the basics of Real Estate.

LEVEL 1:

This is our granddaddy profit center. Here, we find executors and/or heirs who need to liquidate the property fast and don't want to wait out the high retail market. This can happen for many reasons; just understand that it's a numbers game. They know coming in that we buy at a discount, and they happily agree to sell to us (when it works).

We target our buy at 80-90% of retail (with these prices today). We usually won't fix up the property, since we want to resell fast and we like to offer a less-than-market resell price. We then sell the property quickly at 5%+- under market (depending on our discount purchase price) and pocket the difference. In recent years, our average profit range has gone up since the prices are higher; we now look to earn a minimum \$25K profit on each buy/sell, or I will just broker the deal to a buyer. Our Level 1 profits have recently been closer to the \$40K-\$60K range.

As of this revision, our last three probate buys/sells have had profits of \$45K, \$50K, and \$61K. We have also just rehabbed a new probate we closed a month ago, for which we were paid \$20K going in and expect another \$40K going out. I love probates!

With proper training (you now have *Diamond Farming*), you, as an investor, should do 2-4 Level 1 deals per year. Using our low-side average to stay conservative, you could earn \$50K to \$100K per year just doing this. We have been buying Level 1 probates every year since I started this business; they are out there, but first you must know how to find them, how to control them, and how to close them. You will devote 5-10 hours per week to researching and hunting down your probate deals.

NOTE: We have been fixing up probates lately and reaping better profits. With the market we have been in (2004) and buyers overbidding, it has paid off. We have also added baths, so anything is possible.

LEVEL 1 YEARLY INCOME POTENTIAL: \$50-\$100K

LEVEL 2:

Not only do we earn from probates where the estate is willing to sell at 80-90% of retail value, we can also earn on probates where we can't purchase at our target discount price. I will show you (investors) how to take a probate you have tied up (in contract) and assign it to a buyer who is willing to pay you for the right to purchase. Your fee will be relative to the equity you are passing on to the buyer, but a \$5K assignment fee is reasonable if the buyer is buying the probate for \$15-\$20K off retail. The point here is that you can still earn on probates that you can't buy at the right discount (Level 2). You just have to tie it up.

Agents! You will find a buyer and charge the estate a commission (3-6%). This works because you will still give the estate more for the property than you can pay—you just factor your commission into the price for the end buyer. If you do this right, you get a commission, the estate gets what they want, and the buyer still buys under the market. Remember, probates usually aren't fixers like foreclosures. They are in relatively good shape. I'll teach you how to establish a probate buyers bank, and when you come across probates you can't or don't want to purchase (Level 1), you can look to them for a Level 2 or 3 deal and earn a commission. Plus, in most

cases, you're the only agent who knows the property is going to be sold.

Investors: If you use our \$5K assignment fee for your Level 2 deals as a gauge for earning potential, you should be able to do one of these per quarter (four per year) for a potential \$20K. Again, this fee is relative to the equity you are passing on to the new buyer. Many of these opportunities will present themselves if you research every week while waiting for the large Level 1 probates.

Agents: If you're a full-time agent, you should also be able to do one of these deals per quarter. Based on an average selling price of \$300K (low these days in California), your fee per deal, based on a 4% average commission, would be \$12K. Right here alone, you could add another \$48K per year to your real estate income.

LEVEL 2 YEARLY INCOME POTENTIAL

INVESTORS: \$20K AGENTS: \$48K

LEVEL 3:

This income opportunity is primarily for agents, and the upside is awesome. I'm still bewildered why more agents haven't found out about this gold mine and still write off probate as basically unproductive. At Level 3, you will find estates that don't wish to sell at a discount but will be placing the property up for sale. These executors and heirs will want high retail and will test the market. They most likely will list with an agent referred from the estate's attorney or a friend of the family. I have witnessed thousands of loss dollars to estates from agents marketing the property as a probate. I know this sounds funny, but the old probate law which was enacted to help the family has actually kept estates from obtaining top dollar when they go to sell.

For now, just understand that if you do your job right, you should be able to convince many of these heirs to listen to your probate marketing plan, since you're a specialist. You will teach them how to sell the probate at high retail under the IAEA and receive more interest in the property, usually resulting in more net dollars to the estate. You will treat this probate just like any other listing and earn 3% commission. Using our average sales price of \$300K, you will earn a gross commission of \$9K; you should be able to do four of these per year for an extra \$36K addition to your real estate income. If you're really good and take to this, an escrow per month is not out of reach. Interested yet?

LEVEL 3 YEARLY INCOME POTENTIAL

AGENTS: \$36K

LEVEL 4:

Many probates will go through the old law, court supervision, and confirmation process with the sale having to go to court and others having the right to overbid. This is the process most investors and agents understand. Anyone who is tracking probates is usually looking at confirmation notices and beginning their research. They will go to court and overbid for the property, hopefully still receiving a under market price.

I will teach you as an investor how to seek out only those probates where you have a chance of getting a good price without much competition in court. We have made some very good Level 1 buys in court, with the last one earning us over \$50K after we resold it 30 days later (more on this later). You just need to know what to look for when researching these.

Agents can use these confirmations to sell the properties to their clients. I will show you how to find retail and wholesale buyers for these properties. You can stay very busy with Level 4, as there are court-confirmed sales every week. Just don't spin your wheels on the ones that have had too much exposure. I teach you how. 2-4 Level 4 deals per year should add another \$18K to \$36K to your gross earnings. There are rules about commissions in court, but on average, the worst you should do is 2%, so why not take it?

Investors: using our \$300K sales price, you should be able to do 2-4 Level 4 deals per year. You may not make \$50K on each, but you will probably be able to make \$25K by overbidding these in court, than flipping the property. Again, it has to be under the right circumstances. So, using these figures, an investor should be able to earn another \$50K to \$100K per year hunting out Level 4 overbids.

LEVEL 4 YEARLY INCOME POTENTIAL

INVESTORS: \$50-\$100K AGENTS: \$36K

LEVEL 5:

I realized a few years back that if we didn't obtain our full discounted price, we could still realize a great profit if we held on to the property for a while (1-2 years). I had avoided this for the past 13 years, but then I noticed a few properties I passed up that were sold by the buyers within a year or so at a price that would have turned a great Level 1 profit. It requires a little management (dealing with tenants) but the profit upside is awesome. I will explain later how this works, and you should consider it; it will build in profits for you each year. Level 1 profits can be made here at Level 5, but you have to wait 1-2 years. So, if we did 2 of these per year, we would soon have two Level 1 sales each year, adding an-

other \$25K-\$50K per deal. (And on the properties I noticed, I would have made closer to \$50K; wow, another \$50K-\$100K per year.)

Agents, place your investors into Level 5 probates; then, each year after the first, you will have 2-4 more escrows to sell, adding more to your yearly income.

LEVEL 5 YEARLY INCOME POTENTIAL

INVESTORS: \$50K-\$100K AGENTS: \$18K-\$36K

Now, let’s look at the yearly income potential for an investor working Levels 1, 2, 4, and 5 and an agent working all five levels. Remember, I’m an agent/investor, the best of both probate worlds.

Level	Investor	Inv/Agent	Agent
1	\$50-\$100K	\$50-\$100K	\$18K-\$36K
2	\$20K	\$48K	\$18K-\$36K
3	\$28K-\$36K	\$18K-\$36K	
4	\$50-\$100K	\$50-\$100K	\$18K-\$36K
5	\$50-\$100K	\$50-\$100K	\$18K-\$36K
Total	\$170-\$300K	\$226-\$384K	\$90-180K

So, as you can see, if you’re only an investor, you can realize \$170K+ working Levels 1, 2, 4, and 5. Agents who are also investors could realize close to \$300K, and agents only looking to increase commissions could do an additional \$90/180K in commissions working probates. If this doesn’t get you excited, nothing will!

Working full-time, you should have potential to earn this much in addition to your normal yearly income. My system will only take 5-10 hours per week for research/letters. I do my research three days a week and have two days during the week for regular business, appointments, and follow-up. Weekends I leave available for open houses, appointments, evaluations, or what I really enjoy—spending time with my family, riding my Harley to events, or playing music with my band.

Most of your fellow investors and agents are not aware of the potential income they lose every year from avoiding probates. If you ask them about probate real estate, the majority will tell you it is too complicated, it takes too long, your good buy will be overbid in court, and your commissions will be cut. They are missing the boat; you, on the other hand, are right on time, so welcome to the world of probate real estate. I know you will find this system most interesting.

Please remember, it took me a few years to perfect this system back in the late 80s and early 90s, but I haven’t had to change anything over the last 12 years. This revision just adds some new tricks and information I have learned since I first wrote the book; nothing in the basic system has changed. I do have my attorney update each year to reflect changes in probate law, but so far, so good. Go for it!

ATTENTION INTERNET BROWSERS!

Prospective DF students reading this chapter on my website, take the following into account before you purchase a probate system. I’ve never had to issue this kind of warning before, but since 2000, a few guys who sell everything having to do with real estate have jumped on the probate bandwagon, so

buyer beware! Here are some things to think about before you purchase a system:

How long have the authors been around? *(I have 17 years of experience buying and selling only probates.)*

Is their system rated anywhere other than their own site? *(I am rated at John Reed's website as the only recommended probate system. You can find a link to the rating on my website.)*

Have they been interviewed and verified by creditable real estate people? *I have been interviewed on radio talk shows, been written about by large city and legal newspapers, been a guest speaker at large investment seminars, and even had a complete chapter written about me in a bestselling real estate investment book. I am also the only probate investment person recommended at John Reed's Investor Monthly Guru rating publication. You can find a link from my site.*

Are they going to try to sell you add-on services after you purchase their course? *I offer free consulting now and a free bulletin board for DF students to interact with me and other students. There is nothing else to purchase.*

Are they personally accessible to you by phone? *DF students have my personal phone number, email address, and fax number.*

Do they make their living from buying and selling probates? *I work probates weekly and earn most of my yearly income from them.*

Do they just offer a probate system for investing, or is it one of many types of real estate offers (foreclosures, REOs, fixers, options)? *I only offer a probate system, nothing else. I'm an investor/agent, not a marketing person.*

It's your money, it's your time, it's your decision.

I hope this helps you think before you purchase a probate system from anyone else. For those who do, I wish you the best of success. For my DF students, let's move on to Chapter One and get this ball rolling. We have probates to buy!

*A funny Last Thought

I recently had a phone call from a prospective "DF" student who wanted to ask me about my course. He had purchased a Probate system (under \$50) but when he asked some questions to the author, he was told to contact me as I'm the expert! Now he wanted me to answer his questions so I politely told him I only consult with my "DF" students. He is ordering my system so not only did he waste time, but he paid close to \$50 more for my system after adding on what he paid my student for his book. Can you believe this? This is not the first time I have received calls like this, all I can say is "Buyer Beware"

1

WHAT IS PROBATE REAL ESTATE?

The majority of real estate investors and agents are under the impression that probate real estate is a losing proposition. Now, I'm seeing more and more investors looking at probate harder these days, but the overall feeling is that it's still second fiddle to foreclosures.

Many investors believe that if they are lucky enough to find a probate under market and make a discount purchase, they will have to place a 10% deposit and wait 6-8 weeks or so, depending on how busy the court calendar is, to obtain confirmation and allow them to proceed with the escrow/closing. For this reason, since 1987, I have had very little investor competition on the probates I have purchased.

Agents, on the other hand, are only thinking about commissions, and they can't get past the 6% thing. The majority of agents to this day believe that probates are controlled by the attorney, it takes a very long time to get paid, and the commission will be reduced in court, or worse, someone else may overbid their client's offer and they will receive nothing. After so many years of buying and selling probates, I still can't believe how so many agents can be so wrong. I'm not complaining, but wow! The typical agent who thinks he/she is working probates actually has a relationship with an estate attorney (college alumni good old boy, family friend, spouse, or kid) and receives all the attorney's probate listings. I

still see the same agents in my area receiving probate listings from the same attorneys over the years. Without really doing anything special probate-wise, although they're good agents, they are handed probate listings, place them in the MLS, and usually wait until another agent sells them. Nice work if you can get it, but for some reason, I haven't had much luck with attorneys giving me listings and no one in my family practices law.

I have taken away many a probate sale in court from agents who just looked dumbfounded when they saw me walk in and purchase the probate property right out from under them, even though they tried to hide the sale. Not once has one of these usually arrogant agents, who just lost a commission to me in court, asked me how I did it. Amazing, but it works for me, so don't tell them when you find out!

OK, let's talk about a few things, like the definition of probate, the new law that turned this game around for those in the know, how we find probates undervalued, and other information you will need to know as you venture into the probate arena.

SOMEONE PASSED

When a person passes and doesn't have a trust, the assets go through a procedure (probate), supervised and controlled by the courts, in order for all creditors of the estate to have time to submit their

claims for money owed them by the deceased, and also for all the assets after debts, costs, taxes, etc., to be distributed to the rightful heirs according to the terms and conditions of the will. This process normally takes about 4-6 months without any contesting, but it can also last for years. When all is said and done, the last procedure is called the final distribution, and whatever is left is dispersed to the heirs per the will or following County/State distribution procedure when there is no will.

The person charged with taking care of all the necessary probate procedures is called the executor/executrix when there is a will or the administrator when there is no will. Many years ago, to protect the estate/heirs from those trying to steal their assets, the courts enacted a probate procedure to ensure that certain requirements were met before any asset of the estate could be sold or distributed. The intent was good, but what happened was really the reverse; the estate real estate was red-flagged as a distress property, and with the down payment requirements, it only attracted investors or buyers looking for a discounted purchase. What was meant to help and protect estates actually hurt them, with properties selling for less than retail most of the time.

Finally, some smart people figured that we'd better do something, and a new law was imposed in 1987 to give the estate the choice of a better way to dispose of assets: the Independent Administration of Estates Act. This is our KEY! This law changed everything and made buying estate property a very lucrative business, but only for those who understand it.

How did it help the estates, you might be asking? Well, for those who understood the Act, the executor could now sell the property just like you and I would sell our own homes—without red-flagging the

property as a distress sale, without requiring buyers to place 10% deposits up front (which prevents low down buyers to purchase), and finally, without having to sell the property “as is.” Another plus was that offers would not go to court for overbid, and thus more people would be interested, resulting in a higher net sales price to the estate.

Think about it. The Independent Administration of Estates Act (IAEA) is very powerful, and a full copy is enclosed in your DF package (rear of supplement Probate Form book). You don't have to understand the entire Act, just what I teach you about it, but it's there for those who wish to dissect it. Now, let's discuss the Act a little further.

THE IAEA

What the IAEA does in regard to our interest (the real estate) is allow the executor of the estate to sell the property to us without the court supervising and approving the sale. This is so powerful! The executor can file with the court through their attorney a request for authorization to administer the estate under the IAEA. Once this is filed and granted, the Executor receives a document called the letters of testamentary (very important for title). These letters authorize the title company to allow the executor, who is not on title, to sign the grant deed to us when we are ready to close.

What does this all mean? Well, after approval has been granted by the court, the executor can sell the property without court supervision. We can also bypass the court appraisal and the 90% rule. (The old law states that a court-appointed referee must set a price for the property (appraisal). Once this price is established, the executor can only accept an offer within 90% of the court-appraised value. This was a major obstacle for buying at our required discount.) Now, we avoid the 90% rule and we only

have to convince the executor of our price, which I will explain later. We can also avoid taking our offer to court for confirmation of the sale; this was another reason probates were not the greatest properties to buy at a discount in the past.

Let me try and paint the scenario of how a good, discounted purchase under the old probate law would be hard to close. An estate house is court-appraised at \$200K. Now, please understand, this is not a formal appraisal by a licensed appraiser, but what is called a “windshield appraisal,” usually performed by an accountant approved by the court to act as the probate referee. They are often wrong on their appraisals, but usually they are wrong high rather than low. (I believe this may be intended to avoid liability if they appraise wrong, and also, knowing that someone can still purchase the property at 90% of this value should keep the appraiser out of trouble.) Bottom line, it’s a waste of time and costs the estate money.

Back to our example; a probate referee appraises an estate home for \$200K. Through our tracking research, we know it’s worth \$220K. We make an offer at the maximum discount allowable (court supervision) for \$180K. Executors will sign these offers at 10% below appraised price almost every time, since this is the court procedure and they don’t question it. So now we have a \$40K gross equity position if we buy. After inspection reports and closing costs, we feel we can make \$25K on this house. Wow, great deal, huh?

Well, yes, \$25K is a decent profit, but in reality, you’d be outbid in court by someone (usually me) who is tracking overbids, either a broker for his client or an investor looking to buy and hold at a discount. This is where most of the competition is in probate investing. People looking for these types of deals start with the Notice of Confirmation of Sale,

which is public information and tells them everything about the sale going to court approval, including the buyer, agents, price, and terms—everything they need to know to decide if they want to pursue this in court and overbid you. Most of the time, they do.

So, in reality, your offer of \$180K will never see closing, and you’ll have tied up the \$18K (10% deposit) required by the old court confirmation procedure. You would have wasted time and tied up your money on a property that you would lose 9 out of 10 times. Well, not any longer, since you are a DF student!

Getting back to the new probate law (IAEA), we can now have the executor sign our offers at any price, and if there is an appraisal already, you can have it changed (not easy, but it can be done). We don’t have to place a 10% deposit with our offer, our sale isn’t published, and we don’t have to go to court for confirmation and most likely be overbid. We can also close the escrow within 30 days. Wow, things really did change, didn’t they! The IAEA is a goldmine for those who know how to use it. Soon you will.

You may be wondering why the court would do this, since it sounds like all they did was help investors purchase at bigger discounts. Well, true, but the law actually helps those estates that have the right agent market the property at high retail without the red flag of a distress probate situation. It can allow all buyers to look at the probate, which will promote higher offers. What I do is work both sides of the IAEA, explaining this to the estate and giving them the option. More on this process later.

If you ask 100 investors and agents their opinion about probate real estate, the majority of them will tell you probate takes 6 months to close, the sales commissions will most likely be discounted, and your offer most likely will be outbid in court if you purchased under market.

I say, “Don’t listen to these people.” We want them to keep thinking this way. They know nothing about how probate real estate can and should work. They have probably never been involved in a probate sale and are following some other person’s opinion or theory. Most people are followers and not leaders; this leaves lucrative opportunities for those who don’t follow the norm.

For now, all you need to understand is that the Independent Administration of Estates Act is the heart of the DF system, and very few investors, agents, or attorneys really understand how to incorporate it to the benefit of the estate. I do, I make thousands from it, and soon you will too.

HOW TO FIND PROBATE PROPERTIES

Before we dive into this, I want to caution you not to try to analyze the complete probate process. It will only impede your progress. Just try to understand how to find the properties, and as you do your research, you will become more familiar with the probate system. I still learn something new with every probate I buy, sell, or list. You will earn as you learn. Try to keep this in perspective.

When I first started tracking probates, I targeted an area, which included 4 cities, about 8 square miles, and a population of about 400,000. I had been selling properties in this area for the previous 14 years, so I knew the prices. I advise you to start in an area you know; otherwise, on top of working this new system, you will also have to educate yourself on

the property values in order to determine the right prices to pay.

You will have two choices to start your tracking. The first option is what I did for the first 8 years, which worked perfectly. The second option is what I do today, because I don’t target now and work the entire county. The choice is yours.

ORIGINAL SYSTEM (1992 “DF”)

Monday through Friday, my local paper publishes legal notices, including Notices to Administer the Estate (Supplement #1). These notices are our starting point. These notices are usually printed in the classified, local, or sports section next to the Notices of Trustee Sale that you all are probably aware of. If you can’t locate the notices, call the county probate office and ask where the notices are published for your area. They aren’t always published in the paper of the area where the property is located, but for now, you will have plenty to work on. There may also be a legal newspaper in your county that publishes Notices to Administer the Estate; call your county clerk’s office to ask about this. The county requires the Notice to Administer the Estate to be published in a newspaper of general circulation. This is how the word is given out so creditors can make their claims against the estate.

Two copies of Notices to Administer the Estate from my local paper are reproduced here (see Supplements #1 and #2), so you will recognize and be able to locate them. The Notice to Administer the Estate is placed in the paper by the estate’s attorney or petitioner (executor) on three separate days.

Each weekday cut out the Notices to Administer the Estate in your paper and examine them. Only cut out the notices for that particular day, so you don’t duplicate in following weeks. Now, let’s look at the

information you will need to extract from the notices to start your property search.

(Open Supplement #1)

DECEASED PERSON'S NAME

When you look at the Notice to Administer the Estate (Supp#1), there will be a name listed at the top. This is the person who passed away. The name is the first piece of information we will use to start our research. We will run an In Tax Search (supp#3) searching the tax assessor's rolls, either online or on microfiche to see if the person did in fact own any real estate in our target area. Note: If the deceased used any AKAs (meaning "also known as"—aliases, maiden names, etc), they will also be listed here. This is important because the deceased may own real estate in our target area under another name.

PROBATE COURT CASE FILE NUMBER

This is the court number assigned to this case and our reference number when we go to the courthouse. The location of the court where the file is located is also indicated in this number. In a probate, the attorney establishes a file at the courthouse where all documents related to the probate proceeding will be kept and tracked as the probate progresses.

In the sample notice (Supplement #1), the court case number is preceded by the letter H This indicates this file will be stored in the Hayward courthouse file room. The other sample starts with the number 2, which tells me this file will be kept at the Oakland courthouse file room. You will need to know your County codes to determine courthouse locations if you have more than one courthouse to track. Just call your local county probate department or court file room and ask how the case files

are assigned at each court of interest. These files are public information and anyone can review them. In the files, you will find all-important information relating to this particular probate.

(Revised) In Hayward/Oakland court, the files are now preceded by RP00 (Supplement #2). Since I go directly to the courthouse each week, it's not a biggie.

If you are using your local newspaper, most of the Notices to Administer the Estate will be located at your local courthouse. When I first started I traveled between the Hayward and Oakland courthouses, but I spent most of my researching time in Hayward, about 3 miles from my office. Living close by is not necessary, however; you can work any area you wish. The important factor is how knowledgeable you are about the area prices.

EXECUTOR OR ADMINISTRATOR'S NAME

When the probate process begins, there must be someone to conduct the business for the estate, watch over the assets, pay the bills, provide important paperwork, and generally carry out the wishes of the deceased per the will. This person is called the executor. When there are no heirs or will, a special administrator will be assigned by the court to handle the requirements; however, we are concerned with those probates where there is a family member or friend handling the affairs for the estate during probate and acting as the executor. This person is very important to us. He/she can petition to sell or list the property without court supervision under the Independent Administration of Estates Act.

Administrators often do this for a living, and it has been my experience that they are a dead end. The only suggestion I have about dealing with administrators is that if you are an agent, start working them

for their listings. I have an agent acquaintance that receives most of his business from administrators and attorneys giving him their probate listings. This could be a great source of income if you can work out something with them.

EXECUTOR PETITION COURT HEARING DATE

The person named, as executor of the estate by the deceased must go to court and receive approval to act as the executor, even though he/she is named in the will. The executor petition court hearing date is the date when the prospective executor will go to court for approval. Upon approval, the executor will have approximately 90 days to complete the court-required procedures. Most executors will not deal with you in regards to selling until they have been approved by the court as executor. Make sure you stay on top of your dates.

Now, if you are good and very persistent, you can attend these hearings and seek out the executors. You can introduce yourself as a party interested in the property and give them your card. I don't do this, but some of my students have asked about it. I prefer to work only on probates where there is interest after my letter of inquiry, but you can make your own decision once you know the system.

What I have done in the past is present an offer to a proposed executor who told me he loved my proposal but couldn't sign it yet because he hadn't been approved as the executor. I convinced him to sign my offer subject to his approval as the executor. Once you have a signed offer, everything changes.

Anyway, the executor is the person we will be contacting first and hopefully befriending. He/she is the cornerstone of our buying process.

ATTORNEY FOR THE ESTATE

This is where we find out who is representing the estate in regards to the probate. We will need to deal with the attorney, but the difference will be in positioning (more on this later). We will need the attorney's name, address, and phone number, and here is where we find it.

Attorneys are busy people, and for the most part, won't respect what you do. Attorneys can be a great source of business, but getting on their good side and receiving referrals from them is tough. They generally already have a long-term relationship with an old college buddy who is a real estate agent, or just a relationship with a local one. Be persistent, but not pushy, and when you do get a probate from an attorney, use this to show the service you provide. It could pay off. I personally haven't chased attorneys for some time now, but I believe we should. (A key I learned a few years back is finding out how you can make the attorney's job easier during the probate. Most attorneys have paralegals do the day-to-day probate tasks and really don't get involved until the court appearance, contesting of the will, etc.)

For now, we will just gather the information on the attorney for when we need it later.

DATE OF "NOTICE TO ADMIN" PUBLISHED IN NEWSPAPER

When the Notice to Administer the Estate is published, it will be printed for three days. If you look at the bottom of figures (supp#1 & #2), you will see the three dates (new updated dates). The first date is the issue we are interested in; only this date. Make sure this is the issue of the paper you're looking at.

We want to make sure we don't duplicate notices, so only work them on the first date. If you open the paper the morning of the second date and see this notice for (new name), you will know you have already addressed it.

If you look at the Notice to Administer, you see the statement "The Petitioner Requests Authority to Administer the Estate Under the Independent Administration of Estates Act." This is the executor petitioning the court to sell the property without court supervision (from our focus). Read the complete paragraph in the Notice of Petition to Administer the Estate and become familiar with it. This is what will allow you to purchase or list the property directly with the estate and avoid much of the court's red tape and supervision. This will also allow us to dictate to the estate's attorney how the sale is to be conducted, although working with the attorney, rather than against him, is easier and better for future business.

Now you have a week's worth of Notices to Administer. What do you do with them?

WHICH ESTATES OWN REAL ESTATE IN YOUR TARGET AREA?

On Friday, after you have cut out the day's Notices to Administer from the paper, place them in alphabetical order and head for your

favorite title company. If you don't have one, call a few; tell them you will be buying and selling and you're looking for a title company who can offer you good customer service. What you will want is access to the Tax Assessor's microfiche (or an online PC if you don't

have your own) so you can check to see if each deceased person

owned any real estate in your target area.

If they have one, tell the customer service rep that you would like to use it once a week to research the tax rolls. Title companies want your business and should allow this. If you can't find one, contact a real estate agent whom you may want to do business with and request access to the tax rolls.

Once you have access to the tax rolls, run a search of every name on your week's notices to see if any of them own real estate in your tracking area. The county tax assessor's office keeps alphabetical records of everyone who owns real estate in the county.

If a person owns any real estate in your tracking area, print a copy of the assessor's roll and highlight the name you are tracking. (Supplement #3a) is a copy of the tax rolls in my county.

On average, 50% of the names on your list will own property. If you use a local paper rather than a County paper, most of the property owners you research will be in your target area. I use the *Daily Review*, which is the Hayward (Alameda County) newspaper. Its Notice to Administer the Estate is largely in my tracking area. The big city paper, the *Oakland Tribune* (now Alameda Newspaper Group), lists few if any notices for my area.

Attach any Notice to Administer the Estate for property owners in your target area to a Probate Tracking Sheet (Supplement #4a). Also, staple the copy of the assessor's roll for that particular person to the back of the tracking sheet.

You now have copies of the Notice to Administer the Estate linked to owners of real estate in your tracking area. In the next chapter, we'll look at the Probate Tracking Sheet in greater detail.

REVISED PROCEDURE FOR NOTICES TO ADMINISTER THE ESTATE

The above system for finding notices and checking the tax rolls for property owners is the one I used until around 1998. You can still use this system if you like, but there is a better, less time-consuming way. If you still want to follow the above steps, you can now check the county tax rolls online in the comfort of your own home or office and save the trip to the title company.

For those of you who want to save even more time, this may work better. Rather than cutting out the Notices to Administer the Estate each day, then checking at the title company for property owners, and then making a trip to the probate file room, I now bypass everything but the trip to the courthouse.

All the new probate files are usually kept on the front desk before being filed the following week. I go down on Friday, fill out only one card, and request all the new probate files for the week. They may give me 15 to 25 files, but many will be for items I'm not interested in. Some files may have to do with family matters (minors) and have nothing to do with possible real estate.

I go through each file, head to the Notice of Petition for Probate (which you will learn about in the next chapter) and look for those who own real estate. I no longer track only 4 cities, but all of Alameda and Contra Costa Counties. I'm only interested in finding estates with property, so I shotgun the process. It saves me time, since my area for tracking probates has grown.

Some courthouses have stopped allowing access to new files without a court case number; so if your courthouse is like this, use the original system to

find files. Either way, you will get to the files, but it does help eliminate a few steps if the files are accessible.

GOOD NEWS!

If your courthouse only allows access to files with a court case number, it will eliminate much of your competition because they will most likely be too lazy to gather the petitions, check for real estate, then access the files. So it's all-good either way

2

PROBATE TRACKING SHEET

One of the most important tasks will be gathering the pertinent probate information from each file. Although these files are thick with many forms, you will only need certain information to work the DF system. As you search each probate file, you will be looking for specific information I teach you to document. It is important to understand that only this information will be used to locate the right probate properties. You'll need to know what to look for.

If you look at the original Probate Tracking Sheet (supplement #4a), you will see the information we will need to complete as we go through each file. I have numbered the items for your review. Let's go through each one, but I will only be highlighting the information here. I will go into more detail on how to locate specific information in Chapter 3. For now, familiarize yourself with what you will be looking for in each file. (Supplement #4b) is my current tracking sheet but the information gathered is the same with some rearranging.

I will be discussing both the original way I used this tracking sheet and the new revised way. Let's start with the old Probate Tracking Sheet (Supplement #4a)

NOTICE OF PETITION TO ADMINISTER THE ESTATE

I used to tape or glue the Notice to the left margin of the original tracking sheet under the heading "Notice of Petition (Death)." I highlighted the deceased's name and case number for later reference.

(REVISED)

On my new tracking sheet (Supplement #4b), I no longer attach the "Notice of Petition to Administer the Estate". I just added to my tracking sheet what information from the "Notice to Petition" I need. Remember my revised procedure no longer cuts out the "Notice of Petition to Administer the Estate". Everything I need is in the file.

OUT OF STATE: YES OR NO

One of the greater probate opportunities and a flag we look for is when the executor and heirs are out of the state, or at least far enough away to make a day trip to the subject property inconvenient. If they are, they will be more likely to want a fast sale so they don't have to worry about a vacant property so far away.

I have gone as far as taking pictures of the subject property if it looks rundown or vandalized to give the heirs incentive to sell quick before more damage is done. This is a key point, so don't take it lightly.

On your tracking sheet, check Yes or No to indicate whether the executor of the estate or the heirs live out of state. If they all do, you've got a hot prospect for a Level 1 purchase. When you set up your filing system, a separate file will be kept for out-of-state executors and heirs.

EXECUTOR'S NAME

Very important! This is your first contact and the person you most likely will have to deal with to make your deal. We need to know the executor's name, address, phone number (rarely documented), and relationship to the deceased (spouse, child, brother, sister, parent, friend, attorney).

If the executor is the spouse, I do not send him/her my letter of inquiry, which you will review later. The reason for this is compassion. In my early years of tracking probates, I sent a letter to everyone, spouses included, but my letters sometimes reached the loved ones of the deceased within weeks of their passing. This is still a time of mourning, so give the spouses their time. What I do in this case is send the letter to a child or sibling of the deceased, who can pass it on to the spouse if interested.

I have had some irate phone calls over the years from spouses who didn't appreciate my letters regarding their homes. Treat people right; if they are going to sell, you most likely will still get a shot without having to disturb the spouse in their time of loss.

SUBJECT PROPERTY ADDRESS

The most important thing is to know which property we are tracking. This is where we list the address, including zip code. If you're good, the street name should give you an indication of property values in the neighborhood.

You will also list the value the estate has given for the property. This is their opinion, and most of the time it's wrong. What I get from this is the mindset of the executor and heirs towards value. It comes in handy, so list it.

We also list liens here; this comes later, either when you speak to the executor or when you have a lead on the property and order a property profile from your title company. The profile will show all liens of record. This indicates how much equity is in the estate; do they have room to discount, or is the estate property loaded with loans with little equity? If this is the case and they call me, I may go after a Level 2-3 deal right away.

Also, the court appraisal will be listed here, although it is not necessary under the IAEA.

Confused? Don't be; this will all be explained in later chapters. Remember, I'm highlighting the most important points here.

WILL INFORMATION

As you read the will, check the appropriate Yes/No boxes on the tracking sheet. These items will help you approach the executor and/or heirs; they are important guides to the disposition of the property.

You will learn how to scan the will and look for key words. If there is no will, just mark No. I will explain "Full Authority" and "Without Notice" later when I go into detail.

HEIRS

As I mentioned earlier, there will be a page in the file that lists all heirs and their relationship to the deceased. What we are looking for in regards to the tracking sheet are the heirs who have an interest in the estate real estate. As we scan the will, we note the names of the people who will inherit the real estate and the share each one receives on the sheet.

TRACKING DATES

This is very important. I log everything I have done with this probate here. Keep in mind, once we re-search the file, we may not be back unless there is a lead or we are doing a check.

We log when we first researched the file, when a letter was sent to the executor, when a lead phone call comes from the estate, the date we inspected the property, the date we made an offer. The remarks are to add any information that may be helpful in regards to what the contact from the estate says.

STORING INFORMATION

The tracking sheet contains everything you will need to find the heirs, to determine what they estimate the property is worth, and to enable you to read the will. As you track, you will accumulate many Probate Tracking Sheets (one for each Notice of Petition to Administer the Estate). You will need to set up a filing system, or you run the risk of confusing or overlooking properties.

I arrange my files chronologically by the month, and any property I track is filed by the month when the Notice of Petition to Administer the Estate first appeared. If it is a hot property, I place it in a Hot File. Hot refers to a property controlled by an executor and heirs from out of state or a home that has a

loan and is going to foreclosure. I file the remainder of the tracking sheets in a monthly file. If you want to stay on top of all your tracking sheets, you can go back through the file every 90 days to see what is going on since your first check. I don't do this, however.

Because I track such a large area, I only respond to those estates that contact me after my initial letter. When an executor is approved, he or she becomes responsible for numerous details. As a result, the executor may not immediately respond to your letter or calls concerning the property. However, as the probate nears completion, you will hear from the executor if he/she is interested in selling or at least curious about the situation. Always track a probate property until you are sure it is not available. Everything that happens during the probate process will be in the court file. You will know when the property is going to be sold or which heir is going to receive the property. You must be persistent. Of course, you can't get them all, but you must try in order to be successful. As you do more and more tracking, many opportunities will present themselves to you if you don't give up. It took three months for me to complete my first probate property, but I netted close to \$15,000 (low payday now in 2005) and so did my partner. What's more, I learned shortcuts to assist me in future dealings.

Note: I no longer track every probate, only those that respond, since I track such a large area. When I first started up and had a smaller area, I tracked everything and checked each probate file every month for new information to help me purchase the property. I recommend this if you are tracking under 25 new files per month. Keep sending letters and letting the estate know you want the property. This will improve your chances.

Now, let's go through each of the probate tracking sheet items I have listed and show you how to locate this information in the court probate file.

SEARCHING THE PROBATE FILE

You are now ready to review the probate file, which is kept at the court. You must determine where the file rooms are located for each courthouse in your county. Call the county probate department or your courthouse file room and ask where the files are kept.

Look at the sample Notices to Petition the Estate (Supplement # 1). Remember, the letter H preceding the court case number tells me the file is in the Hayward Court file room, and the other court case number (Starts with number 3) tells me the other file is in the Oakland Courthouse file room. This is how I locate each particular file. You should visit your courthouse and find out where the probate files are kept. Also, find out how you access the files and if files are kept at more than one courthouse in your county. Yes, this involves some legwork, but if you're serious about this probate opportunity, just do it.

FILE ROOM

You now have a handful of Notices to Administer the Estate for property owners, and you know where to find the files. On Friday morning, after leaving the title company, head over to the courthouse where the files are kept.

(REVISED)

Remember, this is the old method I used for many years. You can do it this way or do what I do now. I head over to the courthouse on Friday morning and ask the file clerk for all the new probate files. This will save you time at the title company and cutting

out notices every morning, but you will spend a little more time at the courthouse going through all the files and sorting out those dealing with real estate. (There may also be minor court issues files, conservatorships, guardianships, and some other files, which do not interest us.)

There will most likely be a counter in the file room at which you can request your files. In my area courthouse file rooms, they use a large manila file request card; to see how your court file room does it, just ask the clerk. Fill out the form, give it to the clerk, and the clerk will pull the file for you. Easy, except you will need a separate request card for each file you want to research. (supplement #5) is a copy of the request form used in Alameda County.

Examining the request form used in Alameda County, you can see that you are asked to provide the date of request, file number (court case number on the Notice to Petition), reason for the request, your name, address, and phone number.

The file number is the case number from the Notice to Petition, and the reason you are requesting the file is to review it. That's all you need to enter. Remember, you have the right to review the file; it is public information. Some file rooms may limit the number of files you can pull at any one time. My courthouses allow 10 in Hayward and 3 in Oakland, so make sure to ask the clerk.

(REVISED)

As of 2004, one of my courthouses no longer has the new files for the week available, so I have to pull each new Petition to Administer the Estate which deals with real estate separately.

The good news is that most court file rooms are moving toward using a computer to access the files. In my county you can also access them from your

home computer, although we are still working this out. Not all the forms in the file are accessible from the computer, so we must have the Notice to Probate or Administer the Estate.

So now, I pull the Notice to Administer the Estate from the paper or legal news, note the file numbers for the week, then head down to the courthouse and jump on their computer. It takes me about 20 minutes to go through the files and check the Notices to Probate to find out if there is property. You could check before you go, but I don't, since I'm there anyway to check overbids. This will help you if you can't access files without a file number and want to save time.

RESEARCHING THE FILE

In each probate file, you will find a variety of forms pertaining to the probate process. Most of these forms don't have the pertinent information we need. If you concentrate only on what you are looking for and don't try to understand every detail on every form, you will have an easier time learning the system and spend a lot less time researching files. After you have searched through a few dozen files, you will begin to master the mechanics of probate.

Now, under the old system, if you are cutting out your Notices to Petition and searching the tax rolls for property owners in your target area, you will head down to the courthouse on Friday to research these files. You may have anywhere from 10 to 25 files to research; before you fill out cards for every one and hand them all to the file clerk, ask how many cards you can hand them at a time. If you do this, file clerks will see you are trying to make their job easier and be more inclined to help you. The Alameda courthouses have two different systems: Hayward allows 10 cards at a time, but Oakland allows only 3. They file in numerical order, so make

sure your case file numbers run in order so they can pull the files without having to backtrack. Again, after you research a few dozen files, you will begin to master the mechanics of probate.

(REVISED)

As of 2004, most court file rooms are online, so you can access the register of actions for each file directly from their computer or do it from your home. Ask the court file room clerk how the process works; this may save you time filling out file cards. Not all courts are online or have the probate files available, however, so check it out.

PETITION FOR PROBATE

The first form to examine in the probate file or online is still the Petition for Probate (Supp 6A and 6B). Let's examine the form, but I will only be discussing the information we need to do the DF system. Don't confuse yourself with trying to understand anything but what we need.

On the Petition to Probate, the attorney for the estate requests that the court approve the petitioner as executor. The petition confirms who the executor is likely to be. This is the person you will contact first. The person should be the same one named on the death notice where you started, and should be referred to as "Petitioner."

Write the name of the person or persons requesting court approval as executor on your tracking sheet under (Supplement #4b) (#4 Executor's Name). On the back of the petition, or more likely, on a separate sheet which lists all the heirs' names and addresses, you will find the petitioner's (executor's) name, address, and relationship to the deceased. Note it!

On the Petition for Probate (supplement #6), under number 2C, you'll see a statement indicating whether the executor is to have full authority or limited authority to act under the Independent Administration of Estates Act. "Full Authority" is a key, as it allows the executor to sell the estate property directly to us without having to go through the court red tape and confirmation process. We look for estates that can act under full authority, as this is our best chance at a Level 1 purchase. "Limited Authority" means that the executor must have court supervision for certain acts, including selling the real estate of the estate. Even if we find an executor who wants to give us our price, under limited authority, the offer most likely will have to be confirmed in court, and the chance of having your discount purchase overbid is too high to waste time on these.

The type of authority granted to the executor is a key factor in determining which Level 1 deals to pursue. I will have more to say on this matter later. For now, indicate on your tracking sheet under "Will Information" whether the executor has full or limited authority. (Item 2c on the Petition for Probate will have two boxes: Full Authority and Limited Authority.)

Now, we know the estate can do certain things with limited authority, but I want you to look for full authority first (Level 1). We still send letters of inquiry to executors with limited authority, since we can work a Level 2-3 with them and possibly look at a Level 4 if it is going to court and was purchased low.

ADDRESS OF RESIDENCE AT TIME OF DEATH

This is the property we are going after. This will tell you if the property was the deceased's residence at the time of death. If it was, there is a good chance it may be vacant. The estate may want to sell the property quickly if it is vacant to avoid possible vandalism or having to visit the property to check things out. You may want to make a note on the tracking sheet if the property is vacant by placing a "V" next to the Subject Property Address item.

It is also possible that the deceased owned more than one piece of property; if so, it may be named in the will, but the best bet is to check the assessor's rolls to see what the person owned. If you do a name search in the county where the property is located, you will find all property that any particular person owns.

PROPERTY VALUE OF THE ESTATE

In Item #3c of the Petition for Probate, the estate's executor estimates the value of any personal or real property owned by the estate. You will see how the property you are tracking is valued by the executor. This will give you an indication of what the estate feels the property is worth. It will not guarantee a sales price, but it will give you a starting point.

Many times, the estimated value from the estate will be much lower or higher than you know property in the area is worth. We use this value from the estate as a hint to the executor's frame of mind in regard to value. Remember, there is no court appraisal under IAEA, so if the estate feels the property is worth \$300,000, you know it's worth \$325,000, and you buy the \$300,000 property for \$270,000, then you have built in a \$55K gross profit for you, even though in the estate's mind it was only a 10% discount to you. If this was a court confirmation sale,

the official court appraisal would have had to come in at \$300K also, but this happens often. Remember, these are accountants doing a drive-by appraisal. The other side of this coin is if the estate thinks the property is worth \$350K and you know it's worth only \$325K; in this case, the chance of you getting the property for \$275K is going to be tough. Not that it can't be done; you will have to educate them on the actual value, then deduct expenses, including fix-up, commissions, and holding costs, to re-establish the true value.

List the estate's estimate of value on your tracking sheet under Subject Property Information (#5).

PERSONAL PROPERTY

You will notice that next to the real estate value on the Petition to Probate, there will also be a personal property value. This tells you what the liquid assets of the estate are. If the number is large, there may be personal property (cars, jewelry, furniture, antiques, etc.) that you may be interested in and can pursue. Later, in the Inventory Statement, everything will be listed and a value given by the court referee. If you want to chase personal property, this is your starting point.

I personally don't chase personal property. Over the past 18 years of doing probates, I've found that the heirs usually pick over the valuable personal property and what is left is usually flea market items. In my opinion, this is a waste of time, but if you're interested, this is where you start.

WILL OR NO WILL

We will need to know whether the estate has a will. The will gives the executor power to sell property, so we can find this two ways in the file. First, on the back of the Petition to Probate, you will see a state-

ment with boxes asking if the estate had a will or no will. If there is a will, note it on your tracking sheet under Will Information. You will concentrate your Level 1 searches on property where the deceased has left a will and where the executor is acting under the Independent Administration of Estates Act (IAEA). If there is no will, we will still send a letter, but we will be looking for a Level 2-3 opportunity. It's possible for "level 1" but don't count on it.

The address of the petitioner (executor) may or may not be listed on the back of the Petition for Probate. If it is not, you can usually find a separate form in the file which lists the executor and all the heirs to the estate, including their addresses and relationships to the deceased. Just flip through the file until you find the form. Concern yourself for now with the petitioner's address only, and note it on your tracking sheet under Executor Name & Address.

Now, you will also have the names of all the heirs listed on this form, but we are only concerned with those who have been named in the will as having an interest in the real estate. For those who do, list their names, addresses, and relationships to the deceased on the tracking sheet under Heirs with Interest in Property.

(Supplement #7) is an actual Last Will and Testament with the names blacked out for obvious reasons. We'll look at this in greater detail later. (Supplement #7-2) shows a couple of the heirs listed in a will on the form.

To summarize the information learned from the Petition to Probate, your tracking sheet should now contain the following information:

The Executor's (Petitioner's) name and address
Executor's authority (full or limited)
Value of the real estate of the estate
Will: is there one or not?

Heirs (names) with interest in the property

Two other important forms you will find in the court probate file will be the Letters of Testamentary (Supplement #8) and the Order for Probate (Supplement #9). The Letters of Testamentary give the executor the court-approved power to sell the property (our concern). Furnish your title company with a certified copy of the Letters of Testamentary (you can get a copy from the file clerk). This allows the title company to accept the signature of the executor for transferring the property over to the new buyer (us) when there has been court confirmation and an order authorizing the sale. The Order for Probate is the court confirmation (not overbid) that the executor has been approved by the court to act with full powers for the estate.

Make sure you note on your tracking sheet under Tracking Record the date you searched the file and what forms you examined. This will help you remember what you have done with each file when you talk with the estate.

To recap, at this point in your search, you know who the executor and heirs are. You know their addresses and the estimated value of the property you are tracking. Now what do you do with this information? Once you have searched the week's files, you will have a number of properties for which to approach the executor and heirs. However, before you begin the inquiry, let's discuss the court files you searched which did not have a will but did have real estate.

IF THERE IS NO WILL

If there is no will, most likely any sale will have to go through the complete court confirmation process. You can still track these properties, but only look for a Level 2, 3, or 4. You probably won't be

able to purchase these at a discount, but as an investor, you can tie one up and assign it to another buyer for a fee; if you're an agent, you can sell the property to one of your buyers for a commission. The right Level 4 overbid can make you a Level 1 profit. Remember, you will be tracking many properties, and only a few will produce \$25K-\$50K paydays. You must direct your effort toward the property with the greatest potential for a Level 1 profit.

The beauty of working probates the DF way is that there will be many Level 2-3-4 opportunities for you while you are waiting for the right Level 1. We keep busy with nice paydays while waiting for the big ones. Work them all, and your income will soar.

Send the estate a letter of inquiry and ask if the property is going to be sold. If there is a positive response, you will want to do more tracking on this property. Since probates without a will usually go to court confirmation, a purchase at 75-80% of retail will almost always be overbid by someone who reads the Notice of Sale. This is where most people who track probates start. Since this is the case, the best way to work these probates if you're an investor is to tie up the property in your name or assignee's name at a price 10% under appraisal, providing the appraisal is right. You will then find a buyer and assign your contract for a fee (Level 2). If you're an agent, you tie up the property, then come back later with another buyer, who will pay a price which includes a commission to you. More on this in the Level 2 chapter. For now, just understand that there are many ways to earn from probates.

If you plan for the overbid, then there is a good chance no one will outbid you if the overbid price is retail or over. I will show you how to do this when we get to the Level 4 chapter.

IF THERE IS A WILL

If the Petition for Probate indicates there is a will (Supplement #6a), a copy should be in the court file. Spend the time to read it carefully. Especially when you first start the DF system, you must become familiar with how wills are worded. Soon, it will be second nature to you, and you will quickly find the information we need.

In a will, the deceased declares his/her wishes for the distribution of the assets of the estate. The will tells us which heirs receive an interest in the property. You will list on the tracking sheet (under Heirs' Names and Addresses) only the names of the heirs receiving interest in the real estate. The remaining names won't be necessary, since they have no interest or say in the real estate. You want to deal only with those who can make a decision. Although the executor is the one who has the power and right to sell the property, in actual practice, executors are concerned with doing what the other heirs want. This will be an obstacle you will have to deal with, but I'll show you how I do it.

I recommend that you read each will as you search the files. Within a few months, you will become familiar with wills and should be able to scan them for key information within a few minutes. Let's discuss the information you will need from the will. I have circled this information. Most wills are written basically the same way; concern yourself only with the information circled. This is all we need to work DF.

THE WILL

The will names the person who created it (the deceased) along with his/her spouse and children, if any. This tells us who the players are and whether the deceased had a living spouse at the time of the will. If the spouse is also deceased, the form where

the heirs' names and addresses are listed will identify them, including spouses and if they are living or deceased. If a spouse survives the deceased, the chances of doing a purchase go down considerably. I have no real hardcore reason for saying this, but over the last 14 years, I have found most of my opportunities are in estates where there is no living spouse and the children or other relatives are handling the affairs of the estate. If there is a living spouse, he/she most likely will remain in the property. However, we do send a letter of inquiry, just in case the spouse wishes to sell. We don't send it directly to the living spouse, but to another heir (providing there is another heir to send to). I have found that sending letters to the living spouse can create some problems, since he/she is still grieving. If the spouse is the executor, you will still contact him/her, but be ready for some flak. Just explain what you do, respect their loss, and all will be good. This doesn't happen too often, but it can.

As you read through the will, the executor will be named. Match this name with the name on the Notice to Administer the Estate. If the name is different, then the original executor named in the will cannot perform as executor for some reason. The person on the Petition to Probate will be the executor once he/she is approved by the court. This is the one we will want to deal with.

The powers of the executor will also be listed. Look for the statement, which includes the phrase, "with or without notice." This tells us the executor can sell the property without notifying others or advertising the sale. This is important, for reasons I will explain.

Under the old probate law, a sale would have to go to court for confirmation and also overbidding. Before the confirmation date in court, the executor or attorney's staff would advertise the sale, including

the price and terms, in a local paper in hopes that anyone interested in the property would show up at the confirmation hearing to overbid. This would not be good for us if we had to go to court for a sale confirmation (Level 1) at a discounted price.

When we do go through the confirmation process (no other choice), we can use the “with or without notice” clause in the will to keep the estate from advertising the sale. Why would the estate allow this? Well, we tell them that since we are placing 10% now in escrow, we don’t want to wait around for 6-8 weeks to be outbid a few thousand. If they want to do this anyway, we will still go do it, but I will find another buyer to purchase at retail at the courthouse if any bidders show up. It’s business here. Usually, the estate wants to sell fast and doesn’t want to jeopardize our sale.

We use this technique if we purchase a probate but the estate insists we go through court confirmation. Again, we can argue that our money (10%) will be tied up for almost 2 months and we could lose the property, so if we must go to court, the sale will be “without notice.” In practice, we don’t use this very often, since we hardly ever go to court with our Level 1 purchases. I also add the “without notice” wording in my offer, just to let the attorney know up front that this sale will not be advertised. I don’t want someone reading that I purchased the property \$25K+ under market and have them call the attorney or executor offering more. You will understand this better when you learn how I construct my offers. For right now, just understand what “without notice” means.

Now, read the remainder of the will in order to get a feeling for what the deceased wanted. This enables you to weed out property that won’t be sold. Maybe the deceased wants a trust set up and the property is to be included. Don’t waste your time

with property that is most likely not going to be sold.

Getting the property out of the court confirmation system is important for Level 1. If you are able to purchase the estate property for 75/85% of retail, you can be sure someone will outbid you if the sale goes to court. You must learn how to structure your purchase in order to bypass the court confirmation procedure.

There are two important clues in the Petition to Probate and the will: the “full authority” and “with or without notice” statements, which tell us that we can pull this probate out of the court confirmation process and keep the sale terms private. This is why we concentrate our efforts on locating estate properties with the above statements.

If you are an agent representing a buyer for the probate property, your interest will be in the commission and not in buying wholesale. I will teach you how to structure your offer to ensure that there is no overbid if you have to go to court. I will go to court if I’m representing buyers for the property who are moving into the home. They can pay more for the property, so a buy at 90/95% of retail is a good one for them. There is a procedure in court for overbidding. By using this to your advantage, you can structure your offer at a price that will prevent most everyone from overbidding in court (not always, but usually, as I have seen some crazy bidding in court from people caught up in the emotion of wanting a home). In the Level 4 chapter, I will teach you how to go to court on the right overbids (5%) and still make a Level 1 purchase.

By the time you search the files on Friday, the information in the new files will only be about a week or two old. There will not be too much information in the file. If the file is not there, just mark on your

tracking sheet under Tracking Record that the file is out, and search for it next week.

Now you have everything you need to start your approach to the estate for a possible Level 1, 2, 3, 4 or 5 payday. Go through the remainder of the files at the courthouse, repeating the search for each file. In the next chapter, I will explain how to approach the estate.

(REVISED)

Remember, I used to cut out all the Notices to Administer the Estate to start my search; I would also check the assessor's rolls to see if the deceased owned real estate in my tracking area. I have been able to streamline this process and wanted to pass on the following information:

If you need a file number to access the probate court file, then stay with the system of cutting out the notices, as originally written in 1992. The difference now is that rather than check the rolls for property, some courthouses in my area (2 of the 3) now have a computer in the court file room we can use. We just log on, plug in the file number from the Notice to Administer the Estate, and WHAM! It's there. This saves me about 45 minutes on each trip to the courthouse. Check to see if your file room has this option.

If you don't need file numbers to access files at the courthouse, just go down and search through the new files each week for probates with property. It doesn't take that much time, and you can bypass all the time pulling the Notices to Administer the Estate, cutting them out, and checking the tax rolls. Of course, you can do it the old way, but these two options will save you time.

(New Revised Probate Tracking Sheet)

I have explained the original way I completed my Probate Tracking Sheet and where I gathered the information in the file. (Supp #4b) is the new tracking sheet I used. There is a copy of it in the supplement form book along with another sheet explaining where I list each item on the form. Same information so don't confuse yourself if you're an existing "DF" student using the old Probate Tracking Sheet. Both will work so it's your choice.

3

CONTACTING THE ESTATE

In my tracking system, I use a PC to write my letters of inquiry (Supplement #10) to the executors. I have a saved form letter, and I can direct the computer to insert the executor name, estate name, and property address into the form letter. In this way, I can write many personalized letters each week without having to take the time to input names, addresses, and other information for each particular executor.

(REVISED)

As of 2001, I now have a laptop, which allows me to take the computer to the courthouse and input the estate information. Not only does this data go on my tracking sheet, it also automatically fills in a letter of inquiry for each estate. This is so much less time-consuming! I highly recommend it. My title company set me up with the software, so ask your title reps if they have this service. (software: Instant Impact)

For those who don't have a laptop, however, let's go back to the way I tracked probates as written in the original *Diamond Farming*.

It is important that you mail your week's letters by Friday. This allows you to remain consistent and have leads out every week, plus you don't want to leave potential properties lying on your desk too long. Contact the estate as soon as possible. You

want to be the first to show interest in the property, whether you buy it or act as an agent.

The way my system is set up, Friday is my only heavy day. The rest of the week, I preview property where the estate has contacted me, check comparables, make offers, and follow existing escrows. If you have a regular job and work 8 to 5, I suggest you do your court work on your lunch hour or hire someone to do it for you. Of course, at first it's better for you to do it, but don't let working 8-5 during the week stop you from probate success! At the very least, find a partner who can do the weekly research; half the profits are better than none. You can also hire a college student or a retired person at minimum wage to do your court research. The point is, there is a way to do it if you really want this.

Be persistent! You can make a ton of money, but when you first start, you may go awhile without a lead or deal. Don't give up; the deals will come if you are persistent. To this day, I still have stretches without any leads or Probate deals but I have learned to do the system week in and week out and they will come. I really hope you understand this, as it will make the difference.

Because I do everything by Friday, inquiries go out on a regular weekly basis. I send a letter to the executor and to each heir who has been willed an interest in the property.

(REVISED)

I no longer send individual letters to the heirs. Instead, I write a letter to the executor and cc: each heir who has an interest in the property. This saves me time and notifies the executor that the heirs have also received the letter. You can send everyone a letter, but once you get busy, you will want to save time. Either way works; you make the decision.

As you can see in the sample letter of inquiry (supplement #10), the letter asks the estate whether there is interest in selling. It is a low-key letter. The purpose is to have someone contact me. Once a contact is made, you will start to build your relationship with the executor and/or heirs. You will become a friend. This will help you if you can't purchase the property at the discount you need. If you're an investor, you want to be able to tie up the property and assign it to another buyer (for a fee). If you're an agent, you want to try to sell it to someone else, or at least get the listing. It is very important to become a friend of the executor.

Read my letter to the estate carefully. It is the exact letter I use. It has been revised many times and is very effective in getting contacts from estates. If you wish to change it, experiment with it after you have used it for a while so you can test your results against mine.

(REVISED)

I also have a letter I use for agents looking for a sale or listing (Supplement #10b). I use this to look for more leads; many of the estates who don't contact me end up listing the estate property with an agent, so I change my letter to approach them as an agent with a buyer for their property. This will also work well, but don't use it if you're not an agent—use the

original letter. I get more responses this way, because not all estates wish to sell at a discount, but they do want to sell. My letter states that I have a buyer ready and the estate won't have to pay a full commission to sell. This has increased my contacts, but Level 1 opportunities have stayed about the same. I'm also looking for listings, remember, which I can sell to my buyers at maybe 5-10% under market. This letter will work.

After all the letters have been sent for the week, I call the executors to see if they received my letters. I use a reverse directory to look up executors' and heirs' phone numbers. A reverse directory allows you to locate a listed number when you only know the person's address. This will help you delete properties that are not going to be sold, and if you're an agent, it's another chance to pitch your services. (Watch out for the Do Not Call List!)

Most executors have never been involved in the probate process, and

frequently they are confused. Your letter will usually arrive before the person has been approved by the court as executor. Most petitioners (executors-to-be) will not contact you until they have been approved as executors, which is why you will contact each estate again after the court has approved the petitioner. You will have the date the court will approve or disapprove the petitioner as executor, so send another letter if you haven't heard from the person after this date. It's more paperwork, but it can bring you an extra deal or two a year. You don't want to miss an opportunity because of poor timing.

Because you will be tracking many properties, you must weed out the ones that are a waste of time. Every probate with property in your tracking area will receive an initial letter of inquiry. After the initial letter, weed out properties that will not be sold by

following the court file or by speaking directly with the executor or heirs. The file will tell you everything going on with the probate.

Let's take a closer look at my letter of inquiry.

LETTER OF INQUIRY

There are four items your computer will insert into the letter. Typing each letter afresh would take a lot of time, and if you use a form letter and type in the new information on each letter, it could look tacky and mass-produced.

(REVISED)

I currently use a laptop computer with software that allows me to input all the information taken at the courthouse into my tracking sheet. At the same time, the software inserts the probate tracking information into my letter of inquiry, so when I return to the office, all I need to do is hit Print and my letters for the week are done. I love high tech! Because I'm a dinosaur, it has taken me longer to find and use these tools. I want to cut my 5-10 hours per week researching to 3-5 hours, so this all helps. Seriously, this will save you time, so if you have a laptop, check with your title company to see if they have this software (it's called Instant Impact).

Back to the letter of inquiry.

Item #1 (Name and Address)

The name and address of the person to whom you are sending the letter. This will be the executor (petitioner) or any heir who has an interest in the property.

(REVISED)

I have just been sending a letter to the executor with a cc: at the bottom to any heir with interest in

the property. This cuts down on the number of letters mailed. You can send individual letters to each heir if you like (probably a good thing), but I don't any longer, as my tracking area is huge now.

Item #2 (Deceased Name)

This is where we list the deceased in our letter. This is the person who owned the real estate we are targeting.

Item #3 (Subject Property)

This is where we list the address of the property we are inquiring about.

Item #4 (Heir's Name)

Enter here the name of any heir who has interest in the subject property per the will. If there is no will, send a copy (or cc) to each heir named in the probate court file.

Address a separate letter to the executor and each heir (or cc). Make sure each party knows all have received this same letter. This way you can be certain that if the property is going to be sold, you will have a chance to bid. All parties involved in the probate will make sure the executor contacts you if the property is going to be sold, as the executor will not want to face possible family issues for not checking you out for a higher offer.

My computer is programmed to insert the necessary information by merging (Deceased Name) or (Subject Property) with the proper data. The letter looks as if it were prepared especially for these particular heirs. All the information you need for the letter of inquiry is on your probate tracking sheet. After you complete a letter, note on your probate tracking sheet that the letter was completed and the particular date it was sent. When you go back to the file in 3 months (if you haven't been contacted), you will know the letter was sent and there wasn't any

response from the estate. After three months without contact, check the file to see what action the attorney and executor have taken. The executor has approximately 90-120 days from the date of court approval to have an appraisal completed and other duties taken care of. Keep tracking the property until you know it is not available. After the initial letter, try to contact the executor (for best results) and/or heirs by phone if you haven't had any feedback. Phone contact is the best, but watch out for the Do Not Call List! If you can find the number, call them after the letter is out (within 3-5 days). Do not take for granted that the property will not be sold if someone from the estate doesn't contact you right away.

IMPORTANT! The only purpose the letter of inquiry serves is to find property that is going to be sold and have the estate contact you. When the estate first contacts you, don't make an offer over the phone. All you want to do is make an appointment to see the property and find out what the estate has planned for it. If you give the executor or heirs a price over the phone, they will eliminate you. Therefore, set up an appointment to preview the property in order to give the estate a price. If they hesitate, a deal will likely never take place. If you do get an appointment, ask for details on the property in order to do an estimated appraisal before inspecting. Set the appointment for two days later or the weekend in order to give you a chance to go back to the courthouse and check the file. The court appraisal may come in, and it will help you give the estate a price that they can accept.

Although court appraisals are not required to sell in California if the IAEA is used, most attorneys will call for one in order to protect themselves from the estate (my opinion) in case the property is sold under market and approved by the attorney. I will show you how to avoid this when possible, but for right now, all you need to know is to set an appoint-

ment and do your homework. Know the property's approximate worth before you go see it. If you're a serious investor, you should already know the general property value in the areas you will target for probate investing. Real estate agents: If you tell the executor or heirs that you are an agent looking for a listing, you won't succeed in probate real estate investing. You may obtain some listings (and if this is your focus, go for it), but if you're looking to buy and sell (Level 1), don't give this information up on the first contact. If you are asked if you are an agent, tell the truth but insist your interest is in buying the property. Since your first objective is to buy the property under market, don't play the agent trump card (Level 2) until you confirm your price is not workable for a Level 1. I actually tie the property up with an offer, then come back after all inspections and try to bring the price down. If I know it's not going to work, I will look for a Level 2 buyer at the same time and use this to earn a commission.

I have done many Level 2, 3, and 4 deals while waiting for a big Level 1 payday. You can make a very good living as an agent just doing Levels 2, 3, 4, and now 5, so make sure to work the plans all the way through. Think outside the box over here, you hear? Now you have an appointment and you know what the property is worth since you checked the comparable sales. If you're an agent, you have all the tools necessary to check comparable sales. If you're an investor, you will need access to the MLS through an agent, a title company, or a comparable service.

4

EXAMINING THE PROPERTY

Now that an appointment to inspect the property has been made, let's discuss what you can pay for a particular probate property to realize a Level 1 profit.

The minimum profit I expect for a Level 1 probate opportunity is now \$25,000. If I have a partner, this will break down to \$12,500 each. Because I'm a real estate agent, I will also receive a commission for representing the partnership as the buyer's agent. If I am also the selling agent when we turn the property around, I will also receive a selling agent commission but not a listing fee. So, I receive 3% going in and 3% coming out if I'm the selling agent; otherwise, this 3% goes to the agent who sells it. As you can see, I earn very well on this, and I have reduced commissions or profits on my end in order to make a deal work. But if the total profit is only \$25K and there is no room for commissions, I will just broker the deal to an end user buyer and earn my 4-6%, which at my prices in the Bay Area would equate to more than \$12,500 for my share. If you are acting alone, a \$25K payday is great, and that's not too hard in probate if your average sales price is \$500K like it is here in California. You must make your minimum profit to take the risk of buying, then flipping.

If you're an agent, you deserve your commission, since this is your livelihood; if it weren't for you, the probate opportunity would have never been found. It is easy to find money when you have a good property. You are invaluable; don't let anyone devalue your role. If your potential partner doesn't like it that you will receive more from the buy/sell, find a new partner. Chances are, you will have nothing but problems with that person anyway.

If you're an investor, and you're finding the probate properties but your partner is putting up all the money, then everything should be 50/50. Again, don't sell yourself short; if not for you and your expertise in finding probates, there wouldn't be anything to split. Again, you will be able to find money very easily once you have a track record. You can find an agent who will represent you on the probates when you re-sell. Have the agent agree to write your offer and run your paperwork on the buy, including comps and whatever else you need from them or their title company, for a 1% fee on the buy and a 3% listing on the re-sell. You should find agents willing to do this, but you may have to go through a few. Don't give up how you do what you do with the probates, only what you need from them as an agent.

NOW LET'S INSPECT THE PROPERTY

If you are a seasoned investor or agent, you should already know how to inspect property. If you don't, partner up with someone who does. You will be checking room count, bedrooms, baths, additions, roof and heating type, and interior/exterior condition. I won't bore you with this; I assume you understand how to inspect a property. Act like you're going to live in it yourself. You will want to know every detail of the property.

Inspect for cosmetic purposes, but also note whether you see dry rot, roof leaks, foundation cracks, or anything which would raise a red flag. You do not have to worry about possible termite, dry rot, roof, electrical, or plumbing problems, since your offer will be subject to your approval of a termite, roof and home inspection. These reports will tell you everything you need to know about these items. Yes, you will have to pay for the reports and possibly lose \$600 if the property needs too much work and you rescind the purchase, but you have to know this information. I will show you a clause to use in your offer that should defray this cost onto the estate if you don't buy.

You must understand, this is a numbers game, and it's smart business to spend some money in order to know what you are buying and if your profit goal is realistic. You can always renegotiate with the estate if the repair costs are too high. Chances are, when the estate reviews the inspection reports, they will be in the right frame of mind to make concessions to save the sale. If not, and the numbers don't work, move on to the next Level 1 property. I will show you how you can still earn on properties you can't buy because too much work is needed.

Remember, you will be looking at many properties and only a few will work for the discount you want (Level 1). We look for 2-4 of these per year, and when we can't obtain the right discount, we try a Level 2-3, so you don't need to push a skinny Level 1. This is the beauty of probate. You have many opportunities to earn. Yes, investors can also earn on Level 2 opportunities (more on this later).

When you inspect the property, you should be concerned with the cosmetic costs needed to bring the property to its fullest potential for a quick sale. Maybe all that is needed is a paint job, carpeting, and some pruning. Of course, many of these probate properties will be in good condition, unlike the foreclosure junk you usually see. Here are some of the cosmetic repairs you might be looking at:

- Painting (Interior/Exterior)
- Carpeting
- Drapes
- Landscaping

I like to call these items "eye candy," since you are doing the improvements to appeal to potential buyers' emotions. If you feel you can't do the interior inspection yourself, hire a contractor and tell him you will give him the fix-up project if he will assist you in inspecting. Also, call subcontractors and get estimates for each job you need done (drapes, carpets, paint, pests, roof, etc.). Soon you will be able to estimate the complete cosmetic fix-up costs yourself. I still call in a contractor to do an estimate for me if I find the property in poor condition. I can do cosmetic estimates, but if I feel there is major work, I want to know.

I usually don't do any improvements, since we want to sell "as is" and at a discount. The fastest way to sell a property is to offer it at an under-market price with the needed work factored in. We also leave enough on the table for the next buyer to see how they can make some sweat equity. Plus, we don't want to invest any more cash into the property and we want it sold before we close escrow on our purchase. For offer purposes, you need to know how much work is needed so you can explain to the estate.

Repairs that are not visible will only produce peace of mind for the potential buyers. You must know the costs of these items and build them into your offer, since your end buyer will take this into consideration when buying from you. Here are some of these items you need to know about:

- Heating system
- Electrical
- Plumbing
- Foundation
- Termites
- Dry rot
- Roof
- Sewer or well issues if private service

Since you are buying the property subject to termite, roof, and home inspections, don't worry about these when you first inspect the property. Also, ask the executor or heirs if they have any reports, but don't worry about it now. These repair costs will come in your inspection reports after you have a signed offer from the estate. If you decide the re-

pair costs are too much and the estate won't bargain with you, you have the right to rescind your offer. Before you do, try to find a buyer for it so you can still earn a fee (Level 2). This is important to understand—you will have many of these opportunities while working probates.

OK, back to the property inspection. At the inspection, you will be looking for cosmetic repairs and improvements that a buyer might require before purchasing your resell. You will have to learn the costs of painting, carpeting, drapes, etc. The more buy/sells you do, the more you will sharpen your knowledge of cosmetic costs. If you have a contractor or handyman give you the estimates, make sure they're broken down so you can get a feel for each item. If you do this, discount the total 15-25% for the profit the contractor builds in and you can get a real feel for the actual cost.

Although my offers are subject to termite, roof, and home inspections, I still eyeball any dry rot or roof problems and make a note on my inspection sheet. This gives me a feel of whether I'm going to have a possible problem when the reports come in.

I use a FNMA appraisal form to do my inspections (supplement #11 and 11B). It lists everything that I want to know about the property. Go through each room of the property and make notes. These notes will be your guide when you prepare an offer for the estate.

(REVISED)

I now use a Property Inspection Sheet (supplement #11C) that I created to make it easier to walk through the property and make notes of everything you need to know. This is much easier than using the FNMA appraisal form, and I want to make this system as easy as possible for you to use. The

FNMA form is also good to use, however, because it shows the estate how great a job you did when you sit down to present your offer and go over the numbers. It's your choice; the new Property Inspection Sheet will work fine. Add to it if you like, but everything you need to know about the property is on it.

You should tape-measure the property in order to compare square footage with other homes in the area that have sold. Of course, you can get the In tax Sheet from the county via your computer, which gives you the square footage, but they are not always accurate; maybe an addition was done without permit and the square footage was not updated. Also, when you do the tape measure procedure, have the executor or heir help you. This lays the foundation of a friendship with the person who is going to sign your offer. If you are an agent, this helps you show the estate what kind of agent you are, and hopefully they will want you to assist (Level 3) them in selling the property if you can't buy it at your price (Level 1). Look at the house as if you were going to live in it. This is how your potential buyer will look at it when you are ready to sell.

Let me say this again: at the inspection, take great pains to make a friend of the person who is showing you the house, most likely the executor. If you come off negative or stuffy, you will have a hard time later on. You shouldn't overdo it on the first appointment or try to convince him/her to accept a low offer. Be pleasant; discuss the probate proceedings. Thank the person for allowing you to inspect the property. Make sure you ask some probate questions to see what they know. If it's the executor, ask if he/she has the Letters of Testamentary yet (this is the court document that allows the executor to sell the property and sign the deed even without court supervision). Ask if the court appraisal has been done, but don't ask about the appraised

value; this may offend the executor. You can check the court file the next day to find out for yourself.

If the executor tells you the appraised value, he/she will either quote the court appraisal or tell you that it came in low. This will alert you to the likelihood of price problems when you make your offer. If the executor tells you the appraisal price and nothing more, he most likely agrees with it, and based on this, already most likely knows he can't sell the property for less than 90% of this appraisal (the old law).

Don't worry about this now, as I have found out that in most cases, the executor doesn't care about the price, only what he has been told he can do. He doesn't want any of the heirs accusing him of selling it too low, so if the court says he can sell the property that appraised for \$300,000 for \$270,000, you won't have a problem getting it signed and the executor will feel good about it. In fact, this has little to do with numbers and everything to do with not wanting to be in the hot seat for selling too low. You need to understand this. (Later I will go into detail on how you circumvent the appraisal process, since the IAEA doesn't require one, and how you can even lower an appraisal to fit your needs if there is one.)

All you are trying to do at this time of inspection is show the executor or heir that you know about probate and that you are a compassionate person who really does care about this big headache they are going through. Bottom line, make a friend. (Of course, you also want to see what you will be buying.) To separate yourself from the others who may come along, you need to establish yourself as the probate expert the estate wants to work with, either in a direct purchase or representation (if your licensed).

After you are finished with the house inspection, tell the executor/heir it will take a few days for you to go over your numbers, check comparable sales, and make an cash offer.

Before you leave, ask whether the executor intends to list the property if an immediate sale doesn't take place. You want to know if the estate has an agent they intend to list with. If you're an investor and they have an agent already, you'll only get one shot, so come in at a price that should make them sign with you. Don't worry, this won't be your final price; your goal is to get a signature, nothing else. If you're an agent, then you will have an option for them if the price you bring them is to low. Again, more on this later.

We have written down the interior and exterior condition, estimated cosmetic costs, and square footage. We have met the executor and made a friend. Now it is time to head back to the ranch and prepare your offer. Remember, we have an appointment to be back in two days with an offer.

SUMMARY

1. Inspect the property as if you where going to move in.
2. Take notes of cosmetic work needed.
3. Tape-measure the house for square footage.
4. Make a friend!
5. Find out the estate's intentions. Will they list?
6. Show the executor you know the probate process.
7. Never make an offer or ask for the listing at the first meeting.

Don't quit EVER!

5

APPRAISING THE PROPERTY

You have now inspected the property and completed the property inspection sheet. You're ready to search for comparable sales so you can zero in on a price to offer the estate. Now, how do you do this?

If you're a seasoned investor and/or real estate agent, you already know how to search comparables and evaluate the property. This is for the benefit of those who may be new to doing this. I also want to show you all, seasoned or not, how I do it so you can see the logic in it and then use it or adjust it for your style.

I'm all about bombarding executors and heirs with too much information. I do this for several reasons. First, I want the executor to know I didn't pull a figure out of the air, but performed an extensive comparable search. I don't want him/her questioning where I came up with my numbers, so I show how I did it.

I check the local Multiple Listing Service for Active, Pending and Sold listings in the subject property's neighborhood. The best comparable is a similar house a block away. You want to check back a maximum of 1 year, but your best comparables will be property sold over the last 3-6 months, since markets change and we want to know what current buyers are paying for like property.

Note: If you do not have access to the MLS because you are not an agent, affiliate yourself with an agent who can run a search for you. Just find an agent, preferably one who works the area you are targeting for probates, and offer him/her the listing when you resell. The agent shouldn't have a problem with this. Have the agent run your searches for you. (Most Multiple Listing Services are now available through the Internet, but you won't be able to access everything that an agent can. I highly recommend finding an agent to work with.)

Title companies have customer sales reps who will run comparable sales checks for you. Many of these sales may have not been through the local MLS, so you want to ask them to check since you will be giving them your business. One warning on using title company comps: they will give you everything, so you will have to sort them out. The MLS is the best, and using both is great, but you will need to have access. There are also comparable sales services where you can pay for a search. Check your Yellow Pages or call a loan agent or title company to find these companies.

Drive by all the comparables and take pictures of them from the street front. You will use these pictures later in your offer presentation.

Go through each comparable sale. If you're using MLS sheets, they will have everything about the

comparable sale: property floor plan, type of roof, heat, cosmetic work needed, remodeling done, square footage, fireplace, flooring type, appliances, reports, etc. You will use this information to compare to your subject property.

I have posted a listing sheet for my area (supplement #12); look it over and match it to the property inspection sheet to see how much of the sheet you can fill out from the listing. Get familiar with reading this and then search your area's MLS sheets. This will be very helpful. If you have trouble finding information you need, ask your agent where to find it. Of course, some of the property information will only come from a visual inspection, so don't worry about this right now. (supplement #13) is from Realtor.com through the Net, where you can find listings on your own. Check the listing example for all the details. These will just be active ones as Realtor.com doesn't show Pending or sold. Compare each sale, pending, or active listing to your subject property. What I do is adjust for differences in each. Some of the adjustments we would make in comparing properties would be square footage, bedroom and bath counts, garages (0-1-2), lot size, age (10 years under/over), interior condition and improvements, and updates or remodels. You have to be able to adjust up or down for anything which may have affected the sale of the comparable to your subject property. I would advise obtaining an appraiser's adjustment guide to help you adjust. In my area and price range, square footage is adjusted at \$20 per square foot, bedrooms (\$4K), single garage to double (\$4K), remodel kit to original (\$10K), no fireplace (2K), paint exterior and Interior (\$2500 each), lot size 2500+ more s/f in lot (\$3K). This is not an exact science, but based on what a buyer would pay to have these items or how they would reduce their offer price because the property lacked this compared to neighbor sales. On the MLS sheet, comparables will be the listed price and sales

price. Take the sales price and add/subtract for items this listing had/did not have compared to the subject.

Example: Listed \$300,000 Sold \$290,000

Bedrooms, 1 more.....-\$4,000

Baths, 1 more.....-\$4,000

S/F.....500 s/f larger...-\$1,000

Lot size.....3000 s/f larger... -\$3,000

Condition: Excellent

Subject was Ave...-\$5,000 (this can be more or less based on overall condition)

Updated Kit.....-\$10,000 (subject was original)

Total adjustments.....-\$27,000

So, with just the above adjustments, the comparable sale of \$290,000 had to be reduced by \$27,000 to compensate for having more to offer than the subject property. In other words, what would a buyer reasonably pay a seller for a property in the same neighborhood where the house sold at \$290,000 if it did not have the above items? Answer: \$263,000. This is, again, subjective, but based on common sense. So now we know our property is worth around \$263,000 at best, compared to the best and newest comparable sale. Sometimes you may be adjusting up, since the subject had more improvements than the comparable, but I think you see the point.

Do this approach for each comparable sale and soon you will see a pattern. Now you are ready to make an offer.

6

PREPARING YOUR OFFER

OK, let's summarize and see where we are. We have inspected the subject property. We have made our notes and checked the comparable sales for adjustments we will have to make, positive or negative, to compare the properties. What I do is take a digital picture of the subject property and one of each of the comparable sales I will be using. I compose a fact sheet for each property with the picture and a breakdown on what it has or doesn't have compared to the subject (supplement #14 Outline Form Only No Pics). What you are doing here is intended to give the executor evidence of what you say the property is worth, not just your word for it. I go into great detail; this serves two purposes. It shows the executor that I did my homework and it will be hard to disagree with my findings; it also shows him that I'm a professional and, in my case, an agent he could list with. Each comparable will have a separate sheet with a picture and adjustments. I break down everything; show the adjustments, then the actual adjusted price of the comparable compared to the subject property. These facts are hard to argue with, so take the time to prepare them.

I also show the executor what the estate would have netted after sales costs on each comparable sale, including a 6% commission. We only assume inspection report costs are clear, but point out if the seller was going to clear any pest, roof, or home in-

spection costs. We need to let the executor know what the comparable property netted. This is where we start our bargaining. More on this later when we present our offer.

Let's assume that the property will bring \$250,000 in top condition, for example. This is the high retail value based on MLS comparables. All the sellers on the MLS pay a commission to sell the property. Since we are buying without a commission to the estate, you need to deduct a 6% commission from the high retail value to find the seller's true net.

\$250,000 Retail value listed on MLS

- 15,000 6% real estate commission

\$235,000 Adjusted sales price

Now, this is the gross net the sellers of the comparable property at high retail would receive after the commission is deducted. There will also be some closing costs, which we have to deduct.

\$235,000 Net adjusted price

- 1,500 Seller's title closing costs

\$233,500 Net proceeds to seller

Now, if the seller sold at \$250,000 high retail, his net after costs would be \$233,500. And this is only if he didn't have cosmetic, pest, roof, or home inspection work to pay for in order to receive high retail. Also, the buyer could have asked for closing cost help, so this figure is often high, but for now we will use it.

Now, deduct the estimated cosmetic improvements and any other miscellaneous repairs other than pest, roof and home inspection, since we don't know these figures yet.

For example purposes, let's use the following figures for cosmetic work on a potential property:

Paint inside.....	\$2,500
Paint trim outside.....	\$500
Carpets.....	\$2,500
Drapes.....	\$1,000
Miscellaneous repairs.....	\$1,000
Total cosmetic costs	\$7,500

Now that we have these costs, we deduct them from the seller's net of

233,500 to find the net adjusted cash the seller would have received:

\$233,500	Adjusted gross net to seller
- 7,500	Cosmetic work needed
\$226,000	Net cash to seller

Even if the seller were to sell this property at the \$250,000 price, which we decided was top retail, he would pay a 6% commission and cosmetic costs in order to receive top retail price. This is very important, as we don't want the seller to have \$250,000 in mind, since this is not the net price he will receive. His cash price is \$226,000 after all costs and cosmetic work are deducted.

Another way to look at it—would a buyer pay \$250,000 for the property if it needed this cosmetic work, or one around the corner all done for the same price? Plus, if buyers know you do not have an agent, they will ask for a commission reduction in your asking price.

Again, in this example, the seller would receive \$226,000 from this sale, providing there weren't any pest, roof, or home inspection items to correct.

Our offer assumes that there will not be any work called for in the reports. The offer is subject to our approval of these reports, so we don't need to worry about being locked in to buy if the reports are large. If the reports prove too costly, we will try to convince the seller to pay for these costs, or at least half, in order to make the deal fly. Show them the reports whether you buy or not. The needed work will be a factor for whoever makes an offer to buy, and the seller will have to disclose these reports to any future buyer if your deal falls through.

If the seller (estate) understands this, they may be willing to pay for the repairs in order to expedite the sale. It is your responsibility to make sure they understand. More on this when we dive into presenting your offer.

You will run up against all kinds of people working probate real estate. You will lose some and win some. Keep in mind the potential profit (\$25-\$50K)

if you can work out whatever problems you encounter. This is a people business, so if you know people and how to explain this common-sense approach, you will succeed. I get 80% of the estates to pay for at least half of the work, so I know it works.

Now, let's get back to our offer. At this point, we know if the seller sold the property for \$250,000, the seller (estate) would realize about \$226,000 in cash, providing there are zero inspection repair costs. This is the figure we will use in dealing with the estate, not \$250,000. After all costs, the estate will only realize, at the most, \$226,000. If they try to convince you that they will sell at \$250,000 and save the real estate commission, make sure they understand that any buyer who comes along will make a lower offer when they know the property is not paying a commission. Make sure you place everything in perspective for the seller (estate).

SHOULD YOU OFFER \$226,000?

If you are in the charity business, OK, but I want to make a profit, so let's move on. What I look for is a \$25,000 profit, so I now have to deduct \$25,000 from the gross net cash amount the seller would expect from a \$250,000 sale. (Your target profit can be whatever you want it to be.)

\$226,000	Adjusted gross net
\$- 25,000	Minimum profit
\$201,000	Adjusted net sales price after adjustments
7,000	Closing costs to close our sale
2,000	Holding cost for 1 month
\$192,000	

Your offer to the estate would be \$192,500 as is, all cash, closing within 30 days. Again, if you can't get it, you decide how much profit you want or spin it as a "Level 2" or if you're an agent find a buyer or pitch the listing. Your offer of \$192,000 is about 23% off of high retail (\$250,000). This is a good Level 1 purchase and happens quite often. Remember, the heirs are receiving free money; this is not a typical seller situation where the seller needs every dollar.

So why would a seller sell for \$58,000 under market? Well, first, you are thinking wrong; it's not \$58,000 off. The estate would only net \$226,000 after commission and cosmetic work, remember. It is your job to make sure the executor and heirs understand this. The estate is coming down \$34,000, or about 13% from high retail net proceeds (\$226,000).

You must paint the picture as it is, so the estate doesn't think they are giving away \$50,000. Also, there are usually several heirs receiving the money from the sale; for instance, if there are three heirs, they would each be lowering their share by \$11,000, and if there are ten heirs, they would each be lowering their share by \$3400. See how this works now?

You must think this way. 95% of the probates I deal with are paid for, so if there were three heirs, they would each receive \$64,000+ from my offer instead of \$75,500. This is really a small difference when it works.

This is FREE money! This has been working for over 17+ years. Yes, some heirs won't go for it, so you will have to take less or move on to a Level 2. If you're working by yourself (investor), you could take a \$15K profit, net the estate more, and move on. Agents, take a commission and sell it. This is the beauty of Diamond Farming.

IMPORTANT! If the property has been court-appraised before your offer, you may have problems. Under the court appraisal system (which is no longer required in California under the IAEA), the estate can sell the appraised probate property for no less than 90% of the court appraised price. So in our case of a \$250,000 appraisal, we would have to pay at least \$225,000. Don't let this alarm you. If this is the case, offer the \$225,000, but include a 6% commission if you're an agent and work credits to bring the sale down to \$199,500. If you're not an agent, bring the price down with the cosmetic work credits and pest, roof, and home inspections, including closing costs help, to get close to the \$192,000 price.

Let's look at how the math would work:

\$250,000 Probate appraised price

\$225,000 Minimum purchase price allowed by probate law

\$ 7,500 Cosmetic work credit (but bump it up if you need more)

\$ 7,000 Closing cost help (3% of sales price) as credit

\$ 13,500 6% commission (if you're an agent) or bump credits for work

\$ 197,000 Net price is still close to your \$192,000

If you're not an agent, find one who will represent you and work out the commission so you can charge it in your offer. Maybe the agent can sell it for you for free when you turn it around. There are many ways you can do this, so think about it.

If a court appraisal must be done or has been done already, you need to adjust your thinking to end up with the same Level 1 target purchase price. Many court appraisals will come in at less than actual retail value. You may be starting with a court appraisal which is already 10% low of retail. I see this all the time.

I have also had court appraisals lowered so they would work for my purchase. You have to submit a reason that it should be lowered to the court appraiser. I submit a copy of the contract stating that the estate wants this sale, a letter explaining why it should be lowered, and copies of comparables based on property condition to support my price. I have had to do this about five times since I have been working probates, and I've received a lower appraisal each time.

If you can't work around the court appraisal, forget about making a Level 1 purchase and try a Level 2. It should be easy to find a buyer to pay 90% of retail. If you're an agent you will receive a \$13,500 commission; if you're an investor, you should be able to charge \$5,000 to assign your contract. This is why I love probate—so many ways to earn!

IMPORTANT: If I have to deal with a court appraisal, it's only for price considerations, and I don't take it to court. If you have to take this to court, you most likely will be overbid by another buyer. If you do have to go to court, work a Level 2 and sell to your end buyer at close to high retail.

Now that you know how to arrive at a price, let's move on with the offer. The deposit receipt (offer) will be prepared like any other real estate offer. There are a few statements you will need in your offer. Let's spend some time on these items.

NOTE: I assume you all know how to write a basic offer. If you don't, you need to learn or find a partner who does. Once you know what you're doing, then you can go out on your own.

(REVISED)

This is more like an added option than a revision, since I still approach my target price as described above, but I have found that in some cases, the executor doesn't understand and gets hung up on selling for \$250,000, not \$192,000. Price is more of a concern to them, and they don't understand seller's net. This is a problem you will have to deal with.

For example, recently an estate contacted me in response to a letter. I was pleasant, set up an appointment, and asked questions as I teach you to do. When I presented the numbers and my offer to the executor and his wife, they seemed to understand, thanked me for my great job, and told me they would call me in a day or two after they talked.

I left this appointment convinced this was my deal. I was going to buy a house I valued at \$310,000 for \$275,000, subject to inspections. I figured there would be some work called for in the pest report, but as the system teaches, I would deal with that later. I had explained what they would net after costs if they sold at \$310,000, used a real estate agent, and paid normal title costs; the only variable was any work, which might be called for later. They said they understood, and off I went.

Two days later, I received a call from the executor, who thanked me for all the hard work, but said he was going to list with a local broker. Wow! Go figure, what did I do wrong? Well, as I always do when I lose a deal, I asked why. In this case, the executor told me they were going to go with a local broker and see if they could get a little more. The

difference between what I told them they would net and my offer was around \$14,000. So, in this case, receiving \$275,000 cash versus a possible \$289,000 net made a difference to the executor.

What could I have done differently? Well, I asked them if they were going to list at my suggested retail price, and the executor said yes—\$310,000. So, it wasn't a higher price from another agent; I did my job right in the evaluation process. It was the \$14,000 net. Looking back, I hadn't read the executor right; I failed to realize that the highest net possible was a priority for him over less hassle, red tape, people coming through, hanging out longer at the property, etc.

In this case, I should have asked more questions, realized I had a high net seller, and tied the property up at the higher price—in my case, \$310,000, as I could have included a 6% commission. If I was just buying for myself, I should have written the offer at \$289,000. This would have tied the property up for me. Then, when the price issue was resolved, I could have come back after the reports and backed out the work plus profit.

Does this sound devious? I don't think so, and if you do, you may be in the wrong business. They were going to sell, and the only variable was who would buy. They were going to pay the other broker 6%, so the difference was only \$14,000, which I didn't even know if they would actually get. This is business, and I lost out because I didn't read them right.

This is why I say that once you know the system, your people skills will be the biggest factor. You must figure out what kind of people you are doing business with and give them what they want to get the deal. Sort everything else out during your contingency period; your seller will be in a different

frame of mind at this point and will most likely not want the sale to go south. After the reports come in, tell them the work must be backed out and that after looking at some other sales, you can only offer them \$275,000 (in my example case), or \$260,000, or \$250,000. Trust me, they will be in a different frame of mind at this point. Also, the broker who is trying to get the listing is telling them things detrimental to your cause because he wants the listing. The fact is, most agents tell sellers what they want to hear to get a listing, then let the market sort it out. Why should we lose the deal over this? Again, I believe in what I do, this is free money to the heirs, and the convenience of your fast sale comes with a discount.

Now, this doesn't happen all the time, as most people are realistic. They understand net dollars after costs and comparable sales, so when an agent tells them more, they realize he or she is trying to buy the listing. Most of my Level 1 purchases go down as predicted, with everyone on the same page, understanding discount purchases and true seller nets. But every once in a while, I misread the executor and lose the deal. I hate to lose deals.

As an agent, I will still list the property at high retail for the estate, and if a higher offer comes in, I take a 6% or 3% commission (if another agent) and move on. So, if there is a higher buyer out there, the estate will benefit; if not, I get my price. All is good and it's a win-win situation; the only difference is that I cut my competition out. You make your own decisions, but this is business.

WRITING THE OFFER

Now that you know how to arrive at a price, let's move on with the offer. The deposit receipt will be prepared like any other real estate offer, but there are a few adjustments and clauses you will need to

add, so let's discuss those. I do use the new Probate CAR form so ask your agent.

If you don't know how to write an offer, take a basic real estate course at the local junior college or partner up with someone who does know how. Once you know what you're doing, you can go out on your own. I am not going to spend time talking about regular real estate contracts, just the special changes you will need to make for probates.

DEPOSIT RECEIPT (OFFER FORM)

Prepare this as you would any offer, but where the form asks for the buyer's name, enter your name as follows: "Gary DiGrazia and/or Assignee." What this does is tie up the property in your name; once it is signed, you control it. If you are bringing a partner in on the deal, you can add his/her name later after the contingency period for inspections. If you find you can't buy this property at a Level 1 price, you can find another buyer and assign the contract to that person (your assignee) for a fee. I will go into this in more detail later in the chapter, but for now, make sure you enter "Your Name and/or Assignee" as the buyer.

All contracts will ask for a deposit with your offer. The general rule in probate is to submit a 10% deposit (based on the sales price) with the offer. So if you're buying a \$250,000 property, you must deposit \$25,000 in escrow or with the attorney to buy the probate. What a crock! Before you inspect the property, have it appraised, or get approved for your loan, you have to have \$25,000 sitting in escrow. If you want to buy FHA or VA, or with the conventional 0%-3% and 5% down loans available today, you have to place more money as a deposit than you need to close. This is according to the old law—another reason it's out of date and hurts the estate by preventing interested buyers from purchasing.

The IAEA does not require this 10% down payment, so you can treat it just like a regular sale. What we do is offer a \$1,000 deposit, due and payable to escrow within 3 days after all contingencies have been satisfied. This includes your inspections (pest, roof, home inspection, fireplace, etc). In my offers, I allow up to 15 working days (3 weeks) for all inspections and my approval or disapproval of them. This is what you want—leverage of the property without any money on deposit. Don't worry about the inspection costs, because I will show you how to get these free in most cases.

EXEMPTED PROPERTY

I also write "Exempted" across the section which talks about the "Seller's Transfer Disclosure." In California, a seller must provide the buyer with a disclosure regarding everything they know about the property. Probates are exempt from most of the transfer disclosure, so just write "Exempted" and add only the probate required disclosures found on the C.A.R. Deposit Receipt Disclosure Form. (ask your agent)

The remainder of the deposit receipt is completed just like any other. When you get to the section for comments, write "Subject to attached addendum #1." The addendum is where we will place our probate lingo to control the sale, get it out of court, and avoid the red tape and overbidding.

ADDENDUM TO PURCHASE OFFER

Addendums are used all the time with offers to purchase. The addendum is where you place the other terms and conditions you want as the buyer, which are covered in the printed section of the deposit receipt.

Clarify on the addendum that this is an "all cash" offer, prepare an addendum in order to explain the special conditions of your offer.

"BUYER WILL PURCHASE THE PROPERTY IN ITS 'AS IS' CONDITION SUBJECT TO BUYER'S APPROVAL OF TERMITE (PEST), ROOF, AND HOME INSPECTIONS, AS WELL AS ANY OTHER INSPECTION BUYER DESIRES. ALL INSPECTIONS ARE AT THE COST OF THE BUYER. BUYER TO APPROVE OR DISAPPROVE INSPECTIONS WITHIN 15 WORKING DAYS FROM ESTATE'S FINAL ACCEPTANCE OF THIS OFFER. BUYER CAN RESCIND THIS OFFER WITHOUT LIABILITY IF BUYER DISAPPROVES OF ANY INSPECTION. IF BUYER DISAPPROVES AND RESCINDS OFFER, ESTATE WILL PAY FOR THE REPORTS AND OWN THEM FOR FUTURE BUYERS."

This protects you but ties the property up for 3 weeks. This is called an escape clause, binding the estate but not you. You are in control! We also include the following statement in the addendum to clarify that the sale will not go through court supervision:

"EXECUTOR WILL SELL SUBJECT PROPERTY TO BUYER UNDER THE INDEPENDENT ADMINISTRATION OF ESTATES ACT WITHOUT COURT SUPERVISION. THE SALE WILL BE WITHOUT NOTICE AND THE HEIRS WILL INSTRUCT THE ESTATE'S ATTORNEY TO FILE A NOTICE OF PROPOSED ACTION WITH THE PROBATE COURT AS SOON AS ALL CONTINGENCIES ARE APPROVED."

This is our KEY wording. This allows the property out of court if the executor has the right to exercise the IAEA. I will discuss each item so you have an understanding of what I'm talking about here.

INDEPENDENT ADMINISTRATION OF ESTATES ACT

This is the key act that gives the executor the power to sell the property without court supervision or approval. This is what we use to avoid the court appraisal, the 10% deposit, and the overbid process. This is it, folks! 90% of your competition (investors and agents) doesn't have a clue what this act can do. The agents that do use it in their listings, which happen rarely, are just being told what to do by the estate attorneys. The investors who are chasing probates usually just check the overbids, so they miss the ones that are using the IAEA and not going to the court overbid. WOW!

You may be asking yourself, "Why would they pass an Act that would allow smart investors to buy probate property at a discount?" Good question, but you are on the wrong track. First, the Act was imposed to help estates sell property by allowing all buyers to purchase the property. Under the old probate procedure, a buyer must buy the property at a price not less than 90% of the court's appraisal. These appraisals are done by accountants who don't even inspect the property; they do a drive by and check comps. I have seen these appraisals be 10-15% off actual value, high and low. If they are low, then great! Even if we can't purchase under the IAEA, we can still buy at 90% of appraisals, and in this case we would be 20-25% off.

This works for us, but if the appraisal is higher than retail, even 90% of the appraisal is market value.

The point here is that the Act was put in place to allow estates to sell probate property just like any other. What happened was that the old probate laws, which were put into place to protect estates, actually hurt the estates in attracting buyers looking to purchase below retail. When you add the 10% deposit rule, it cuts out over 70% of the buying public, who are buying with a 0-3% or 5% down loan or even no money down. The "As Is" rule also kept buyers from being interested in the property, because with 10% down, they would need to show clear reports to get their financing. Cutting out over 70% the potential buyers only prevented estates from getting top dollar.

Now, with the IAEA, an estate can sell at high retail and avoid the court-delayed proceedings, the appraisal, and the 10% deposit issue. More buyers able to buy the property means a possible higher price for the estate.

Now, why wouldn't all probate sales go through the IAEA? I have found in my 17+ years of working probates that it is the attorneys who prefer the old probate law. This could be for a number of reasons, but I think it's because it allows attorneys to avoid liability to the estate for allowing sales which might be lower than retail. Bottom line, it's not in the estate's best interest to use the old probate law.

If this is true, how do we buy at a discount under the IAEA? Why wouldn't all executors and heirs sell under the IAEA for top dollar? Another good question. The answer is that in this arena, the executor's priority may not be net dollars, but ease of procedure, fast sale, or not having a vacant property sitting around subject to vandalism. I explain to the executors the discount I need and why, along with what they could possibly realize on the retail market. It's their choice which way to go. I will buy it or list it; I win either way, and for the last 18 years, we

have always found executors willing to take the discount so they can go on with the other matters of the probate. It's a numbers game! Plus, there are many more opportunities to sell or list the property at 90-95% of retail to your clients, if you're an agent, or to tie up the property and assign it to another buyer who wants to make it their home and will be thrilled to buy it 5/10% under market. This is why I love probate real estate!

So, back to our offer. We include the above statements to pull the property out of the probate confirmation process, and we use the other clause to give us an out. We tie up the property, but we are not bound to purchase (second clause).

Now, let's explain some of these terms so you have an understanding of what we are doing and why.

WITHOUT NOTICE

This is the wording that appears in the will when the deceased has given the executor the power to sell the property without giving notice. For our purposes, it's not publishing a notice in the newspaper including all the terms and conditions of your offer, including price. This is where most other buyers trying to buy probates look first; if they see this notice, they can research the property, call the attorney, and possibly overbid you in court. You may have a discounted buy and the estate may be going through with court confirmation, but then this will appear in the newspapers and you can kiss your discount purchase goodbye.

Doing probate deals "without notice" is important because it allows you to cut down on your competition if you go to court. This will help you keep the property from exposure. If you are purchasing the

property 20-30% under market, you can be sure you will be outbid if it is advertised.

NOTICE OF PROPOSED ACTION (Supp #15)

We need to file this with the court even if we are purchasing under the IAEA and out of the court overbid process. The Notice of Proposed Action is prepared by the attorney and sent to all the heirs from the executor. It informs the heirs that the property is going to be sold by the executor without court supervision. If they have any problems with the sale, this is their chance to speak up; they have 15 days from the date the notice was prepared to reply. In all the years I have been doing probate, I have never had an heir answer back, but you still need to follow this process. This notice is one of the documents your title company will need to allow the executor to sign off the grant deed and transfer title.

You now know what you need to include in your addendum and your offer. Follow this procedure step by step, and you will make a lot of money with probates. Remember, this is a numbers game, and you won't always have a Level 1 income opportunity because the executor or the attorney may prefer to follow the old probate procedure with court confirmation. This is OK, because you can still earn at Level 2, 3, 4 and 5 on those properties you can't buy at a discount and remove from the court proceedings. And don't forget, Level 4/5 can produce a Level 1 profit.

The IAEA gives us a chance to purchase at a very good discount. I get this all the time: "My state doesn't have a IAEA, so I guess I can't make money here with probates!"

This is completely wrong! If you are in a state that doesn't have a probate process to confirm sales, then you are in a better position—just learn how to find them, value them, make your offer to an executor, present your offer to get accepted, and follow some other procedures you will need to be successful with probates.

If you only have a confirmation process, then work Level 2-3-4-5 like crazy, since this is where most of the opportunities are anyway. If you do this correctly, you should be able to find monthly opportunities for Level 2-3-4-5. Keep in mind, Level 4/5 can be very lucrative if you have the right indicators when tracking it.

EXEMPT FROM THE DISCLOSURE LAWS

In California, the seller of the property must prepare a disclosure statement for the buyer explaining the property's condition, any additions with or without permits, and any other issue that could affect the buyer's wanting to purchase the property. The form is mandatory, and sellers are liable for anything regarding the property that they had knowledge of and didn't disclose to the buyer.

Probate properties are exempt from most disclosure process, since the executor is usually a family member who did not personally live in the property and wouldn't know this information. A few of the disclosures will be needed in Calif. (check with your agent to get a copy).

If we buy a probate, we won't receive this disclosure from the estate, but when we resell, it's no longer a probate and we must provide a disclosure statement. I will discuss how I handle this in the chapter on selling your probate property; for now, just understand that there is just some seller's disclosure when we purchase. On your contract, un-

der the Seller's Disclosure or Transfer Disclosure statement, write "Probate Property Exempt." On the CAR Probate Deposit Receipt it's printed.

OTHER CONTRACT TERMS

I used to buy with 25% down and use quick qualifier loans for ease of financing—basically a credit report and appraisal and you're done. Today these loans for the most part are stated income loans, so you will have to change your thinking. There are many loan programs you can use; what I do is choose the type of loan based on present market conditions (seller's or buyer's market), the heirs' situation (can they carry a little), and the potential profit from the resale. If the profit is at our minimum, I may want to use a loan with zero or low points and very low closing costs, since this adds to the bottom line. (No prepay though)

I like to come from a position of power, so if I'm having a problem with the attorney or competition from another buyer, I will place 25-30% down in order to have a very easy loan process and look better than the other buyer. In the past, I have used a hard money loan (70% loan amount of sales price) and had the estate carry back 30%. This allows me into the property without any down payment and minimum closing costs. We have purchased probates with a total cost to close at around \$2,500 with this loan. You pay more interest and the points are higher, but if the profit bottom line is still right, I will do it for leverage. The estates will carry second loans if you present them the right way. I only ask them to carry for six months, and I base it on needing my money to fix the property up. I may not do this on my first offer, since I want to have all my signals to the estate (price/closing time/easy loan/as is) directed toward making them want my offer. Remember, I have a contingency period of three

weeks, so that is when I bring the actual offer based on all the costs, inspections, etc.

So, as far as financing goes, look strong up front on your original offer and then adjust in three weeks when you have all the facts. You can't eat an elephant all at once; take one bite at a time. In my original offer, I always pay my own closing. This looks better to the estate, and if you need it later, you can ask for it down the road—that contingency clause again. Getting the picture yet?

I would recommend an adjustable-rate loan with no or low points so you keep your bottom line down. The interest rate doesn't matter, since you will only be into the loan for 3-6 months; it's better to save points and closing costs. Also, make sure you don't have a pre-payment penalty built in.

NOTE: The DF system assumes you have basic real estate knowledge and know how to write an offer. If you don't have this knowledge, take a class at your local community college and find a partner who knows the procedures. After a while, you will learn how to do this on your own. My tracking system builds on your basic knowledge, which is why I am only adding what you need in your offers to purchase probate property.

You can see that fast action is important if you plan to be successful in buying and selling probates. The first offer to the executor will likely be the one accepted. People usually wait until the attorney advertises a probate sale or a court confirmation is taking place before making an offer. You will not find many Level 1 purchases at the attorney's sale or court confirmation (although I'll teach you how to find "Level 1" purchases there).

The key is to be the first one there, tie up the property, then control the outcome, whether it is a "Level 1, 2, 3, 4 or 5" opportunity. You will find that most attorneys just follow the old probate code and have their paralegals do the paperwork. Attorneys will likely refer the listing to an agent friend; you must make your offer before this happens. If you're an agent, making friends along the way is very important, since you may still receive the listing (Level 3) if you couldn't buy at your price and didn't have a buyer in your buyer's bank.

SUMMARY

1. Use the contract (deposit receipt) which is acceptable in your area.
2. Drive by the comparable sales you are using and take digital pictures.
3. Break down each comparable sale for adjustments (positive and negative) compared to subject property.
4. Adjust for sales costs and cosmetic work.
5. Adjust for profit, closing, and holding costs.
6. Prepare your addendum, add weasel clause and terms and conditions.
7. Offer a little less than the estate would net if they sold for high retail less all the costs. This is our first hurdle to bring the estate down.
8. Know your financing plan depending on competition, market conditions, etc. Go in with a power position and adjust later.

7

PRESENTING YOUR OFFER

OK, we now have an offer; our next move is to tie up the property. This approach enables my partners and I to do 1-4 Level 1 deals per year. It works like clockwork; you just have to be consistent and develop your people skills. Let's go through how I present my offer. (Some of this will be repeated from Chapter 6, but it is worth the repetition.)

The goal is to get your contract signed and tie up the property. When we last visited the property for our inspection, we told the executor we would have an offer within 2-3 days. During these 2-3 days, the executor is asking the other heirs, "What price do you think Gary will bring us?" They know I'm an investor/agent and my business is buying at a discount. They most likely have a rock bottom price in mind. This has proven itself to me many times. What follows is my approach when I sit down with them.

I call up the executor, explain that my numbers are ready, and set the appointment. I prefer late Friday appointments so they can't hit me with "Let me call my attorney tomorrow." If they talk to the attorney first, most likely you won't get your offer signed.

SUMMARY: PREPARING FOR THE OFFER PRESENTATION

Remember the appraisal process I covered in Chapter 5? Well, this is where you use it. Let's summarize. I ran the comparable sales for the neighborhood over the last year. We would like current sales to indicate where the market is currently selling for (retail), as this is used to disclose neighborhood prices to the executor. Remember, I always disclose what the probate property is worth at retail.

MULTIPLE LISTING SERVICE

I'm an agent and member of the local Multiple Listing Service, so I have all the information on current properties for sale, pending sales, expired sales, and closed sales, along with a complete listing and description of each property. I search for all closed sales and print copies of the information, then meet with the executor and give them a copy of my research. I don't just come up with a price and say "Take it or leave it"; I show them what the estate property is worth retail, what they would net if they were to list it, and then what I can afford to pay for a fast, "as is" sale. If you don't have access to the MLS, then hook up with an agent and offer him/her your resale's providing he/she works with you. Have the agent provide all the comps from the local board. You can also have the title company send

you comparable sales for the subject’s neighborhood, but these won’t be broken down like the ones from the MLS. You want all the info in the listing when you do your comparison.

DIGITAL PHOTOS

Again, drive by the comparables and take pictures of each of the properties you are going to use. Later on we will add these pics to a property fact sheet that will break down the numbers and the net cash each comparable seller walked away with. Take a picture of the subject property also. We want to talk net with the executor, not sales price. Many don’t understand that the price a property sells for doesn’t mean anything—it’s the net cash in the pocket. If I’m working on a \$250,000 house, that price includes a commission the seller would have paid to obtain a high retail sale. So, we need to back this out for our executor. More on that later.

NET APPRAISAL PROCEDURE

I take the subject property pic and scan it onto my computer. Then I list all the amenities the property has. This may sound redundant, but as we compare each property to the subject, we will be making adjustments in price, so we need to do this. Here is what it looks like:

SUBJECT PROPERTY

Bedrooms:

Baths:

Garage:

Square Footage:

Lot size:

Age:

Heat Type:

Roof Type:

Kitchen: Original Update Remodeled

Family Room: Yes No

Dining Room: Area L Formal None

Windows: Original Wood Metal New

Floors: Wood Carpet Tile Other

Condition: Poor Fair Ave Good

Landscaping: None Fair Ave Good

Pest Work:

Roof Work:

Home Inspection Work:

Other Repairs:

(see Supp #14 for actual form used)

I use this form and list each comparable sale separately. You are trying to show the executor what has happened in the subject’s neighborhood, not focusing on price, but on seller’s net.

As I compare each property to the subject, I adjust positive/negative \$ for items the comparables have

or don't have compared to the subject property. This is how appraisals are done. The idea is that you adjust out the differences between the two properties and then what is left is the actual value of the comparable sale compared to the subject property. Here is an example. I'm repeating, but it is so essential that I want to make sure you understand the process.

Subject Property	Comparable Property
Adjustment	
3 Bedrooms +\$5,000	2 Bedrooms
1 Bath 0	1 Bath
1300 Square Feet +\$8,000	900 Square Feet
Garage 1 -\$4,000	Garage 2

Now, I adjusted \$5,000 up for the comparable because it has one less bedroom, and this is the adjustment most appraisers would make. The baths are equal in the subject and comparable, so no adjustment is needed. The subject is 400 square feet larger, and most appraisers will adjust at \$20 per square foot if the square footage difference is over 100. A one-car garage for subject compared to a two-car for the comparable is a -\$4,000 adjustment down for the comparable. If the subject did not have a garage, we would have deducted \$8,000 from the comparable. See how this works?

Now, you may think this is tedious and not essential for what you want to do, but over the years, this has proven to be the way to go. I want to take away from the executor and heirs any notion that my numbers are off. I want them to see how I did this; they can't argue with facts and figures. I'm also an agent, so I want to impress on them how detailed I am. (If we can't agree on a price, then when I ask them for the listing (Level 3), this will all work in my favor.) I have a separate tally sheet for each comparable.

All this will give us a price for the subject compared to the comparables, but it's not enough. Now we have to deduct the real estate commission and costs for inspection work, since we are buying "as is." More on this later, but what we are trying to do here is bring the executor down from sales price mentality to sale net mentality. We do this by breaking everything down.

After I have all the adjustments for each comparable, I then back out a 5/6% commission (whatever this listing paid), sales costs, and also make a note for pest, roof, and home inspection work. Most listings in the MLS has an agent representing them and the commission is usually listed in the MLS property description sheet. Most of the time, 5/6% is charged, and since the sellers all paid this to obtain high retail, we must back this out to find the approximate net sale proceeds each comparable received. If a property sold for \$250,000, after commissions (\$15,000), the seller's gross net would be around \$235,000. Then you back out escrow costs, and you are at \$233,500. If the seller didn't have any work done (pest, roof, or home inspection) then this seller would have netted around \$233,500. In most cases, there will be some work, but since we don't know, we assume \$0. We make a note that seller cleared all reports.

Let's assume the adjustment for this \$250,000 was -\$7,500. We would then reduce the \$233,500 to \$226,000. Now we have taken the \$250,000 sales price and zeroed in on the important number—the net the seller received after all costs. This is the figure the executor must understand, not the \$250,000. Once I go through each property and adjust and back out sales costs, we end up with a clear picture of what sellers have been netting from recent sales in the subject neighborhood.

So, on a \$250,000 retail value property, if we did our job right, the executor now understands that the estate would net around \$226,00, less any inspection work. This is exactly where we want them, not \$250K. We just took \$24,000 off what they originally thought they would sell for, and they came to the same understanding after reviewing the numbers. Think NET, not SALES PRICE!

Now what I do is try to tie up the property once they agree with the price at \$216,000 (\$10K less). This will most likely not be my final offer, as we have inspections to do, but it's a good price for now. In most cases, if we did our job right and the executor is a reasonable person, the only major obstacle you will have is getting them to sign your offer before they run it by the estate's attorney. Most of the time, they are just scared to act, so you must prepare for this. As I have said before, you must make friends with the executor, gain his/her confidence and trust, and if the attorney issue comes up, handle it this way.

I explain to the executor that most of the time, an attorney will not give the green light for the sale. The reasons for this are many, but it has been my experience that attorneys don't like to approve anything outside of court confirmation. Most attorneys seem to prefer the old court confirmation process because it takes the burden off their shoulders as

the one who approved the sale. This is all about liability, believe me. It is not really in the estate's best interest to go through the court confirmation process (old probate law), for the many reasons I explained in an earlier chapter. Extra fees, deposit requirements, court appraisals, longer escrows, and limited retail buyer interest, to name a few, are all reasons to sell under the IAEA. Most attorneys have a relationship with a real estate agent and like to have the estate sell through that agent. They will make it sound good, as if you are getting a better deal listing with this agent, but in reality, these agents know nothing about the probate process and basically take orders from the attorneys. You now know there is a much better way to sell probates.

So, in this case, I tell the executor, "Since we agree on the price, let's sign the offer, and we'll make it subject to your attorney's review, and if there is anything he would like to add or delete, we can." I also make sure the executor knows that if the offer is signed, the attorney will know the estate is serious about the offer and will be more likely to go along with it. In 17+ years of probate investing, once I am at this point, I have had only one attorney turn down the offer. I went to visit him and ended up being thrown out of his office. He was an old-boy attorney, set in his ways, and he didn't like me coming in and controlling the deal. When I questioned him on who he worked for, he blew his top and told me to leave his office. The executors were elderly and wanted my sale and quick closing time, but this attorney actually held the home open himself (at \$250 per hour) and took another 6 months to sell and close the sale, which only netted the estate \$2,000 more than my sale. The executors were upset about how the attorney was handling this, but they felt like they didn't have a choice.

Attorneys work for the estate. I preach this all the time. If you're unhappy, then fire them! Most executors don't have a clue what they are doing, have so much to do, and don't want to rock the boat, so they usually go along with the attorney.

You will have to gain the executor's confidence for them to sign your offer without the attorney reviewing it, but if you do it right, it will go smoothly. You just need to place my weasel clause in the offer: "This sale is subject to the estate's attorney's written disapproval within 3 working days from receipt." This is a biggie! The attorney doesn't want to approve or disapprove, so if you get the signature and add the clause, you are pretty much home free.

Now I want to go back to the offer. I take the time to make sure the executor understands how a sale works, the costs involved, and what net proceeds really mean. I keep asking them if they understand. When I feel the moment is right, after showing all the comparables and facts, I present our offer.

In our example, I would tell them, "Based on the facts, comparables, and adjustments, we can offer you \$216,000 today." Now, if I have done my work right, the executor should understand that based on what the other homes sold for in the subject's neighborhood, they would realize around \$226,000 net. So, if they believe these numbers, then my offer is only \$10,000 less. What usually happens is that selling the property fast, without a lot of hassle, is more important to the executor than the \$10,000 they might receive if they list the house on the market. In many cases, the proceeds are going to 4-5 different heirs, so what we are talking about here is about \$2000 per heir.

I've found that when you get to this point and everything is right, the difference is not a factor and they will sign your offer. Your bigger problem will be the attorney review issue. That is why I present late on Friday; if they sign, they have two days to freak out, then feel better about it by the time they call the attorney on Monday. If they don't sign, I have time to work on finding a buyer for the property if I feel they may not take my offer. This is where my buyer's bank comes into play—more on this later.

So, let's talk about what happens if they sign subject to the attorney's review. The first thing I do is send my contract to the attorney, along with a letter explaining that Mr. and Mrs. Executor have sold the estate property to me or my client and the sale will be conducted under the Independent Administration of Estates Act. I ask the attorney to review the contract, and if there is anything he/she would like to add or delete, to call me and I will contact my attorney so they can work it out. (Very Important)

You do not need an attorney, but I have one, and it can really smooth the way when the estate's attorney knows he's dealing with another attorney. I would advise finding one. My attorney is very valuable and has run interference on a number of probate transactions for me over the years. It's not a must, but it would be the smarter way to go.

I instruct the attorney to prepare a Notice of Proposed Action (Supp# 15) so we can close this escrow per contract terms. I mention that my title company will be contacting the attorney for other items they will need to transfer title. We are painting a picture here that we are professionals, and although I have had some attorneys upset at the executor for signing the offer, they have always gone with the deal. Remember, they don't want to approve or disapprove, so if you ask them to disapprove the offer in writing within 3 days, you stand a

very good chance of getting your deal through without any changes.

Before you send the offer to the attorney, go back to the probate courthouse and check the subject file to see if the Letters of Testamentary are in. This is the court approval for the executor to sign documents on behalf of the estate and the deceased. For our purpose, it allows the executor to sign the grant deed when we are ready to close, so the title company will need it. If you address this in your letter to the attorney, he/she will know that you know what you're doing. The last item the title company needs is a letter from the attorney explaining that all the inheritance tax issues have been dealt with. This leaves the title company off the hook for collecting any estate taxes.

Again, it's not important why these documents are needed, just that you need them to close your deal. From this point on, you will conduct the sale just like any other sale all the way to closing.

One final suggestion at this stage of the purchase; I prepare the executor to receive some static for selling the property without the attorney's review. I tell them that I have had this come up and my feeling is that attorneys don't like to lose control. I'm not sure if there are any perks given for listings, but I can tell you this: many of the agents in my area who continually receive probate listings from the same attorneys don't have a clue how to market a probate. I reassure the executor and make sure the executor understands that the attorney works for the estate to handle the probate matters, not to be a real estate agent.

From time to time, you will run up against an attorney who doesn't want your deal to go through and will work against you. If the executor listens to the attorney rather than to your reasoning, then just

move on. There will always be an easier deal. I have lost a small percentage of my probate purchases due to the influence of attorneys, but it's a fact of business.

OK; we are in escrow now, we have the attorney up to speed, and we're moving forward. Are we ready to close? Not yet! We have more work to do in order to get the price down some more, and we have to find a backup buyer in case we can't get our price. Let's discuss this now.

CONTINGENCY PERIOD FOR INSPECTIONS

We are in contract now, and we have a contingency period to complete and approve all the inspections. We also have the right to rescind the offer. This is exactly what we do, but first, let me tell you about another clause we placed in the addendum. We placed the wording that the buyer would pay for all the inspections, but we also added that if the sale does not go through because the buyer disapproved of the inspections, the estate will then be responsible for the cost of the reports and will own them. This is very logical; if we are going through with the sale, of course we will pay for the pest, roof, and home inspection, but if we disapprove of the reports and back out, we don't need the reports. The estate will need them for the next buyer; it's in the estate's best interest to have these reports so that when the next buyer comes around, they don't have to wait 2-3 weeks for the inspections to be redone. Of course, the report costs are not paid until escrow closes.

This is how we avoid spending money on properties that we end up not purchasing. It really won't be an issue if you explain it right, and at this point the executor is thinking about other things: sale price, net proceeds, time to close, the attorney, the heirs. Just

another little tip to save money on probates you don't end up buying.

OK, now back to the contingency period. As we are waiting for inspections to be completed, another thing we want to do is look for a buyer for the probate, anticipating that we will not get our final offer price. If you're a real estate agent like me, you can still earn a 5-6% commission by selling the property you're not going to buy. If you're not a licensed agent, you can still sell or assign your contract to another buyer for a fee. Believe me, if you can't purchase that \$216,000 property for the \$200,000 you wanted, you can certainly find a buyer who will pay \$216,000 and collect a \$5,000 assignment fee.

Think outside the box!

In my offer and the addendum, I add the following clause: "Executor to have all utilities turned on for inspection purposes. Buyer is allowed to show the subject property to contractors, lenders, appraisers, and possible future tenants and/or buyers. Executor to allow buyer to place lock box on the subject and provide a key."

Now we have the right to access the property for inspections and showing. Yes, the inspections are going to happen anyway, but the real purpose of the clause is to set the stage for showing the property to prospective tenants and buyers. Remember, we have explained to the executor that we may keep the property or fix it up and sell it. Most probates will be vacant properties, although sometimes the executor or an heir will be staying in the subject property while the proceedings are going on.

As far as showing goes, I only show my pre-approved buyers a potential probate. We want to have control of the buyer, so if they have taken the time to be pre-approved, and even better, if they have used our lender or mortgage broker, we can

pretty much control the buyer. I tell them we have purchased the property and will be reselling it. If the property is worth \$250,000 and I tied it up at \$216,000, I know that when my contingency is up and I go back to the executor, I will still be offering to purchase but can only give them \$200,000. If they balk at this (and at first they will), I will take the time to show them why I can't pay \$216,000. Remember, the \$216,000 is the price we offered based on clear reports and also at a price we could resell to another buyer without much trouble. When the reports come in, there's always something. If the reports are clear, I will still bring my price down, maybe not to \$200,000, but enough to make my target profit.

At \$205K, based on decent reports, we could resell at \$245K and have a \$40K gross profit with maybe 2.5% to the selling agent if need be. We would still net a gross of \$34,000, less some closing and holding. Not bad.

Usually, after the initial statement lowering my offer price is presented to the executor, one of two things will happen. They will accept it because they understand the work called for in the reports, or they will become upset at the lowering of the offer. At this point in the sale process, the executor and heirs are in a much different state of mind than when I first presented my offer 2-3 weeks earlier. Instead of sales price being the priority, they have switched over to closing as their main focus. They have been through a lot to get to this point in the sale process, and they're focused on getting this probate over with and the net proceeds, not the sales price. This is the mental state where we prefer the executor to be, so that if the inspections come back in with work or the numbers change and we need a lower price to meet our target profit, there's a better chance that the executor will go with it.

If you have explained everything correctly over the last 2-3 weeks, you will usually get your price. If you do, we continue with the process: order your appraisal, get loan docs to escrow, and close. The alternative would be finding a buyer at this point to purchase the property from you. Once you are past the contingency process and have received your price, the escrow will take another 2-3 weeks to close. You will need the appraisal, which we don't order until the contingency period is over and we know we are moving on; we will have to obtain insurance and wait for the lender to provide closing documents. During this time, we check our buyer's bank for a buyer, we run ads, and we contact our real estate agent database. Our buyer's bank is made up of data taken from ads we have run over past probates. Yes, even if you are not an agent, start your buyer's bank!

If we don't have a buyer already, we will run ads and contact agents. If we received our price of \$200,000, we will run our ad at \$240,000, which is under market. You will receive many calls when you run ads under market, since many buyers are looking to move into their first home and anything under market is fantastic for them. You will also receive calls from investors who want to purchase long-term rentals. We simply show them the property, and if they are interested and want to write an offer at our price, we insert a clause that this sale is subject to the close of escrow of our purchase. (More on this later.)

Now we have resold the property, given the buyers the reports, and had them checked out by the lender, all before we closed our purchase. Yes, we do close, since double escrows are a very gray area and some title companies won't do them any longer. If we do this right, we should be out of the property with less than 30 days' interest owed and a

rebate on title insurance and home insurance (more on this in the chapter on selling your probate).

If the executor balks at the lower price, you will still have an option to earn. Let's go back to our example of the \$250,000 home for which we offered \$216,000. We came back in 2-3 weeks with reports in hand and explained why we couldn't pay \$216,000, but offered to purchase at \$200,000. If the executor balks, which at first he/she may do, I spend the time to go over everything and make sure the executor understands the facts. Details, details, details. I make it clear that the numbers don't lie and the next buyer will not want to pay for all this work either. If your people skills are good, most of the time you will get your price, since as I said before, the executor and heirs are in a much different frame of mind at this point.

Let's say they won't lower the price any more. What I do at this point is tell them, "OK, let me rework these numbers and see what we can do." Ask for 2-3 days extension on your contingency (we want them still tied up) and leave. I then contact the buyers who expressed interest and write up an offer. If I can get someone interested at \$216,000 (which is easy), I call the executor and say I was able to work something out to net them more. I don't go over it on the phone, but set up an appointment to meet with them.

As of now, we have showed the property to some close-to-retail buyers, we have had them checked out by our lender if they were interested, we have gone over reports with them, and the only thing we really need is the executor's signature. I sit down with the executor and go over all the facts again. I want to re-establish the true net here. Remember, it's not a \$250,000 house, but a number after commissions and work is deducted. I go over all the comps, the reports, and the reasons why we can't

purchase at our price. I tell the executor there is no way I can give him \$216,000, but I have someone who will; I say that I showed the property to a prospective buyer who is pre-approved for a loan, and they have agreed to pay \$225,000. I tell the executor that I want the estate to net as much as possible, so I will be willing to back out of my purchase and let the retail buyer take over. I tell them I will act as their agent for the standard commission.

If you're an agent, you will try to get 4-5%, in this case \$10K-11.5K. The estate will net almost \$215,000, and the buyer is paying most of your commission (or assignment fee). This usually is all it takes; the estate won the battle and will net what they want. This usually puts the executor in a good frame of mind, and if you did your explaining right, they will sign. If they still won't move off the \$216,000 (net), this is what I do. I go back to the buyer and tell them that I can get the home for \$225K, but the seller won't pay me a full commission; since this is my business, the buyer will have to pay some of my fee (\$1000 in this case). Most of the time, the buyer will tell me they don't have an extra \$1,000 to give me. My answer is to inflate the purchase price (to \$226,000), so this doesn't come out of the buyer's pocket, and the monthly payment will only change a few dollars. This works, folks! The estate receives what they originally agreed to (\$216,000), the buyer purchases a home at a good discount, and I receive a commission (\$10K).

(REVISED) Agents! If you're an agent you have to be careful and make sure they Estate knows your buying at a discount or you could have problems with your license. If you want to take no chances, offer the estate two options. One is a all cash, "as is" discounted purchase at a price you agree on, and then offer to list it on the MLS to see if we can net the estate more dollars if there is a retail buyer interested. Give them 30 days and you win either

way, a discounted purchase or a commission on a property you would have never had....This takes the burden off of you as a licensee...

OK, but what if you're not licensed? You should be licensed so you can make these fees without having to purchase, but if you're not, this is what you do. Everything is the same, except that when you talk about commission, you call it an "assignment fee" that the buyer is paying you to take over your contract. This is what we call a Level 2 transaction, and these are available most of the time when you're tracking probates. Wow, I don't have to purchase the home and can still make up to \$10,000 as a fee! You may not receive a full \$10K, but what if you only took \$5,000 so the estate netted more cash and the buyer purchased even more under market? \$5K for a property you couldn't buy is not bad.

Do you think you would have any problem with the two agreeing to this? I average 10-15 probate sides a year, and most of them are Level 2. I'm looking for 1-4 Level 1 deals per year (\$25,000-\$50,000 profits), but I spend my time in between working Level 2-3-4 and 5.

Later, I will explain how you write your offer to handle the new price and terms if you are assigning your offer to another buyer. This will be explained in the chapter on selling your probate.

OK, back to our deal. We received our \$200,000 and we are going ahead with closing. We secured a new buyer, and we also added potential buyers who responded to our ads to our buyer's bank. Remember, we ask title for a 110% binder policy for title insurance so that when we resell, we will be refunded 100% of the cost of title insurance.

We now have to make sure the attorney has filed the Notice of Proposed Action. There will be a 15-20 day waiting period for any heir to object to the sale. I have never had any heirs object. While we are waiting for the estate attorney to file the Notice of Proposed Action, we can go back to the courthouse and pull a certified copy of the Letters of Testamentary. This is the authority for the executor to sign the grant deed transferring ownership of title to the new buyer. The title company will also want a letter from the attorney stating that the estate inheritance tax has been dealt with. (Of course, your area may be different, so once you understand the process here in California, just adjust it to your area's way of doing business.)

There is limited transfer disclosure (TDS) from the estate, since this is exempt in probate (although there are a few items you must still disclose, so do your homework), but we are basically ready to go to closing. If you have prepared properly, you have a buyer who signed to purchase the property subject only to your closing. If you close, then within days, you can close again with the new buyer, take your profits, and move on. You will receive a rebate on title and house insurance, so remember to figure it in your bottom line profit. I think I have covered everything here; if a question comes to mind after reading this, check the helpful hint section in the back or fax me your questions.

SUMMARY

1. Always bring the executor down to the net proceeds they would receive from a retail sale.
2. Bring in an offer to make a good Level 2 profit and tie up the
3. property for your inspection contingency period.
4. Look for a buyer during your contingency period in case you don't receive your price.
5. When you come back to the estate after inspections and ask for
6. another reduction in price, keep the property tied up if they say
7. no, and ask for a few days to redo your numbers.
8. Assign your offer to your buyer or rewrite a new one, adding your
9. commission or fee.
10. If the estate balks because you're still off their expected net, inflate the sales price to make sure you receive your commission or fee.
11. Always disclose what you're doing to everyone; there is nothing
12. wrong with making a profit as long as everyone understands and
13. it's win-win for all.

8

RESELLING YOUR PROBATE PROPERTY

LEVEL 1 TURNAROUND

In the last chapter, we discussed presenting your offer and what you need to do to get through the contingency period and then the escrow. Once we know we are going to close and have received our final target price, we want to decide if we are going to keep the property, rehab for top retail price, or resell quickly “as is,” pricing the home under market.

I prefer to resell fast; we like to have a contract on the property before we even close ours. If you do this, just make sure you have a clause stating that this sale is subject to your escrow closing. This will protect you if you hit any problems before you close. You don’t want to be obligated to sell a home you don’t own.

If the price you paid for the property is still a little skinny for a quick turnaround and the profit you want, consider keeping the property for a year (Level 5). This has worked for us before. Although we don’t make a practice of holding property, the ones we held worked out better since we hit the market right and appreciation gave us more than our original target profit. Of course, you would have to hold it, rent it, and play landlord for a year, but the upside is very good if you have the patience. I am actually leaning towards doing this more. I will be looking for more partners—maybe put 3 or 4 investors together so the investment (down and clos-

ing) isn’t too big for any one investor, then hold for a year or until the desired profit is there. Many of the properties we purchased would have realized a \$50K-100K profit if we had held them a year or two. It’s something to think about; each year you would have properties to resell, generating built-in yearly profits as you hunt for new properties.

As far as fix-up, we prefer not to do any repairs, but to sell quickly at an under-market price and leave a little on the table for the next buyer. This usually means we sell at 90-95% of retail, depending on inspection costs. We figure that on any inspection, we can have the work done for 30-50% of the cost stated in the report. Therefore, if we have \$10,000 termite, \$5000 roof and \$1000 home inspection costs, it would probably cost \$8K-10K if you have the right workers or can do some of the work yourself. If we have the estate credit us for the \$16,000 or reduce the price, then we make another \$8,000 towards our target profit. This is why we ask to split it 50/50 if the estate won’t pay or reduce the price for the report costs. I almost always get this, so bottom line, we don’t pay for any work.

I would only consider fixing a property for two reasons. Number one, it’s a seller’s market, and by spending the money and time, we improve the bottom-line \$3 for every \$1 we spend. If we spend \$10,000 and can make \$25K to \$30K more, then we

will do it. Of course, if it's a buyer's market, then we want to resell at the lowest price we can, so we most likely won't do any work. We offer our contractors to the buyers, who will receive up to 30% off the inspection reports. This works pretty well for us.

OK, back to our resell. Let's assume we are going for the quick turn, selling "as is." Since I have been doing probates for many years, I keep a buyer's bank for future properties. Every ad I run when I'm selling a probate draws many prospective buyers. I can only sell to one buyer, and I always look for the most qualified, so this usually leaves me with other potential buyers. I keep in touch with them and tell them that if they can be patient, I will find them a probate around 5-10% under market. Most will stay with me, so when a property comes up, I check my contact management database for prospects and call them. I have them drive by the property and neighborhood, and I tell those who are interested that I will have it open on Saturday morning from 10am to 10:30am. I want many buyers looking at the property at the same time; I want to create an auction-like atmosphere. I will also coordinate this open house with an ad I run to bring in other buyers.

Of course, make sure you don't give out the address to anyone who isn't pre-approved. I tell my buyers I will get them one of my probates at around 95-90% of retail, but they must be pre-approved by my lender. Those who get pre-approved are my priority buyers. If a buyer doesn't want to do this until they see the house, forget them and move on to the next. Once you get a reputation for having good deals, buyers will do as you wish.

OK, back to the resell. Will you quick turn, rehab, and sell high retail, or sit on the property for some time? Will you pay agents a commission to bring a buyer? There are no quick answers to these ques-

tions. Your decisions will have to be made based on the individual property. Each property is marked by a unique set of facts and figures; let these guide your decision. However, in general, I prefer to sell property at less than retail, paying agents 3% for a contract and selling the property "as is." Quick turn-arounds support my long-term goals.

I use investor capital for my Level 1 purchases. My investors usually place an equity-line loan on their residence for investment capital. Since this loan only charges interest when money has been withdrawn, it is beneficial to resell quickly and save costs. Remember, you will have a loan payment (equity line) charging interest daily and a home mortgage adding holding costs on a monthly basis. Add in taxes and insurance, and it all affects your bottom line. These costs will reduce your profit, so it's usually better to keep the holding costs to a minimum then be forced to sell at high retail to recapture the extra costs for fixing up. Of course, you will need to make your own decision on the properties you turn around. And remember, holding for 1-2 years is not a bad idea. If you hold 1-2 properties per year, you'll always have 1-2 properties to sell per year at an even greater profit. Not bad, since you'll continue to find new ones.

Because I like to sell quickly, I give the next buyer a good deal; I let him/her buy the fixer at a discounted price in lieu of any rehab costs. This brings me quick offers.

In a good or bad real estate market, anything priced right is sold within a few days. I usually sell my properties before I own them. By offering a discounted price, I can plan for more deals. Plus, I don't have to worry about subcontractors, city and county inspectors, and zoning ordinances; the buyer takes on all responsibility for the rehab. Sure, I may lose a little profit, but the headaches are mini-

mized. You may choose another philosophy to guide your turnarounds. Remember, never allow any work to start before you close, unless your buyer is buying with a low down payment and the lender is requiring it. If the buyer doesn't have the money to fix the termites and the roof, and the lender won't lend without clearances, then adjust your price for the work needed. This doesn't affect your bottom line, and the buyer's payment will only go up a few dollars on average per thousand of price.

AGENTS

I mentioned this earlier, but you should consider paying agents a 3% commission if they bring you a buyer for your resell. Of course, if you can sell it yourself and save the 3%, you will, but having a quick sale is also important, since your holding costs will start when you close your purchase. Try selling it yourself during the contingency period, but if you can't, consider putting together a group of agents who know what you do. I make it a practice to pay agents a 3% selling fee for bringing me an acceptable offer. Because I have a history of paying commissions to agents, I never have to make more than three calls before my property is sold. The agents know they will be able to obtain a good price for their clients and a property without competition. I have agents ask me every time we meet, "What do you have available?" Or "Do you have such and such?" Let the other guy have a deal and you will operate smoothly.

Just like setting up your buyer's bank, you should set up an agent bank from the calls you receive when you place your ad. Agents will respond to your ad, even though it may state "Principals Only." These are the aggressive ones, so keep a list. You can also find the agents who "farm" the particular tract or area where your resell is located. "Farm-

ing" means an agent has picked out an area (500 homes on average) where they consistently work to get to know the homeowners. The theory is that after a while, the homeowners will get to know the agent through newsletters, open houses, homes listed, ads, and so on, and see him as an expert.

As an agent works an area over the years, he will also develop a list of buyers waiting for property. So check your newspapers for ads in your area when you find a buyer, check for sale signs in your neighborhood, and log the agents who are farming. There are usually 1-3 agents farming any particular area, and they can be useful to you. When a property comes up for you and you don't have a buyer for it, contact the agent, send him a flyer, and the offers will come.

If we are turning the property quick, we want everything working for us. I usually build in a 3% fee for myself when we resell and 6% up front when we purchase, so if the profit is skinny and paying another 3% to an agent doesn't work, forget your 3%; you were paid 6% going in and you will still receive 50% of the profit. Don't get greedy and upset your investor with a lower return than you predicted when you're still receiving a total of 9% in commissions. See the big picture!

OTHER RESELL TIPS

"As is." Selling property in the same condition as when you purchased it makes for a quick and easy sale. I have heard that every dollar you spend fixing a property should return 2 dollars. This may be a low or high quote, but it still doesn't interest me. I am not saying that I never fix up Level 1 or 4 turnarounds, but I prefer "as is" quick resells. If I can fix up a property and still sell at a discount, I will. This would equate to a 3-1 ratio (\$3 return on every \$1 fix-up). This is still a low amount to risk dumping

more cash into the sale and having to get a retail price on the resale to make the target profit. This places me in direct competition with all the other properties on the retail market, a place I don't like to be. If I can do it and still be 5-10% under market, I will. My number one concerns are returning my investors' cash ASAP and making the target profit. I will sacrifice potential profit to protect my investor from hidden rehab costs and extra holding costs. You will lose your investors quickly if they feel you are not looking out for their best interests. I protect my investors' capital as if it were my own, and I always make sure they receive the target profit I penciled out at the beginning.

Of course, if your investor is a contractor or other considerations exist, you will want to include them. Maybe your contractor can do the work at a cheaper price, so it makes sense to fix up the property, or maybe you are going to hold this probate purchase for 1-2 years and fixing up the property would increase the value even more. Remember, each property will bring a different set of circumstances and you must adjust.

"110% binder fee." The title company I use offers a 100% rebate of the title insurance cost if you pay an extra 10% up front and resell using the same title company within 2 years. This is called a 10% binder policy, and using this policy is a fantastic way to pick up another \$1,000 or so. Not all title companies use it, so check out your area. If yours doesn't and you start sending escrows their way, have your escrow officer check with their county manager and see if they will provide this service.

If you get the estate to pay most of your non-recurring closing costs when you purchase, then receiving 100% of the title insurance is a profit; if you paid up front, the binder will return that cost and help your bottom line.

In some areas, the buyer has the right to pick the title company, since he/she is paying for the title insurance. So, when you resell and, let's say, another agent has provided the offer, you may have an issue about which title company to use. Title companies price their services differently, and one may be cheaper than another (usually within \$100 or so), or the buyer may have a discount through a particular title company. If this happens and you're not paying the title insurance, you can either let it go or refund the difference in savings to the buyer and still receive most of the binder rebate. I tell agents I want to use my title company, since they handled the purchase and it was a probate, so we will work out the difference in savings to the buyer. This shouldn't be a problem.

"Disclose probate purchase." When I resell, I always include in the addendum (Supp #19b) that the property was purchased from an estate and the sale was exempt from the California Seller's Disclosure Statement. In California, sellers must complete a disclosure statement (TDS) including everything they know about the property that could make a difference to a buyer. A TDS is required within 5 days of a signed offer. In our case, we do not receive this disclosure from the estate, since in California, estates are exempt from providing this disclosure. This makes sense because in most probate cases, the person who knows about the home has passed. An heir who might live out of state is handling the executor duties, and he/she usually doesn't have a clue about anything pertaining to the property.

When you go to resell your probate purchase, you will not be under the probate exemption any longer, since it is now just a regular sale. You will be required to provide the TDS to your buyer if you're located in California or a state that requires something similar. Make a statement on your sales addendum as follows: "The subject property was pur-

chased from an estate without the benefit of a Seller's Transfer Disclosure Statement (Exempt). Seller will provide a TDS to buyer based on inspections performed or information found during the purchase and ownership period."

This gives notice to the buyer that you had no prior knowledge of the property's condition other than the reports that exist from your purchase. I also name the reports and state that no warranty, implied or expressed, is given concerning the property.

In my addendum, I also allow the buyer to conduct any inspections he/she may want. Don't force the buyer to accept your existing reports; let them obtain their own. This will insulate you even more with the "as is" purchase, since the buyer received your reports and had the right to order his own. Allow time for the buyer to review the existing reports or order new ones, and allow the buyer to rescind the sale without liability if they don't like the reports. This must all be in writing so you have a paper trail of all the rights the buyer had, even though they purchased "as is."

Don't let greed cost you. If the deal falls through because of problems found in another report, there will always be another buyer who will take it because it's priced right. There is always another buyer, another deal, and another probate. When you first purchase the probate, make sure to find out whether the deceased passed away in the house. This is a major consideration for some buyers, and if they find out about it later, it could cause you problems. Ask the heirs during your purchase, and if this was the case, disclose it in your TDS. Disclose, disclose, disclose!

The remaining procedures involved in reselling your property will be like any other purchase. As an agent, you should know how to handle these procedures. If you're an investor, you should also know the procedures, but if you're new, take an escrow class or partner up with someone who can teach you.

It's not enough to learn how to find discount properties to succeed. To do this long-term, you will have to make protecting your investor/partner and yourself the number one priority. It is unwise to take a chance on any property and jeopardize a long-term profit center for you over any one deal.

9

AFTER THE CLOSE

After you resell your first Level 1 probate turnaround, you should have approximately \$25,000 to \$50,000 in total profit (or half that if you have a partner). Your investor is in love with you, and all's right with the world. You have tasted success, and you can't wait for the next probate turnaround. Before moving on, however, if you're smart, you will undertake some follow-up to help with other probates in the future.

LETTERS OF RECOMMENDATION

I generally ask the executor (and any heirs I dealt with) for a letter of recommendation (supplement #16). I want a response to the question, "Did he do what he said he would do during the escrow?" I'm not looking for praise to satisfy my ego, but to help me when I'm dealing with other executors, heirs, and attorneys. Because I take great pains to obtain the estate's confidence, I usually have no trouble getting the letters of recommendation.

You won't receive a recommendation for every transaction. Just remember the numbers game and do everything in your power to deserve the recommendation. This is accomplished by making sure that you are on top of everything during the escrow and all parties know it. Make yourself stand out from the crowd. You will be paid well for every probate Level 1 transaction you can find.

From your very first contact with the estate, start laying the groundwork for a recommendation by being compassionate (sympathetic to their loss), becoming a friend (not just a business person), providing help with probate process information and service, and doing what you say you will do. Keep them informed about how everything is going on a weekly basis, even if there is no new news for the week. Make sure the executor is kept abreast of what is going on in a timely manner.

Over time, you will start collecting these letters of recommendation, and as you work with new executors, having the letters will really make a difference for you. I actually tell the executor up front that I will want their recommendation when we are finished.

RECORDS

Keep records of all your probate transactions. Not only do you need your normal real estate paperwork, but you also want to maintain a record of any surprises that may have arisen. They may come up again, and it is helpful to remember how you solved the problem. You will learn something from every transaction. Keep notes on anything that you may need to deal with in the future. I keep a log sheet in my file and make notes of anything I want to remember for future probate buys.

BRAG BOOK

Keep a brag book of every probate transaction you do. This includes profit details (original target profit breakdown), all closing statements (both buyer and reselling) in order to prove the profit, and pictures of the probate property. If you rehab the property, make sure to take before and after pics. The brag book will help you convince new investors or partners to work with you. Remember, anything that is rewarding is worth protecting and refining. You are in a unique business, and you must do whatever you can to keep improving.

CHANGE UTILITIES

Don't forget to transfer the utilities out of your name by the close of escrow. Tell your new buyer to transfer them into his/her own name or service may be stopped.

INSURANCE REBATE

Make sure you call your insurance agent and arrange for a rebate on your home insurance, since you pay for a year but will only use 3 months on average. Every little bit adds to the bottom line.

FOR REAL ESTATE AGENTS

If you're a real estate agent, you may want to send out a notice to the neighborhood that this home just sold and you have people lined up who still want to buy homes in the neighborhood. You may have buyers who wanted your property but were late; why not canvass the neighbors and see who may want to sell? You'll be surprised at how this can add a few more transactions to your yearly production.

ESTATE ATTORNEY

I send a thank-you letter to the attorney for the estate. I thank him for his cooperation in my purchase and let him know I would be interested in any other properties he may represent in the future. Having attorneys call you when properties come up would be fantastic, but in reality, it doesn't happen often. If you did a good job, then make sure the attorney keeps your name fresh in his mind. Send him a monthly note reminding him that you purchase estate homes and referencing the estate transaction you did with his client. If you are persistent, this may work.

Don't make the mistake of offering the attorney a referral fee, since this is a conflict of interest. What you want to do is offer to take some of his workload for future probates. This will save him time, which means money. If you're an agent, offer to do a CMA appraisal at no charge, to have your contractor look over the property and give a report on its condition, or to property manage the property at a very low rate. My attorney told me that this is the way to break into the good graces of an estate attorney. Take some of the workload off his shoulders. Again, every little bit helps you stand out.

RESELL BUYER

If you sold the turnaround yourself, you will want to add the buyer to your client list and ask if he/she has family or friends who would be interested in purchasing a probate property at the same discount. You never know. Since they purchased below market, they're probably bragging about it to their friends and family, and you may receive another buyer for your bank. I have!

If you are a real estate agent, you'll want to add the buyer to your client follow-up list and send them monthly newsletters. Keep the buyer as a contact, and you will receive referrals from them over the years. It is common real estate knowledge that the average real estate transaction should bring you another two deals if you did your job right. Don't overlook this source of business!

If you're an investor, you'll want to keep the buyers who contacted you in your bank for future probates. You can also farm out the leads to agents for services in trade. Think outside the box!

Now, let's take a look at how to attract partners if you don't have the money to purchase on your own.

10

FINDING PARTNERS

OK. We know how to find probates, how to evaluate them, present our offer, and negotiate to get our price, and how to work the escrow, then resell for a nice profit. One thing that might stand in your way is financing. Do you have the funds (\$50,000 to \$100,000, depending on your area's home prices) and perfect credit to do your own investing? Or are you like the many who don't have enough cash or credit to do this on their own? Financing will be a major consideration, and you need to have this in order. If you're an agent looking for more sales volume, you can keep busy working Level 2, 3, and 4 deals for your clients, and when you find a Level 1, you can spin it off to a client for a 6% commission. If you're an investor with limited capital, you can work Level 2 deals and assign them to buyers for \$5,000 assignment fees. But if you want to work it all the DF way, we have the answer for you.

First, when looking at a probate purchase, you will have a few decisions to make. If you're in a buyer's market, the estate will likely be in a cooperative mood, since they know there are more sellers than buyers. If the probate is in top condition and you can resell at close to high retail without spending any money on improvements, your main concern will be keeping your acquisition costs to a minimum to help your bottom line when you calculate your profit.

What I do is shop for a loan with zero points and have the seller pay 3% of my closing costs. The 3% is based on the sales price, so on a \$200,000 sale, the lender will allow the seller to pay up to \$6,000 of your closing costs. If you don't have any points to pay for the loan and you're not setting up an impound account to collect taxes and insurance, then this \$6,000 should pay for most of your non-recurring closing costs. This will help your bottom line, since these closing costs add to your total cash investment (down, closing, holding, fix-up). You will most likely have an adjustable loan, but this is OK, since you will only be keeping the property a few months. I often choose to pay a higher interest rate to bring the points down. You may not be able to find zero-point loans, but they are out there, along with half-point loan fees.

Of course, to get this loan, you will need 10% or more down and an acceptable FICO score of at least 650. If you want to go this way and you have a credit problem or you don't have the down payment, find a partner to split the profit with. You will be surprised how many people will jump at this chance. At first it will be tough, since you don't have a track record, but shop it around to your family and friends, and maybe you will find a partner. If not, try your doctor, dentist, attorney, or CPA. Many of these people invest in real estate, so you have a great chance. Another option is to find a real estate

person, either another investor or an agent who works your area. Place an ad in the general real estate section of your newspaper or find investor clubs you can join. You can partner up with them until you're ready to finance your own down payments. If you have credit issues, go to a credit counselor and start cleaning up your credit. Sooner or later, you will be in the position to do your own deals and keep all the profits. Or, like me, you may want to keep your partners and do more deals. More on this later in the chapter.

If you have limited cash, no partners, and some credit issues, there is still an option for you. Find a hard money lender; this is a lender who lends based on the equity in the house only. Most will lend up to 70% of the sales price and will allow the seller to carry the balance. This is a 100%-financed deal, and we have done this many times over the years. You will pay higher points and interest, but your total cost to get in will just be your closing costs. In many cases, we still get the estate to pay up to 3% of the sales price in closing cost credits.

We have closed many of these with \$2,000 to \$3,000 out of pocket. With my hard money lender, there is no application and no credit report, just an appraisal from the lender. If it's a go, we can have our money in three days. This is a great way to leverage your probate buys, but you may not always have an estate willing to carry. If you present it right and show them that they only have to carry up to a maximum of six months, most will go for it. You create a second deed of trust in favor of the estate with no payments or interest, but all due in six months. If they balk at the terms of no interest or payments, you can adjust and start interest and payments within 30, 60, or 90 days after the close. Usually, you will have the resell closed by then anyway. This is a great way to go, but it will limit you in a

seller's market where the estate doesn't have to consider carrying to sell the property.

OK, let's get into this a little deeper. Most investors or agents can't finance a Level 1 purchase without outside capital. The average Level 1 turnaround in 2005 requires \$60,000 to \$80,000 down, plus closing and holding costs, not to mention any fix-up we may want to do. The reason for the large cash outlay is that we want to deal with the executor, heirs, and attorney from a position of strength. A 20% down payment will give you a strong position with the sellers and allow you to obtain a loan without much documentation. When you use these easy loans because of the large down payment, the red tape to obtain a real estate loan will be eliminated; only an appraisal and credit report are needed, and you will be able to offer the heirs a 30-day close or less. This strong buyer position also helps you deal with attorneys who may question the merits of your offer. Of course, if you don't have this kind of money and choose not to bring in a partner, then use the hard money example I talked about.

WHERE TO FIND \$60,000 TO \$80,000

If you do not have your own capital and don't want to limit yourself to deals with a hard money lender (buyer markets), you will need to find someone who does. This is not as major a problem as it might seem to be. Start with family, friends, and if you're an agent, past clients. You probably know people who want to get involved in real estate. This is their chance!

During the first 12 years of my real estate career, I sold and listed single-family residences. Over the years, I compiled a large client list. I started a newsletter and added family and friends to my mailing list, along with past and prospective clients. Every month, I sent a copy of the newsletter to my list.

The newsletter dealt with current real estate issues and always had an investment section. Through this newsletter, I found my first investor, who is still with me today. We placed an equity line on his home for \$60,000 and began looking for fixers. I spent my time looking for properties, handling the sale, and closing the escrow, which included all the negotiations. My partner was responsible for financing the purchase, fix-up (if any), and holding costs. In other words, I did the work and he put up the cash. When we sold a house, he received his cash outlay plus 50% of the profit. I received a commission for finding and selling the property and 50% of the profit. This has been a great relationship over the years.

PROFIT

You will be the key to the partnership. You will find more investment capital available than properties worth pursuing. Do not work on a potential probate turnaround unless you receive 50% of the profit, and if you're an agent, at least a 3% commission. If your partner doesn't like it that you will be making more money, you have the wrong partner. Once you have a track record, people will seek you out to be your partner.

PARTNER PROFILE

Let's discuss the perfect partner. Both you and your partner have to work constantly to stay on track, and it's a give and take situation, but perfect business partners really do exist. Keep in mind that you have something of great value—inside information. Money cannot make money if there is no vehicle in which to place the money. The fewer people know about your vehicle, the more valuable it becomes. Supply and demand works very well in the probate arena.

When I first started working probates back in 1987, I did have the benefit of 13 years' real estate experience and some foreclosure and REO buy/sells. I had some credibility in my circle of friends and business associates, since I was in the business. I only worked with a few select partners who I knew had the temperament I wanted in a partner. Basically, it all begins with trust; since I had done deals before and my partners knew I looked out for them, they trusted me. I called the shots. All my partners did was fill out the loan application if we needed one, give me a deposit, and then go to the closing to sign papers. I did everything else. I found the property, I negotiated the deal with the seller, I ran the escrow, I closed the sale, I resold the property, and then I split the profits with my partner. It's a great partnership; put up the money, stay out of the way, and then take half the profits. Of course, it involves a little more than this—I do discuss strategy with my partners who are real-estate-savvy. The point is, you call the shots.

If you don't have any experience, it will take a while for your brag book of properties to speak for itself. Start with a family member or good friend if you can't finance the transaction yourself. If you have no friends or family with assets, try doing the deal yourself with a hard money loan and the estate carrying 30% for 6 months. This way, you can purchase the property for only closing costs. If you're short on cash for closing, have the estate pay most of the costs, and if they don't want to, inflate the price. Since you are doing the deal yourself, you can pay a little more for the property and still come out with a hefty profit.

If you have a problem shopping your deal, run an ad for a partner or send a flyer to all the doctors, dentists, and CPAs in your area to see if they may be interested. Also, look for real estate agents in your area who do this type of buying and selling. Agents

can make great partners, since they have all the resources you will need to research property values. They can also help you resell. If they put the cash up, they should receive half the profit plus a listing fee. If no cash, give them a commission plus whatever sweetener you feel appropriate. They could be a very valuable asset—just don't teach them what you do, or they could go around you. Be smart!

Now, once you have found your money (personal assets, family/friend, investor, agent), you won't need any money other than the deposit up front until you close escrow. In the early years, I placed equity lines on my partner's home to generate the down plus closing we needed to close escrow. By using an equity line, my partner would not be charged any interest or points until he wrote a check for the closing. Now, it could have taken me 1-3 months to negotiate the deal, follow it through, and do whatever it takes to get into escrow, but no money was needed until closing. I would make the deposit (usually \$1000) due after all contingencies had been removed. Using quick qualifier loans, we didn't have to verify any money to close because we were placing 25% down. If it was a hard money loan, no application was taken, just an appraisal.

So, rather than taking a second mortgage out on his home or borrowing on credit cards, the equity line allowed us to delay the charge until the money was in place. Since we usually resold the probate before we even owned it, the money would only be out for 30-90 days with a minimal interest charge.

Once we closed our purchase, my partner was responsible for holding costs (payments, insurance, taxes, fix-up, reports, etc). Again, these costs would come from the equity line, so it wasn't a strain on my partner. Once we resold and closed the sale, my partner's money was returned, then the profit was divided 50/50. Since my commission as the

agent in the deal was paid in escrow, the net proceeds were all profit, less the partner's capital advance. This system has worked well for us.

In our typical deals today, each partner makes \$20,000, plus I receive a commission either going in or coming out, and if I happen to be the agent who resells the property, I receive another 3%. So, as an investor, if you invested a total of \$80,000 for down, closing, holding, reports, etc., and received \$20,000 back in 90 days, that equates to a 25% return on your money in only 90 days. This is why my investors have been with me so long. As the partner agent, I earn \$20,000 plus a commission going in when I find the probate, and a possible commission going out if I resell the property myself. This could easily be another \$7500 to \$15,000, for total earnings of \$27,500 to \$35,000 on one probate. This is like selling 1.2 million dollars' worth of regular retail property, or in my marketplace, 3 transactions. The numbers are outstanding.

OK, back to equity lines. If you don't have the cash or a partner with cash, contact your local banks and ask about specials on equity lines. Most banks will loan up to 80% of the value of your owner-occupied home, less liens. When they have specials, they waive most of the fees, and there are usually no points anyway. Fees are basically a few hundred dollars, so this is the way to go. They will give you a checkbook and place a lien against the property for the amount of your equity line. Let's say you place a \$100,000 line against your home; the lien will state \$100,000, but you only pay on what you use. This is a great deal, and we used this for years until the cash was right to finance our own deals. If we find more properties than we have cash available, we will find another equity line and do the deal. Check this out!

I treat my partner's money as if it were my own. It took a turnover or two for my partners to realize that I place their financial well-being over making any money. If a deal isn't a sure moneymaker, I let it pass and try to sell it to an end-user buyer. There are many buyers who will purchase a probate at a smaller discount, since they're going to keep it as a rental or move in. Keeping my partners' money safe is more important than any single commission I could make. Remember, you want to continue this partnership for years. That takes complete trust.

I continue to receive requests from investors who want to become involved with my probate turnarounds. Now that I have credibility, the money finds me. This will also happen to you if you don't give up. It may take a while to get going, but it will definitely be worth it. I have told you how to work if you have no money or partners. Only the persistent survive!

NEW AGENTS

If you are a new agent without capital and/or credibility with investors, and you wish to get started in probate turnarounds, you may find it difficult to find your first investor. Don't worry; you can also start with your family and friends. It may take a little more selling, because you don't have a track record yet, but it can be done. Find the property and then locate an investor. The deal will sell itself. Go to your broker or another agent in your office who most likely has the money. You might have to give up a little of your profit, but you should still make a tidy sum.

I would also consider finding the probate property, making your offer in your name or assignee's name, and then finding a buyer who wants to move in. You can charge the estate a 6% fee for doing the deal and actually bring them more money than your

deal would have produced. The buyer gets to purchase the property for 5-10% less than retail and will be thrilled. You then take 3% of the commission you earned and put it away. Keep doing this until you have enough capital to finance your own down payment. If you're a full-time agent, keep the other 3% as your overhead income. If you really want to, you can do one of these a month; opportunities are everywhere. Of course, you can go the hard money way, just like an investor, and have the estate carry 30% for up to six months. This way, you can purchase and keep everything for yourself. Now, again, this doesn't always work in a seller's market, but in a buyer's market, it does. I have found estates willing to carry, even in a seller's market, because their need to sell and get rid of the headache was greater than their desire to wait out the retail market for a sale. Again, being there first is key.

Just don't give up. I say this over and over. The biggest obstacle you will face will be yourself. This probate turnaround system will add \$100,000+ to your yearly real estate income if you follow it diligently. Even if it takes you six months to find a property and nine months before you make any money on it, don't give up. Once you make \$25,000 to \$50,000 on a turnaround, your real estate world will never be the same. You will be working smart, not working hard. And again, this can be in addition to your regular real estate business.

EQUITY LINE

I want to go back through the equity line process in more detail for those of you who will go this route for investment capital. Let's discuss what an equity line is and how it can make you thousands.

When you are looking for an investor/partner, you don't necessarily need to look for someone with \$100,000 in the bank. Such people may be hard to find, especially if you are a new investor or agent/investor. What you want is a real-estate-minded person who owns a home with a ton of equity, or at least enough to pull out the cash you need. Even better, this may be you and your own house!

You should check with all your local lending institutions and find out about equity line programs. Then, send out requests to your family and friends and find out who is interested in real estate buying and selling. Once they understand what you are going to do, explain to them about the equity line and how it works. Show them how they can tap \$100,000 from their own property and not have to make payments until they actually use the money. We like to call this "when the money is working for them."

When you take out a regular loan against your property for investment capital, you make payments starting 30 days after you receive the money. The money may sit in a bank account for months while you're looking for your first turnaround. In the meantime, your partner is making payments. This is the fastest way to lose a partner. This idle money costs your partner interest without making either of you any money! It will ultimately cost you money, since interest payments should come out of the profit from your turnaround. Also, your investor/partner will pay substantial upfront fees to obtain the loan. These costs and payments will stop your potential investor/partner from doing business with you. There is a better way, as I explained earlier.

With an equity line loan, your investor/partner will pay a small fee (\$300-\$900) to obtain the loan. The lender will only charge interest when the money is used. Rather than give your investor/partner \$100,000, the lender will give him/her a checkbook

to use when he/she needs money. This way, while you are looking for a probate turnaround, your partner's investment capital will not be accruing any interest. Not until you actually find a property and write a check will any interest accrue. And since you don't need the down payment until three days before close of escrow, the money will only be out a short time before your resell pays it back. We average 30-90 days at the most for equity line money to be drawing interest.

This is a relatively simple concept. Tell your potential partner that a small setup fee is all you need to get started. Equity line loans are usually granted for up to 80% of the value of the property, less any liens (loans). Call your local bank, savings and loan, or credit union for further equity line questions. Also, lending institutions will occasionally run specials where they waive their up-front fees for equity line loans. Be aware and know your business to capitalize on these savings.

PARTNER PAMPERING

You can't do enough for your partner! If you set up your partnership correctly, it will be very profitable. Give your partner the first-class treatment. I've paid to fly my partner to Vegas for a 4-day weekend just to let him know I appreciate his loyalty.

I let my partners know everything that I am doing with their money. When I find a property, I detail everything and give them copies. I ask them to keep a ledger listing every penny they spend on a probate turnaround. This ensures that they know what they invested in that particular property and what is due before profit splitting.

After the close of the turnaround and after profits have been distributed, take a picture of the property and attach it to a one-page summary of the transactions from purchase to resell and close. Give your partner a copy and keep one for yourself. This really makes your partner feel special and serves as a brag book for future investors. You will also want this brag book to show future lenders your track history, so they can see what you have done and that you know what you're doing.

Once you get rolling, you will need three good investors with at least \$150,000 each. This will ensure a good return for each of them and give you enough capital to do multiple deals at once. Of course, if you're acting on your own and you have your own capital, all the better. Most people I talk to don't have the capital, but they still want to get started. The above is how to do it.

Note: Over the years, people have asked me what kind of partnership agreement I use and whether I could make it available to students. I work on a handshake. Yes! I know what some of you are thinking—not very safe!—but it works for me and the way I like to do business. In my opinion, you only need a written agreement when a problem comes up and neither side will budge. Usually, this happens over something very small, and I do what it takes to smooth it out even if I lose some money. (I may then re-evaluate whether I care to do business with that partner.) Use your own judgment, but I prefer not to do official agreements in writing with my partners.

FINAL THOUGHTS

I only do a probate turnaround with my investor/partner if I can make him a minimum of \$20,000. If he places \$80,000 up and earns \$20K over 60-90 days, this is a good deal for him with a high return. If I just do a Level 2 with this particular probate, I would be earning \$7500 to possibly \$15,000 just from a 3-6% commission, so why go through all the headaches and risk? I will let my investor decide whether he wants the deal if the profit is under \$20,000.

I recommend \$150,000 as a minimum requirement for an investor/partner. Not only will there be a 25% to 30% down payment, there will also be closing costs and some fix-up and holding costs. You don't want to run out of money and panic your investor/partner. Plan ahead. Of course, this \$150,000 is based on an average selling price of \$400/500K in my area; we do handle some properties in the \$250-\$350K price range, and for this, I would feel comfortable with \$100K from my partner. It's all relative to your area's price range.

When shopping for an equity line, look for specials. Equity lenders sometimes run specials that reduce the setup cost for an equity line by as much as 60%. Make it your business to know.

Don't give up; never give up.

11

LEVEL 2 TRANSACTION

OK, we found a probate, did our research, and came up with an offer amount that allows us to receive our target profit. After presenting our facts to the executor, we realize he/she is not going to go for our offer because it's too low. What do we do now? Move on to the next one? STOP! We have another earning option here, so let's dive into it.

There will be times when estates will not sell their property at our 15-25% discount. In these situations, we can go for a Level 2 transaction in order to still earn a tidy sum. There are two ways to go, depending on whether you're an investor or an investor/agent.

INVESTORS

The first thing you want to do is tie up the property. So, if the numbers come up with a retail price of \$250,000 and you wanted to purchase this property for \$200,000, your first offer would be at a price that you know you can find a buyer to pay. This way you can build in a fee is you assign. I know buyers will jump on a property at 5/10% under market, especially if it doesn't need much work. It really doesn't matter what market conditions are, because anything priced under market will usually sell. So, from my retail value of \$250,000, I deduct the sales expenses like I mentioned in the Level 1 chapter. Remember, we want to deal with the amount the es-

tate would net if they sold retail through an agent. Our \$250,000 price tag would net the seller around \$233,500, depending on clear reports (pest, roof, home inspection). 90% of \$250,000 is \$225,000, and this would be the smallest amount the estate could accept under the old probate procedure. It has been proven to me over the years that the 10% discount is almost automatic. This would equate to \$25,000 from the retail value, so I know I could most likely purchase this property at \$225,000, then deduct the sales costs the estate would have. In this case, I could offer somewhere around \$216,000 and it would all make sense to the estate after explaining sales costs and the 90% of court appraisal rule. This would be my price to control the property (tie it up for at least 2 weeks while inspections are being done). I usually get this offer signed if I have done a good job explaining retail sale costs to the estate.

Now I have the property locked up at \$216,000, so I order my reports (pest, roof, and home inspection). Remember, my offer is subject to my approval of the reports, and I have 15 working days to obtain the reports and decide if my numbers will work. I have tied up the property, and I can decide whether I want it a few weeks later.

Now, I know I want to purchase the property around \$200K, since I think I can resell it at \$240K to \$245K (under market for a quick sell). I usually sell it my-

self, so we would be looking at a \$40-\$50K gross profit before any work, commission, or seller's costs. This is an average Level 1 profit at this low price. Let's now return to our Level 2 program.

The estate's frame of mind is important now. Before we entered into an agreement to purchase, the executor and heirs were concerned with price. They had a price in mind, and they probably told their relatives, friends, co-workers, etc. that they wouldn't sell for anything under that price. However, after we meet the executor and bring his/her expectations down regarding the net after selling retail, the mindset changes. They're waiting for the red tape and hassle to go away once the property is sold and thinking about what they are going to do with the money. In other words, they are relieved and in a better frame of mind to bargain with me when I come back later and need another discount.

I have already established that I want to purchase this property at \$200,000. I have the property tied up at \$216,000. When I go back and ask for another discount of \$16,000, two things will happen. First, the executor will most likely be upset. Then, after reviewing the reports and my reasoning, he/she will either see it my way or not. If the answer is yes, I get an addendum signed at the new price and move for closing (a Level 1 deal).

However, this chapter is about what happens if the executor says no. If they balk at my new price and I feel they are not going to budge, I will ask for another few days to look over the numbers and see if I can raise my offer somewhat. This usually relieves them, and we agree to meet in 2-3 days. This time allows the estate to mull over what they are going to do if the sale doesn't go through. Over the next few days, while they wait for me to come up with a better number, they will be thinking about how much lower they will go. I have seen it over and over. Re-

member, I still have the property tied up, since when I asked for 2-3 more days, I had them extend my contingency. We are still in control here!

When I first tied up the property, I had a buyer in mind in case my numbers didn't work out. Remember my buyer's bank? I keep a database of buyers who call me looking for property. I search for buyers in my bank who might be interested in this property and contact them. If I don't have any buyers in my bank for this property, I run an ad and notify real estate agents who work in the area. Do you see a pattern here? I'm preparing from the beginning in case my Level 1 numbers don't work out.

OK, so let's say I found a buyer who was willing to purchase at \$225,000. They have read the reports, and the \$225,000 still makes sense to them. Now, what do I do? Well, because I'm an agent, I go back to the seller and sit down to go over the numbers again; I want to make sure that they haven't changed their minds. I also ask them what their plans are if we can't do business. This will give me an idea of whether they're talking to another buyer or an agent who might be promising the moon.

I ask if the sellers still need the number we talked about, \$216,000. Sometimes they say yes, or maybe they come down to \$210,000. I may reconsider, and if I can still make \$25K, I'll do it, but if you're using a partner and splitting profits, you will probably need the full \$25,000 to make it worth the time and risk. Again, you need to make this decision based on your situation.

Now, back to our Level 2 process. The executor tells me they need the \$216,000 and this is their rock-bottom price. I feel confident that they mean it, so I tell them I can't buy it for \$216,000—the numbers just don't work. I let this sink in, read the executor's body language, wait a few moments, and

finally say that I have someone else who may pay their price. It never fails; their eyes light up with the hope that they will get their \$216,000. I say that I've been talking to a client of mine who may be interested in the property. I ask to extend my offer another five days to get the buyer over, they almost always sign it, and away I go.

Now, my buyer has seen the neighborhood and is interested. They know the price is \$225,000, they've seen the reports, and I had them pre-approved with my lender while I was getting the reports, so we are ready. I show the buyer around the house and tell the executor I will call them tomorrow.

I know at this point that it is a sale. I write the offer for \$225K, asking for a 6% commission, so the estate will get around \$211,500. This will usually work, since it's so close to the \$216,000 they wanted and much more than the \$200,000 I offered. If there is a problem and they must have \$216K, I either lower my commission or have the buyer raise the price. It is still a win/win for everyone. If you're not an agent, you would assign your contract to the new buyer for an assignment fee. Of course, the buyer may be buying with different terms. You just rewrite the offer for the buyer, add a \$5,000 assignment fee paid to you out of escrow, and away you go. This is not a commission, but a fee to assign your right-to-purchase contract (even with different terms) to the new buyer. Just for taking a little time, probably somewhere around 10 hours total, you can earn \$5,000 and move on to the next property. The beauty here is that we still have earning potential even if we can't get our discounted price.

I sell these Level 2 properties to clients who want rental property or a home for their own use. It's common sense that if you advertise a home for 5-10% under market, you will be swamped with buy-

ers. Again, I keep a list of potential buyers interested in purchasing these properties from me. You will create your own list as you buy and sell probate properties and run ads. Every transaction will bring new prospects for future properties. I keep in contact with my buyers, and when a property is available, I call them or list the property in my newsletter. My theory is first come, first served; my clients know this and act accordingly.

You will probably find more Level 2 transactions than Level 1 transactions. To make serious money in probate, you must capitalize on every opportunity. Realistically, you should be able to do one Level 2 transaction per quarter, at the very least. Based on an average sales price of \$250,000, this means \$7500/\$15K if you're an agent, or an extra \$30/60K per year. If you're an investor using the \$5,000 assignment fee, this means an extra \$20,000 per year. Remember, the assignment fee is relative to the equity the buyer is saving; if I save a buyer \$15,000, then \$5,000 is a good fee to charge as an investor. And of course, one such transaction per quarter is very conservative. This part is up to you and your efforts, but the business is there.

You will most likely be the only agent or investor (or at least the first one) to find the property and produce a sale. If this doesn't excite you, then nothing will in real estate. The procedure of finding and selling a Level 2 transaction is the same as for a Level 1. The difference is that you will not be purchasing the property, but acting as the middleman. Buyers will be calling you after word gets out that you represent properties selling below retail.

Let's go through a Level 2/Level 3 transaction of mine. I'm not going to mention the names of the parties involved, but the following is an actual deal I did. I will explain how I went from initial contact with an estate to a Level 1 offer, than finally a Level

2 and 3 after it was determined I could not get the profit I was looking for. This is the beauty of working probates the DF way; I have five levels of income opportunity for each lead.

FARRELLY ST, SAN LEANDRO, CALIF.

In early 1988, I was contacted by an executor who had received my letter of inquiry and was curious about what I had to offer. The initial contact from the estate was typical; the executor wanted to know where I got my information about the property, and he wanted me to give him a price.

Before proceeding, I want to warn you about something that will happen once you get into working probates. Every once in a while, someone from the estate will call to read you the riot act. This happened to me every 3-4 months when I first started. It doesn't happen much anymore; I may get 2-3 calls a year from irate heirs. Usually, they're upset that I have their information or that I'm chasing a real estate profit from the loss of their loved one. This bothered me, so I made some changes to my system that have really cut down on these calls. You will still get them, but it's something you will have to deal with if you're going to be successful with probate investing.

Because they have lost a loved one and are grieving, the heirs sometimes look for a scapegoat for their anger. Remember, I am there pretty early in the probate process, and the loss is still fresh. Some people will think you're terrible for contacting them during this time, and they will let you know it. They will be upset that you have information about the estate; most people don't understand that when you go through probate, the information becomes public. They may call you every name in the book and then hang up on you. Sometimes they will write a nasty letter rather than call. Don't let this

bother you; it is the way some people respond to grief and loss.

Remember, we need to treat the heirs, especially spouses, with respect for their loss. I never speak rudely to people, no matter what they call me or how nasty they may get. I understand that I am providing a service and I'm not a terrible person for trying to buy property from the heirs of the deceased. I believe that if the property needs to be sold, I am the person to handle it. Since I'm always up-front with the heirs about my business and what I can offer them, and since I am an expert in probate and real estate, who better to consult with if you're going to sell? It's not a question of trying to steal property from a deceased person. It's about offering a service to a family whose priority is to liquidate the property so they can settle the estate and move on with their lives.

Sometimes I have found that the irate person really wanted the property for himself or herself and didn't like the competition. I have seen many strange things in working probates, so nothing shocks me. When it comes to money, people will do crazy things. The important thing here is to be professional and move on to an estate where you can complete a buy/flip. You don't want to get into the position of defending your business to an executor or heir—it's a waste of time, and if a deal won't take place, just move on. I explain what I do and tell them that I'm sorry for their loss, but I do provide a service for those estates who want it, and I have many letters of recommendation from past executors and heirs. If the person is still angry, I just move on. You will find many more people who appreciate your ability to expedite the probate than not, but keep this in mind, since it is part of the business.

Anyway, let's get back to the Farrelly St. property. This was actually a Level 3 deal, since I didn't get my price for a Level 1 and didn't have a buyer at the moment, so I listed the property and then found a buyer. Let's discuss it anyway, since I did earn the complete fee with no other agent involved. If you're an investor without a real estate license, you could have done this and resold your contract to another buyer you found.

OK, so here we go with Farrelly St. The executor called and asked some questions about what I did. After some chitchat, he asked if I would look at the estate home and make an offer. This was his mother's property, and he wanted to sell it quickly, since he was tired of the commute to check on it. He explained that the property had a \$16,000 termite report, but also said that a contractor friend told him there was only \$6,000 worth of work needed, not \$16,000. The executor wanted \$105,000 for the property "as is." I asked for an appointment to view the property.

Again, all we want to do on the first contact is get an idea of the executor's asking price and make an appointment to see the property. You don't always get the price itself on the initial call, but in this case I did, and I also made the appointment. So far, so good. When I look at a house, I do an appraisal using FNMA (Fannie Mae) guidelines. I once worked as an appraiser for a major savings and loan, and I use this procedure in my probate pricing. No, you don't have to become an appraiser to work probates, but it helps my evaluation look more legitimate to the executor. You will find that this is a key factor in laying the groundwork for your target price. I tape the house and make a sketch. You can get the square footage from the assessor's office, but I want to tape the house and have the executor assist me; this shows the executor that I know what I'm doing. Again, I'm building a relationship here. I

will also take some pictures of the property with my digital camera; I take one of the front exterior, and if there are areas in the house that show possible problems (dry rot, roof leak), I snap pictures of them for later use. I bring a fact sheet listing everything about the house: style, roof type, heat, flooring, etc. I want to know every detail of the property, because when I am back in my office figuring out a price, I want to visualize it accurately. Also, when I present my offer to the executor, these pictures and this information will help.

I did my inspection and started the process of making friends with the executor (we talked about him and his situation), then told him it would take me 2-3 days to come up with a number. He said OK, and off I went. After I did my research, I came up with a target price for my Level 1 offer of \$95,000. This was based on the comps and cosmetic repairs I noticed. I called and made an appointment with the executor to present my offer (never give your price over the phone).

I explained to the executor that I couldn't pay more than \$95,000 for the property, based on the comps and the repairs needed. He came down to \$102,000. I went to \$98,000, but the executor held firm at \$102,000. After some further discussion, I told him that I couldn't pay any more for the property, but I would try to sell it for him and possibly get more net proceeds. He knew I was in the business to buy low, since I was straight with him. I told him I could not make enough on this transaction at his bottom price.

(REVISED)

Now, if you come across this kind of situation where you are just a few thousand off but the risk to profit doesn't justify purchasing the probate, tie it up anyway at the \$102,000 (this example) and sort out the

price later after all the reports are in. (In this case, we had a termite inspection, but I would still need a roof and home inspection.) Then, as explained earlier, you can come back in two weeks when the executor is in a better frame of mind and try to bring him down some more. Of course, you need the right spread to do this; at the \$98,000 price I offered, it was risky, and I was most likely better off acting as the agent and earning a 6% fee.

If you're an investor, tie it up, then sort it out later while looking for a buyer to purchase it for an assignment fee if you can't get the executor down. You don't want to lose a chance to make a few thousand on an assignment fee (investors) or a 4-6% commission (agents) just because you can't get the executor down to your price. Tie it up, tie it up, but use the escape clause. If you learn to do this correctly, you will most likely earn something on every probate contact who responds to your letter of inquiry.

REAL ESTATE AGENTS!

Back to our story—because I made friends with the executor and was honest in my dealings, he gave me the listing after we decided I couldn't buy at his lowest price. I asked for a 30-day exclusive listing so I would have a chance to sell it myself. Of course, this would only have been needed if I didn't find a buyer for the property during my contingency period. He gave me a standard 90 listing with a 15-day exclusive right to sell. The executor and I decided to list the property for \$132,000, although I felt it would be priced correctly at \$125-128,000 (of course, with the pest and roof work being cleared). I agreed to list it high at \$132,000, with the agreement that the executor would reduce the price to \$125,000 if it didn't sell. He also agreed to consider any offer around \$125,000, but he wanted to list a little higher.

Now, to clarify this, I didn't have a buyer for this property, so when I listed it, this turned into a Level 3 income opportunity. If you are an investor without a license and you can't find a buyer to purchase for an assignment fee, find an agent who will list the property and pay you some kind of referral fee. If you're not licensed, you can't be paid in cash, but you could receive a discount when you purchase or resell, take a trip at the agent's expense, or use his MLS service for comps. Use your brain to benefit from finding this property.

I advertised the Farrelly St. property and held an open house over the first week. I sold the house in two weeks for \$128,000, which resulted in a \$7680 commission for me. The estate had to provide a clear pest inspection and pay for a few other miscellaneous repairs, but they still netted more than my offer would have given them.

I earned a \$7680 fee on a property no other agent or investor knew about. I did not stop after the executor turned down my offer of \$98,000. I did a professional job in working with the executor, which gave him confidence in me to sell the property. I didn't tell him the house was worth a certain price; I proved it via a full FNMA appraisal with pictures. I made sure the executor would not want to deal with any other agent.

This executor was pleased enough with my services to give me a letter of recommendation (Supp #16/16b). I still use this letter in my probate business. You should conduct your business in such a way that every executor you deal with will give you a letter of recommendation.

My relationship with the executor did not happen overnight. I started cementing the friendship at the first appointment, and it took us two weeks to finish negotiating my offer. During this time, I made sure

the executor would want me as his real estate agent in case I did not receive approval for my price.

This started as a Level 1, then went to a Level 2 and finally a Level 3 before I earned my profit. Most investors would have left after the offer wasn't workable, but I earned almost \$8,000 by not buying the property. This is the beauty of Diamond Farming.

INVESTORS

I already described what you would have done with this property after determining that you couldn't buy it and couldn't find a buyer during your contingency period. You can still make out by referring the listing to an agent. At the very least, these agents get a chance to pitch the listing, and this is a very valuable source for agents, so use it wisely. You can get a lot of mileage from referring possible listings to agents.

REVISED: LEVEL 2 AND 3 TRANSACTIONS (2002)

As far as Level 2 and 3 transactions go, everything is basically the same as I explained in the first edition. I don't want you confused by the process, and I have had many faxes and emails over the years asking how it works. This is just another opportunity to earn on a probate that identifies itself to you from your letter of inquiry.

Regardless of whether you're an agent or an investor, once you tie up the property, you should look for a buyer as a backup; in case you can't get your final price, you can sell the property to your buyer for either a commission (agent) or an assignment fee (investor). Commissions and assignment fees are whatever you can get. I always try for a 6% commission, but if the deal doesn't make sense, I will take 5%, 4%, or even 3%, since I would most likely

receive a 3% listing fee if another agent ends up selling the property.

If you're an investor, then look at the equity you are giving the new buyer. If the property is worth \$125,000, and you can get it for the buyer at \$102,000 plus work, which totals \$110,000, then paying you a \$5000 fee would still give the buyer a discounted deal. If you can offer a buyer a property with clear inspections for \$115,000, including your fee of \$5,000, and the property is actually worth \$125,000, then it makes sense for everyone. You decide what it's worth to you.

ASSIGNING YOUR RIGHT TO PURCHASE

OK, we are going to assign our right to purchase the probate to another buyer, but how do we do this? Regardless of whether you're an agent or an investor, the steps will be the same; just the payment procedure will be different. We have our terms and conditions signed by both the buyer and the seller. The new buyer is probably not going to be able to purchase under the same terms. Don't worry about this; it's a simple matter of drawing up new terms and having both parties sign.

Calculate the price. You know what the seller will take, so just work backwards; add your commission to the seller's bottom line and explain to the buyer that this is his price. If you do this right, the buyer's price including your commission or investor's fee will still add up to less than retail. Of course, you factor in pest, roof, and home inspection costs, but this was already done with the seller; what you still have to play with is the \$25,000 to \$50,000 profit you were hoping to earn. More than likely, adding your commission or fee to the seller's bottom line price will make an attractive purchase price for the buyer.

Sit down with the buyer and write up their offer. The price is the only issue here, and since you know what the seller wants, you only need to set the terms. Maybe the buyer wants to purchase with 5%, 10%, or even no down payment. Maybe they want certain work to be done. It doesn't matter; write it out, and as long as the seller is getting what they want, you will be fine. You are basically rewriting the offer, but it's OK. If your buyer wants to purchase with a zero or low down payment and the property needs major repairs, it may not fly with your lender, so act accordingly. If you have a major fixer, you may require a down payment from the buyer big enough for a lender to finance it. If the property just needs some cosmetic work, then your lender will probably agree to a low-down-payment deal.

Since you have the buyer working before the seller knows your deal won't fly, you don't have to wait very long for the new escrow to close. This won't upset the seller, since you can most likely close within two weeks of when you were originally going to close. Remember, you can get the buyer pre-approved, so all you need are an appraisal and a clean credit and title report.

If you're an investor, you do this the same way; create new terms if you want them, and tell the seller your buyer is going to pay you an assignment fee for the right to purchase. You can have the fee included in the sales price so the buyer doesn't have to pay you out of pocket. Deduct it from the seller's proceeds as a cost to sell, and the seller won't be taxed on it. If there is a problem, just have the buyer pay you directly or carry a note. These notes can mean great passive income for you if you do this regularly.

The point I'm making here is this: don't get all flustered trying to figure out how the new buyer can purchase on the same terms you offered. All that matters is that the estate wants to close and they have given you their bottom price. If they receive it, they won't care who the buyer is. Think outside the box and you will be fine. Everyone is winning here; the executor is getting his or her price, you are receiving a commission or assignment fee, and the buyer is getting a home under market price. If you're in a seller's market, buyers will be even more excited, since they have probably been having a tough time on the MLS market.

As I mentioned in an earlier chapter, Level 2 opportunities are more abundant than anything else. All you need is a response to your letter of inquiry, and away you go. I try to keep it conservative when I'm asked about how many of these you should be able to do. If you do everything right and you're consistent, you should be able to find a Level 2 opportunity every month, depending on the number of courthouses you go to and the number of probate properties opened each month in your area. If you need more properties, work more courthouses. On average, you should find one Level 2 every quarter.

Again, you're earning on something no one else knew about, and you don't even have to buy it! This is so hot!

REVISED 2002 FOR REAL ESTATE AGENTS

If you're an agent, you may want to offer the following service when you run up against an executor or estate that is balking at your offer. What I do in this case is give them an option. I present my offer and go over the numbers, comparables, and what other sellers in the neighborhood netted from their sales. If the executor balks, I will work it until I know they aren't budging, then give them this op-

tion. I tell the executor that I will list the property on the local MLS, and if I find a buyer who will pay more than I'm offering, they can take the deal and I will act as their listing agent. This takes away their fear of selling the property too low.

This won't happen all the time, but when it does, give the executor the option. They are going to list the property anyway if they can't work out a price with you, so offer to do the listing yourself! Who better to list it than an agent who really knows probate? If another offer comes in, you'll receive a commission, and 3-6% with today's pricing is a nice piece of change. Your offer is like a guaranteed sale, so the estate has the best of both worlds. They have the chance to take the property to the retail market, and if it doesn't sell, your offer is still on the table and they can expect to close.

Now, if the property doesn't sell and they say "Let's close," make sure you look at your numbers and the market to ensure that your numbers still work. If the numbers don't work, tell the seller that you can't pay that price after looking at the existing market conditions. (Make sure you include the right to rescind your offer in your addendum when you give the seller the option to place the home on the MLS.)

Warning: If you do list the property, make sure you market it like any other listing—don't sandbag it to get your offer. This could come back and haunt you later on. Service the listing like any other, and if you do end up buying it, no one can say you deliberately failed to market the property so you could buy at a discount. Be smart—you're in this for the long haul, right?

INVESTORS

You investors can even make the same offer. Tell the estate they can list the property on the MLS and you will go to a back-up offer if someone else makes an offer that will net them more money. Stipulate that you want your agent contact to handle the listing. This way, if another buyer does bump you, your agent will get a listing fee and you can work something out with him/her. Remember, they can't pay you a commission, since you're not licensed, but you can work it out in other ways.

12

LEVEL 3 TRANSACTION

Level 3 is almost identical to Level 2, with the difference being that you can't find another buyer for the property right away.

When this occurs, you still have an opportunity to earn. If you're an agent and you don't have a buyer ready to purchase, you still have a shot at listing the property and earning a 3% listing commission.

As an investor without a real estate license, try to refer the listing opportunity to an agent you do business with. You can receive a lot of leverage from an agent if you send the agent listing leads from time to time. What you work out with the agent for the leads is up to you. Remember, they can't pay you directly since you're not licensed, but you can make other arrangements for services you will need as you conduct your business. An agent can be a valuable asset when you need comps, property profiles, MLS services, etc.

OK, back to Level 3. If you have laid the groundwork properly, you will have a solid relationship with the executor and heirs. They will feel confident in you because you have shown your professionalism. The estate may ask you to represent them, if you're an agent, or if an investor ask you to recommend an agent who knows probates.

The steps you followed in pursuing Levels 1 and 2 proved to the estate that you are a professional. You made a friend and gained the estate's trust and confidence. (If you haven't done this, move on to the next opportunity and try again.)

NOTE: If you didn't have a good relationship with the estate, try having another real estate agent approach them for the listing, or if you're an investor, have your agent contact call them. If it works out, you may still benefit. If I walk away from a property with nothing, but I exhausted all my resources trying, I feel good. Again, we are working smart here, not hard. For those of you who think this is too much work, you can always stick to the Level 1 opportunities and avoid all of this. It's up to you!

Every task you undertake in probate investing should be for a reason, and that reason is earning money. Yes, that's right, money. To earn this money, you must gain trust, provide first-class service, and be professional, never emotional. Even so, you will not connect with every property you target; at the beginning, you may put in the effort and not receive any compensation. For whatever reason, the estate will deal with someone else. This happens in every business, and it still happens to me. Just realize this and move on. You will receive more than enough business if you follow the system, don't take shortcuts, and remain consistent. It took

me many years to learn that nothing worthwhile was going to be handed to me.

I want to tell you about an early Level 3 transaction that not only made me a big fee, but also brought me an investor sent from heaven. This investor and I have made a great deal of money together because we placed a value on our business partnership, but we placed a higher value on the friendship that developed. He has since retired and moved away, but we did many deals together in the 90s. He was my second investor for probates (I have had three).

After our first transaction, his mother's house, closed escrow, we moved on to buying and selling together, which netted each of us approximately \$30,000 on our first deal. His mother's home was in San Leandro, and this is the story.

An executor called me through my probate tracking system. Just as the system teaches, I pursued a Level 1 opportunity first. I asked him questions about the property so I could run a check on comps before our first meeting. I then set up an appointment for two days later, so I would have enough time to research the neighborhood and check the court file.

Always give yourself a day or two before inspecting the property to do research and check the court file. If you get the approximate value of the house from the Petition to Probate, you'll know how much to offer in order to obtain your Level 1 target profit. You will also want to check the court file for an update on the probate process; the executor may call you months after you first looked at the file, and the court appraisal may already have been done (although it is not necessary under the IAEA).

Frequently, for whatever reason, the court appraisal will be low. Let's say the court appraisal came in at \$200,000, but you know the house is worth \$215,000. Per the old probate laws, an executor can only sell the property for 10% less than the court appraisal. So, in this case, you can easily buy for \$190,000, since for some reason, executors don't have any problems with the 10% rule. (I think it is because they are not making the decisions, it's the law.) Now, in this case, the home is really worth \$215,000, and \$190,000 is a gross of \$25,000 discount. If it is clean, you can make a nice profit, but if you're working with a partner, you will need more. I already explained how to do this, so I won't go there again, but you can see the process. I would grab this at \$190,000 and look for a Level 2 spin at around \$200,000, earning me \$12,000. If I were an investor, I would spin it to someone for a \$5,000 fee or more. See how this works?

There will be times when the executor and/or heirs want much more than the court's appraisal amount. You will know this if you check the file to see if the appraisal came in before you inspect the property. You will then have to bring the seller down, look for a Level 2 or 3, or move on to another probate.

In the San Leandro probate example, the property was appraised at \$130,000. The probate was complete, and the executor had become the owner, per the will. At the appointment, I stayed low-key and did a professional inspection that included tape-measuring the house and taking pictures of the front and rear.

During my inspection, I asked the executor what his plans were for the house if we couldn't agree on a price. Was he going to sell it himself, list it with a realtor, or what? He said he had been speaking to a neighborhood agent who wanted the listing, and that agent would get it if I did not buy the house.

I didn't give a quote at the initial appointment, but asked the executor to give me a few days to work up my offer before he listed with the other agent. He agreed, and off I went.

Over the next two days, I did my FNMA appraisal on the property, complete with a square-footage diagram and pictures of the subject and comparables. I knew comparable property was worth approximately \$145,000 to \$148,000. Based on this information, I made an offer of \$125,000. The property was in excellent condition and would probably sell without any cosmetic work. The only variables were the termite and roof reports.

You might ask, if the house was worth \$145,000 to \$148,000, why did I tell the executor this and then offer \$125,000? This is a good question, and I will answer it by explaining what I did.

After a couple of days, I asked to meet with the executor at the property for one last look, at which time I would make my offer. We set a time and met at the property. Again, I was pleasant to him. By this time, we had met twice and had spoken on the phone a couple of times; I could tell he was beginning to feel comfortable with me.

At the meeting, I could tell he was going to pass on an all-cash, 30-day-close offer less than retail. I knew that a quick deal was not important to him, so I immediately decided to try for a Level 3 transaction and list the property. I did not have any clients at the moment who would pay retail for the property, and he wasn't going to sign my offer, so I couldn't do a Level 2.

First, I explained why I could only offer \$125,000. My offer was based on my appraisal. I gave him the appraisal and told him to keep it. I made sure he understood that my business was to purchase at a

discount, and I could only pay so much for the property "as is." I brought him down from the \$148,000 gross proceeds, so the difference in actual net wasn't much, but he didn't want it. Therefore, I knew a Level 1 was not going to work, and if I left, he was going to give the other agent the listing.

I asked him to think about letting me represent the estate and list the property on the local MLS, since I was familiar with the property and probate real estate was my full-time business. I made sure he knew all of my credentials and then gave him some letters of recommendation from past executors and estates I had represented. I asked him to consider me before giving the listing to the other agent, but I did not push him.

He agreed to give me a shot, since he liked how I did business. I received the listing at \$148,000, and another agent sold it in a few weeks for \$145,000. I received a listing commission of almost \$5,000. I handled the escrow professionally, wanting to show the executor he made the right choice. I kept him informed during the escrow on a weekly basis and made sure his interests were protected. Finally, after the escrow was closed, the executor asked if he could become one of my investor/partners because he liked the way I had handled his sale.

I explained my investor program to him, and he was anxious to start. Within 2 months, we made our first Level 1 purchase, and he netted approximately \$30,000, a return of 62% on his investment. I protected his interests before my own, and he knew it. I am sincere when I say "Protect your investors." Give your investor a profit and take a 6% commission if you're an agent. If it might not work, or the profit is skinny, pass it by. Don't risk your investor's money on a gamble. We are in this for the long run, right?

Level 3 transactions are as plentiful as you wish. More often than not, you will be unable to buy at the proper discount to warrant a Level 1, and you won't have a buyer ready for a Level 2. In order to take advantage of all the income opportunities, you need to list these properties. If you're an investor without a license, find an agent and work something out.

Just imagine knowing about a property before most other agents and investors do. Of course, there are times when a friend or relative who is an agent will get the listing. That's all right, because you can still look for a buyer before anyone else knows it will be listed. Before the estates agent lists the property, you will know about it, and you can run an ad to find a buyer. Believe me, if you have a buyer who is willing to pay the estate's asking price or close to it, they will sell and you will receive your sales commission. Even though the other agent may receive 3% for doing nothing, you'll still get your fee. Think about it. This is really a gold mine. Properties in Alameda County sell within days if they're priced right. Knowing about property before it hits the market can earn you thousands of dollars.

In order to find these properties, Level 1 through 3, you have to be tracking constantly. If you don't give up, you will succeed. I am no smarter than any other agent, but I have inside knowledge that's earning me thousands. Now you have the key to unlock the vault in your tracking area.

REVISED

I want to discuss a recent Level 1 opportunity that ended as a Level 3 with a \$9000 payday. This is the procedure I follow today as an agent. If you are an agent, it can really work for you, so check it out. Investors will need to hook up with an agent in order to benefit.

NEWARK, CALIF. (2002)

This is an interesting story, as I had to deal with an executor from out of state who moved into the subject property, didn't have a clue about real estate, and played hardball with me. We went from a Level 1 to a Level 2 and finally ended with a Level 3 and a \$9000 payday. I had targeted a \$25,000 profit (which I now consider skinny) to share with my partner.

This is how this story went. Hopefully, it will help you when you come across a person like this.

Around November 2001, an executor contacted me. She said she had received my letter and asked me for a price on her aunt's home. I started by asking questions about the property and trying to make her feel comfortable with me. She was here from out of state with her husband, and they were doing everything—handling the executor duties, cleaning the house, sorting personal property, the whole nine yards. She had been there for three months, and she and her husband wanted to get home. Everything was in line for a possible Level 1 deal, so after finding out all I could about the house, I set up an appointment to visit.

At the first meeting, I found them to be a typical couple: not real-estate-savvy, frustrated that their lives had been turned upside down, and ready to sell the house and head home.

Per the DF system, I toured the house and had the executor and her husband tell me about it (making friends). Once I was done inspecting, I sat them down, told them about my business, and added some more probate talk, which I could see made their heads spin. I then told them it would take me a few days to get my numbers in order, but I would call when I was ready to make the offer.

They thanked me, and away I went. I already had my comps, so I spent the next couple of days driving by them, taking pictures, and getting ready to present my findings. I wanted to buy this property at around \$270K, and from my talk with the executor, I knew they were looking for around \$300K. After doing my research, I felt that the property was worth around \$315K “as is” and \$335K to \$345K fixed up. I prepared my offer at \$285K.

At the next appointment, I asked where they were with the probate, and they told me that the attorney was basically keeping them in the dark (typical). I went over the process again, making sure they understood what was ahead of them. I reviewed what I do and that this is a business for me. I made sure they understood the word “discount” in my business.

I waited until their body language told me that they wanted me to get on with the offer. They were bursting at the seams to find out my price.

This is where you want them. I started laying out my findings and describing the comparables in the neighborhood to bring them down from retail. I explained, “This house sold for this price, and after commissions, inspections, and escrow costs, the seller netted close to \$X.” I did this with 4-5 comps, and I could see them getting nervous. I’m sure they were calculating what I was saying, but most likely had a minimum price in mind.

Finally, before I could give them my price, the executor stated that they would not take less than \$290K. Coolio! I had a number now. I didn’t counter back to \$275K, since they would have thrown me out at this point. I needed to work the numbers some more, so I started going back over the comps, ex-

plaining that many of these sales netted the sellers less than \$290K after expenses. I told them that any other buyer who came along would be looking at the same numbers. We went back and forth, and they were starting to get agitated. When I told them I could only offer \$285K, they said no. Can you imagine? Just \$5K difference, and they said NO. After complaining that they had been there for 3 months, they wanted to go home, and they were frustrated with the attorney, they still said no for only \$5K difference.

The executor started telling me that her sister in LA was an agent who would list the property and so on. I was getting nowhere fast. This is when you need to retract, or you may lose the deal due to emotion. I told the executor that I would go over my numbers again, talk to my contractor (who had gone through the house with me), and see if I could get my numbers up. They agreed, and we set up an appointment in three days.

hope the process is sounding familiar; this is what I do every time, and it is critical for your success in probate investing!

I gave them time to think about the \$5K difference: I wanted their emotional state to cool down. This would give me a better chance when I came back.

When I returned in three days, we all sat down again. They were calmer, so I knew they had discussed the price between themselves. I told them that I had gone through my numbers again and found a solution. I told them I really couldn’t pay the \$290K; I explained the process again and kept talking until I knew they were uncomfortable again. I wanted them to feel like the deal was shaky. When I told them my price was \$270K, they went ballistic. “That’s it, we can’t do business, we’ll be doing something else!” Blah, blah, blah.

After they had said their piece, I agreed with them that I didn't think we could do business. I changed the subject to alternatives and the disclosures they would have to make now that they knew how much work was called for.

To make a long story short, the executor then told me that they had talked over the last couple of days and they would come down to \$280K. Wow, look at that! No longer was \$300K the magic number, or \$290K, it was now \$280K—\$5K less than the price they wouldn't accept three days earlier. See how this all works.

At \$280K, the Level 1 would be skinny. Maybe a gross \$35K, but if we had to pay 3% plus delayed holding costs, it could have been \$20-25K. I decided to go to a Level 3 option.

I told the executor that I could probably come up to \$275K. She said no, so I introduced the Level 3 option. "How about I place the home on the market for you?" I asked. "We'll see what the market can bear, and my \$275K offer will only be a backup. We will offer the house to the general public and see if we can net you more. If we do, I will act as your agent for a commission; if we can't net you more by paying commissions and costs, you'll still have my \$275K offer and you can get this process over with."

Bottom line, they agreed and signed my offer subject to the MLS listing time frame. I did this on a Friday night, as I usually do, because the executor will want to run it by the estate's attorney. This is a deal killer if they don't sign first. I explain that the attorney won't approve of this, since they don't

want to be the one telling you to take the deal; this is why most attorneys go through the court confirmation process. I include a clause in the offer that

"the sale is subject to the estate attorney's disapproval within 3 days". I usually get a signature and the attorney never disapproves. They may tweak the deal a little, but if I have a problem, I have my own attorney step in; once estate attorneys know there is another attorney involved, they back off. This process has been proven over 15 years, so make sure you understand it all.

To make a long story short, I placed the property on the market for \$315K "as is," and within two weeks I had an offer for \$310K, which the executor took. I made a 3% commission (\$9300). The estate netted more than my offer would have given them, and it was a win/win for everyone.

NOTE: If I had cut to the chase for my \$270K, I would have been out of there and earned nothing. By working the system and taking small bites, I earned a good hunk of change and made the estate more money (yes, that's a good thing to do), and it took me all of three trips to the house and about 20 hours of work total.

INVESTORS: Could you have assigned your \$280K rock-bottom price to another buyer, added \$10K, and still made out? Yes—it takes effort, but the beauty is that you can still earn on probates you can't purchase at the right discount.

13

LEVEL 4 TRANSACTION

(ORIGINAL VERSION)

In my original probate investing system, this was the last opportunity to earn a commission or profit on a property someone else purchased that was going to court for overbid.

If you can't buy the property at 10-20% under market (Level 1), if you don't have another buyer to assign your contract to (Level 2), and if the executor won't list the property with you (Level 3), what else can you do to earn from this lead?

If you're an agent, you can find a buyer to overbid at the court confirmation, even though another agent listed the property and a buyer has an offer on it. If you're an investor, check the overbid price to see if you can still buy it and turn a profit. (More to come on this later in the chapter.)

FIND A BUYER BEFORE PROPERTY IS PLACED ON MLS

By tracking the property file and dealing directly with the executor, heirs, and attorney, you discover that the estate will list the property on the market with Swamplands Realty. The agent will either be a friend of the estate who knows nothing about the probate process or a friend of the attorney who receives all the attorney's probate referrals. Make it your business to ask the executor why he picked

this particular agent to represent him. Whatever the reason, you've lost the listing, and it doesn't matter that you specialize in probate real estate.

If you're an investor, you will have to look at the court confirmation overbid, factor in the opening bid price, and see if it still works for you profit-wise.

Don't worry about any probate property you lose—think about the ones you might lose if you spend time worrying about the ones already lost. I offer expert service and letters of recommendation, and I still lose listings. Some executors that turn me down end up listing with an agent and receiving less than I offered. It's just part of the business; accept it and play the numbers. Even when I lose a purchase or listing, I still follow the sale. In the probate court file, you can find out who listed the property and check out the listing. You can also find the sales contract, where you can see who purchased it, the price and terms, and if a full commission was paid to any one agent. Compare the sales price and see if the property is still undervalued. There is a possibility that the property sold low and the agent did not know how to keep the sale away from the court supervision and competition.

If this happens, I will continue to search for a buyer up to the day the offer goes to court confirmation. If the price is right from an investor's point of view, I may show up and bid on it myself.

COURT CONFIRMATION (AGENT’S INTEREST)

When a probate property sells, the attorney usually wants the offer to go to court for approval. At the court confirmation, the judge will ask if any other interested parties want to bid on the property. Any overbid must be at a prescribed higher price from the original offer. There is an exact formula for the overbid, but the following simplified formula works just as well. You can also find the overbid notice in the file giving the exact overbid terms and opening price.

10% OF THE FIRST \$10,000 OF SALES PRICE, 5% OF THE BALANCE

Let’s say a probate house sells for \$100,000 and goes to court confirmation. The overbid would start at \$105,500. Here is the breakdown:

10% of the first \$10,000.....	\$1,000
5% of the balance (\$90,000).....	\$4,500
Overbid minimum increase price.....	\$5,500

Overbid opening price.....	
\$105,500	

Now, knowing this, if the property is still worth more, there is a good chance you can find a buyer by the time of the court confirmation. Canvass the neighborhood with flyers, place an ad, and check your buyer’s bank!

Let’s say the house was worth \$120,000 retail and the court appraisal was \$110,000. The \$105,500 overbid needed at the court confirmation would still be a 13% discount from retail; I’m sure there would be interested buyers at this price.

Of course, there are times when the numbers don’t work. Just pass on these probate properties and move on to the next. I have seen buyers pay retail for probate property “as is” at a confirmation hearing. Why would you pay retail for a property selling “as is”? The purpose of finding probate property is to make a good buy. There are homes on the market for which you can pay retail and receive termite and roof clearances. It also depends on your local market conditions. If property is hard to find, then everything will sell at a premium. Just chalk it up to experience and move on. There will be many opportunities for you as you continue your research.

(AGENTS)

Suppose you do find a property going to court confirmation with a very low opening bid. If I know a property is going to court confirmation at a low price, I canvass the neighborhood for a buyer. This is one of the best places to look for buyers; the neighbors may know a family member or friend who wants to move into the neighborhood, or one of them may want a rental property. I pass out a minimum of 100 flyers listing the details of the property. This never fails to bring buyers to me. I also place an ad in the paper; this will bring many calls if the price is lower than the neighborhood average.

When you find someone interested in the property, don’t give out the information over the phone. Prospects may eliminate you if they know the property is not your listing.

I arrange for all the people who inquire about the ad to preview the property on a certain date and time. At the showing, I take the names of those who wish to discuss making an offer. I set up appointments with the potential buyers and go over the bidding process. The buyers all know that I will represent the buyer who is willing to make the highest offer. I do not discuss the offers with other buyers; I just tell the ones with lower offers that they were not the highest bidders and I will be representing another buyer. This will stop lowball offers and should weed out those who are not serious. Remember, you will have one shot at the court overbid, and you want the best offer available.

SHOWING THE PROPERTY

You may wonder how you will show the property if you don't have the original offer. If you can't get the listing agent to gain access for you, call the attorney. If you still can't get access, call the executor and/or heirs, or write them if their numbers are unlisted. If the estate will make more money by letting you bid, they will make sure you get a chance. It is a win-win situation for the estate. Either they receive what they already accepted, or they receive more from your overbid. Believe me, they will let you in.

Just keep in mind who is in charge. The attorney and agent work for the estate. The estate makes the decisions, and it is your job to help them understand this. Do not let the attorney or agent buffalo you. If I am having trouble with the attorney or the listing agent, I will inform the executor and heirs. If I lose a commission or profit at the Level 4 opportunity, it will not be because I dropped the ball and gave up. As a novice, I lost a few big paydays because I did not follow through until I knew for sure the property was unavailable. It will never happen again.

Not every attorney or listing agent will give you problems. I am only saying that it does happen in this business, and you must be prepared.

Let's go back to the court file, where you will find a lot of necessary information for a Level 4 transaction.

When a probate property has an offer and is going to court for confirmation, file indicators will place you on alert. First, you will see in the file a request for a Sale of Property confirmation hearing (Supp #18/18B). This request will spell out everything you need to know: who made the offer, what agents are involved, and how much the estate accepted, along with the terms of the sale. The minimum overbid amount will be listed, as well as the date, time, and place of the court confirmation. In my area, confirmations are held at the Oakland courthouse at 9:00 AM or the Hayward courthouse at 9:30 AM. Court confirmation hearings will usually occur within 4-8 weeks of the attorney's request.

As you update your files each month, you will see if the property has sold. If it sold at a price you feel you can improve upon, work it. If not, pass it by and delete it from your file. In the file, you will also find a copy of the contract between buyer and seller. You will see the price and terms of the offer. If you wish to work the property, this tells you everything you need to know, and you can plan accordingly.

Remember, these sales will usually be "as is," so if you need a termite report for your buyer, you must allow time for it. Just follow through with the preliminaries as if it were a regular sale. If you're an agent, you must protect yourself because your buyer is buying the property "as is." I have them sign a disclaimer that shows the buyer knew what he was buying and elected to have or not have inspections.

NEWSPAPER NOTICE

Another way to find properties going for court confirmation is to check your local newspaper. I use the local Hayward paper and a county legal paper (Inter City Express). In these newspapers, attorneys will post notices such as “The estate of Joe Blow will be taking offers on such and such a property on a particular date.” These notices will include the probate case number, which will direct you to the file. You may or may not have this file in your tracking system. Go to the courthouse, check the file, and see if the property has potential.

Again, this is just a means to locate the file. Often these properties will have offers on them and be listed with an agent. In 8 out of 10 instances, property that has been listed and is going to court confirmation actually sold at retail prices. But every once in a while, one will come along that the executor sold himself, and I will hit a Level 1 or 2 profit opportunity.

AT THE COURT CONFIRMATION

Here is what happens at the court confirmation. The day of the confirmation, you will take your offer (investor) or your buyer (agent) to the hearing. I always bring my buyer in case a bidding war erupts. I want the buyer to make the decision in court if the price exceeds our target price. People change their minds, and I want to make sure my buyer gets what s/he wants.

The probate courtroom will be crowded, but don't worry. Sale confirmations are usually first priority, and you should be in and out within the hour. When the estate's case is called, the attorney for the estate will answer questions from the judge or referee regarding the sale. Somewhere along the line, the judge will ask for any interested bidders to come to

the table. At this time, you will go to the table, along with your buyer if you have one.

The judge will state the minimum bid guidelines and explain what increments the overbids will follow. The judge may require that after the overbid minimum has been reached, the following overbid amounts must be in increments of \$1000, \$5000, or whatever he/she wants. The judge will then ask all bidders to state their names. After the names have been given, the judge will begin the bidding. Usually starting on the judge's left, each bidder will be given a chance to bid in order until one bidder is left. This bidder wins and is awarded the property. If you are the winner, make sure you ask for a copy of the order showing you or your buyer as the confirmed buyer.

(Note). The original sale will have terms on who paid what as far as reports if any, work, closing costs, tax, etc. Ask for a copy of this for the Estate attorney if you didn't obtain it in the file prior to making your offer. This will be included in your overbid sale.

That's it, folks! After the overbidding, the escrow is handled like any other escrow. Ask your title company if the award from the court is all they will need.

At the confirmation hearing, you are required to have a certified deposit for 10% of the opening bid or sales price. The judge may not always ask for it, but always bring it with you. Make sure the money is made out in your name or your buyer's name, along with the name of the estate. Make sure that if you are awarded the property, the deposit goes to the escrow account. Control your transaction to minimize problems. Also, at the hearing, ask for a copy of the Letters of Testamentary from the attorney. You will give these to your title company along with your bid confirmation; this allows the executor to sign the deed over to you (or your buyer) and the

title company insuring this transfer. The remainder of the escrow will be just like routine real estate.

COMMISSIONS (For Agents)

If you overbid on a property that does not have a commission in the original offer, your commission will likely be reduced to a mathematical court formula. Under the current probate law, if the original offer doesn't include a sales commission, any overbids with an agent involved will have the commission based on a percentage of the overbid. This happened to me on a sale of a \$135,000 house, and my commission worked out to be \$3450. My offer was approximately \$7200 more than the original offer going to court, and I asked for a 4% commission (4,050). The estate's attorney informed the court that the commission had to be calculated because the original offer did not include a commission. This reduced my commission about 1%, but I still made a sale to a buyer I would not have sold to otherwise. I found the buyer from the neighborhood flyer I circulated; one of the neighbors had a brother looking for a house in that neighborhood. The house was worth approximately \$145,000, so my buyer received a good deal.

Just remember, you can stay busy on a full-time basis tracking probate property. You may be able to sell a house a month just by finding property going to confirmation that isn't on the local market. As you advertise these properties, you will develop a buyer's bank. When a good deal reveals itself, you will have a buyer waiting. How sweet it is!

INVESTORS!

If you're an investor, you can find Level 1 buys at the court confirmation (Level 4). You have to be persistent and look for the signs, but they are there.

REVISED LEVEL 4

Over the last 15 years since I wrote *Diamond Farming*, I've learned that you can find some great Level 1 probate profits at the court confirmation process, providing certain conditions are present.

Yes! We have made some great buys at the court confirmation process, with our last one netting us over \$50,000. I will talk about this probate-overbid buy/sell and how it turned into one of our biggest paydays later in the chapter.

Under the old probate law, when a house in probate has sold and the estate is going to court for confirmation of the sale, this is where most investors who look at probates start their research. They usually find the Notice to Confirm Sale in the paper, which states the sale price and terms. This brings other buyers, and the court bidding can get crazy with the buyers getting caught up in a frenzy. This is why I stayed away from court confirmation sales in the early years, except for when I had a buyer and was acting as their agent.

I have learned some "level 1" buys can be made in confirmation court if you look for the right ones (as I teach) and if you're an agent you can pick up commissions selling to buyers in the over bid situation...

EXAMPLE 1

What turned me around on finding Level 1 buys at the court confirmation was a house I was looking at for an investor who wanted a rental property in a certain neighborhood. The house was in probate and listed for sale with the local MLS. My client called me after seeing the sign and wanted to know about it. I knew the house was a probate; I called the real estate office and was told the property was sold. When I got off the phone, I realized that the listing

agent never told me the house would be going to court for confirmation. This made me wonder what was going on, so I decided to check the probate file. I ran the address, found the seller's name, called my title company, and found the probate file number. I soon found out why they weren't interested in an offer from my client.

In the file, I found the Notice to Confirm Sale and overbid information. The house sold for \$157,000, and the overbid would be around \$165,000. For a 3-bedroom, 2-bath in this neighborhood, it was about \$30,000 low. It would have been a good property to keep, but a flip would be skinny. My client wanted a rental in this neighborhood, so I decided to check it out further. I also found that the buyer was the son of the listing agent's partner, whom I also knew. This was starting to get interesting. I figured they were going to try and lowball the sale, then keep it quiet to avoid other interested buyers. I decided to go check the house out for a possible overbid in court.

When we arrived at the property, the lockbox was still on, so we were in luck and could gain access. The house was listed as vacant, so we went in. To our surprise, the floor plan was different from the listed one; it was a 4-bedroom, 2-bath, 1800 s/f, not a 3-bedroom, 2-bath, 1400 s/f. The listing said there was a tremendous amount of fixing and pest/dry rot work, but this actually proved to be in the bathroom floors only. The remainder of the home just needed cosmetic improvement.

Wow! They were really trying to hide this property and keep it for themselves. What a joke—and this particular broker is one of the top agents in our area and receives many probate listings from attorneys. If only the heirs knew!

Well, we decided this was a jewel, a Level 1 opportunity. I didn't want to tip off the listing agent and his partners, since they might plan to bid more if they knew I was coming to overbid. I might add that the terms of this sale were never placed in the newspapers, which kept competition away.

We showed up at the confirmation hearing about 2 weeks later, and to my surprise, the buyer never showed up. I imagine they thought it was wired in.

When the judge asked for any interested over bidders, I was the only one to stand up; the agent who knew me was surprised. The judge explained the process for the overbid, and since the original buyer did not have to show funds to purchase, I was asked to show my 10% deposit. The attorney confirmed it, and the bidding started. I opened with the first overbid, and the agent for the original buyer, who looked a little nervous and unprepared, raised another \$2000. I continued and purchased the probate property for \$180,000. The other buyer wasn't there, and the agent stopped bidding at my \$180K bid.

Not only did I receive the property at \$180K, I was also paid a 3% commission (\$5400) for producing the sale. My client paid me the other 3% commission, as I was giving him the property. I walked away with \$10,800 for finding a probate no one else knew about.

My client upgraded the kitchen, painted it, replaced the carpets, cleared the termite report, and ended up selling the home 90 days later for \$240,000. He cleared \$30,000. The other buyer received nothing, and his agent's fee was cut in half. Wow, if only they knew how to keep the property out of court! They should have read my book!

The key to working courthouse overbids at Level 4 is to work only those properties that haven't been exposed. Unlisted properties are the best ones to follow. This is what I do now:

Check newspaper for Notices of Sale.

Check the courthouse bulletin boards where notices are posted. These are notices to confirm a sale and will list owner's name, file number, sometimes property address, attorney, exec, date and time of confirmation.

Check the files for notices you found to see contract, terms, and if it's listed with an agent. This will tell you whether the property was exposed. If a property is listed, call the real estate agent. If they tell you it is pending but you can overbid, then forget it, as it is too overexposed. If they tell you it's sold and nothing else, check into it, as it may be a low sale the agent is trying to hide.

On properties not exposed or listed, check it out, do your comps, and check if the price is good compared to the first overbid price. If so, try to inspect the roof and foundation without letting anyone know you're interested. If you can't get in, call the attorney and ask how you can see it. Once you're in, act dumb. See if the executor will tell you what price you have to pay, then act disinterested at that price. Say something like, "That price is too high for this property, but thanks anyway." You want to make sure they feel you're not a threat who may show up at the confirmation hearing. We want them unprepared when we show up to bid. Hey, this is a business, and when I find these sleepers, someone is trying to steal it in the family, so your bid means more money.

Have a maximum price for a Level 4 and don't go over it. If you can hold the property for a while, pay

a price up to 85% of retail, sit on it until you can make a Level 1 profit, then move it. Hire a property manager if you don't want headaches. You will have properties to sell 1-3 years down the road, depending on your market conditions.

EXAMPLE 2

Here is another Level 4 probate I did that turned a great \$30,000 profit for me, plus \$15,000 in commissions coming and going. This is another example of lack of information costing someone a tremendous purchase.

Now I was actively hunting overbids. I came across another one that appeared to have all the red flags I needed to attempt an overbid. I found the overbid notice at the courthouse, tucked away under some TS notices, so I checked the file. Sure enough, the property wasn't listed and a neighbor was purchasing the property. The original buyer was purchasing for \$205,000 and I knew the property was worth at least \$250,000. Since the property wasn't listed, we had to do our inspection from the exterior only; we didn't want to tip off anyone that we were interested. Our contractor told us the house was in excellent shape. Roof was fine, foundation great, paint and windows showed no signs of problems. By looking through the windows, we could see that the house was in top condition.

We decided to call the attorney and ask for access to the place, since we were interested in a possible overbid. She was nice and told us that a particular agent would arrange for us to see it. I also knew this agent, but he did not have a listing at the time. I sent my partner to the appointment with our contractor. Our expectations from the exterior inspection were correct; this home was clean.

Next, I called the attorney and told her I felt the home was only worth \$215K. Would the other buyer be coming up? She told me that she didn't know, but the buyer was a friend of the neighbor, who was the executor and knew the deceased. They really wanted the house and probably would come up. I said that I felt it wasn't worth the bid-opening price and we would be moving on another home my clients were considering.

Now, we had every intention of overbidding, but we wanted to head off the original buyer from making plans to increase his offer or overbid. We did this by telling the attorney, who probably told the Executor or buyer that we would be passing on the place. Hopefully, the buyer would let his guard down and not plan for an increase in price.

At court, the agent who had the key to show the property was there with his buyer. The original buyer, an elderly man, was also there, and when the court called for interested buyers, he turned white as a ghost when he saw this agent stand up with his client (an investor, by the way, who was trying to work with me on some earlier deals) and me with my client. The agent was also surprised, as he thought he would be the only one there. I love this!

To make a long story short, the original buyer dropped out at \$222,000, nervous and confused, and the other investor balked when I went to \$228,000. I walked out of there with the property for \$228,000, plus a 6% commission that the other agent didn't get a piece of. WOW! In the hallway, the investor who lost out asked me to call him so he could work with me. The other agent just ignored me. The attorney walked out and smiled, saying "Didn't you say you were passing on this property?" I told her that my other buyer did, but this client wanted the home. Well, it's business, right? I might

have another probate with this attorney, so I wanted to leave a good impression.

Now for the good stuff. We flipped the probate without doing any work and sold the property for \$280,000. The market took a sudden jump in price while we were buying, and we hit it just right. We grossed \$52,000, and I received another 3% going out, along with a 6% fee going in. I gave my partner \$25,000, and I made over \$47,000 with the commissions. 6% the estate paid me on the purchase plus 3% on the Flip. Again, this all came from having the correct information and knowing how to act on it.

I have started checking overbid sales every week at my three courthouses. They are usually posted on a bulletin board in a public place (hallway). Check with your probate department to see where they are posted. Also, they are published in our legal and local newspapers. Check out your area, as some fantastic buys will pop if you check consistently.

These confirmation sales will be held at the same courthouse where you do your research for new probates. There will be a separate courtroom where the confirmation sales will be heard, along with other probate matters. On the court-overbid sheet (in the file), you will find the court location, department number, date, and time of the confirmation. The time is when court begins in the morning, and your case may not be called for a while, so be patient and plan for the time needed. There will be a court docket posted, usually on the door of the courtroom or a bulletin board in the waiting area, which lists the cases to be heard that day. Just be patient and check to make sure your case hasn't been moved to another day. If it's still on, go in and take a seat.

When they get to your case and they are ready to confirm the sale, the judge will ask for other inter-

ested bidders. Stand up and come to the front desk. Make sure you have your cashier's check with you, or you won't be allowed to bid. The judge will ask the estate's attorney to confirm that each bidder has a cashier's check in the correct amount. This amount will be 10% of the opening bid, which will be about 5% higher than the offer in place. The Notice to Confirm Sale (Supp #18/18b) will have the overbid opening amount, so don't sweat it. If you can't find it, overestimate and bring a larger 10% check.

Again, have the cashier's check in the estate name, but do not give it up. I open an escrow with my title company and have my loan pre-approved before going to court. Of course, we can't have an appraisal yet, but I set it up with my lender to go within three days of the court confirmation so I can close in 15 days if I need to. We don't want the estate to complain about waiting 45 days for our loan if the original bid can close in much less time. We want to prepare for anything at the court overbid.

As I explained earlier, do not get caught up in the bidding game. Have a maximum price and walk out if it goes over. I have passed on a few good properties where the original bidder was ready to pay any price. Don't make this personal—there will be others. If you hide the fact that you are going to bid on the property from the estate's attorney or executor, the original bidder won't be prepared for an overbid and may not bid up too much.

In the next chapter (Level 5 Opportunities), I will explain how I have started holding properties for a year or two to make deals I would have passed on otherwise. This is a good way to make automatic Level 1 profits each year after you get going.

SUMMARY OF LEVEL 4 OPPORTUNITIES (COURT OVERBIDS)

Check weekly for court confirmation notices (bulletin board at courthouse, legal and local papers) The property must not be listed on the MLS (check to see if it is listed, but 95% of them will be overexposed).

Best target is family selling to family, no agents. If it's listed, no sign on the property is a red flag, so check it out. If the agent doesn't tell you that you can overbid, that's another red flag—check it out.

Inspect the exterior (roof, foundation, windows). Sometimes this will be your only inspection. If you need to go inside, call the attorney or executor to ask for access. Leave the impression that you won't be overbidding—too much work, too high a price, or whatever.

Get pre-approved for a loan. You will also need a deposit of 10% of the opening bid, since we are doing this under the old probate laws. Have the check made out to your client (you) and the estate's name.

Don't give the check to the attorney if you win the property. It goes to your title company.

If you win the property, stay until you can get a signed order confirming the sale; otherwise, you may wait weeks to get it. You can't close without it.

Give the attorney your term sheet based on the original bid.

WARNING: When you purchase a probate at the overbid, you must plan on closing it. These overbid sales are not contingent on anything (financing, appraisal, inspections, or contingent sales) and if you don't close the overbid sale, your deposit is subject to forfeit. **BEWARE!**

AGENTS: If you're bidding at the court overbid for a client or partner, make sure he or she is there. Recently, the courts have not allowed me to bid for my client if I wasn't on the offer sheet. I lost a property recently because the judge wouldn't let me bid for my client (as I have done for years) without the client being there. Another expensive lesson learned. BEWARE!

14

LEVEL 5 TRANSACTION

NEW EARNING OPPORTUNITY

Over the last decade, some probates I didn't buy have resold within 1-2 years. I would see them listed on the MLS and realize that if I had purchased the probates and even paid a little more, the profit over a 1-2 year period would have worked out to a Level 1 profit.

Now, buying and holding isn't new to me, as I did this in my early real estate pre-probate period. However, my initial focus when working probates was to flip for immediate profit, not hold for long-term gain. I wasn't interested in managing property, dealing with tenants, and everything else that comes with holding.

In more recent years, my thinking has changed. There have been numerous properties that I could have purchased at 85-90% of retail and sold again in a few years for a Level 1 profit. So, in 2002, I began to piece together a new type of opportunity that you can also use in your investing plans. Yes, you will have to deal with management concerns, but if you're really looking to jump-start your holdings, this is another avenue to take.

My plan is to purchase 1-4 properties per year with partners who put up the money (down payment/closing). The difference is that I will be selling 75% of the interest to the investors who put up the cash

needed to close. This should be 1-3 investors, and on average, the cost per investor should be \$25K to \$35K, depending on the price of the probate. In my area, we concentrate on properties in the \$350,000 to \$450,000 price range. This is the single-family price range, so we can rent them out and at least break even each month (no negative).

We will also be looking for 2-unit and 4-unit buildings. In my area, a duplex starts around \$550K, and 3-4 units are the \$700-\$900K range. Naturally, we will be looking for properties in probate that we can't purchase in our 80% of retail price range, but can get for 85-90% of retail. Instead of selling these to buyers or passing on them, we will purchase and hold.

Each investor will put up 1/3 of the cost of down payment, closing, and fix-up, if any. We will be placing 20-25%, or whatever it takes for the property to carry itself without any negative cash flow. So, on the upper end of my price range for single families, my investors would each put up around \$35,000. I receive my commission for finding the property (3%) and will also manage the property for a 5% fee. We resell it when we can get a minimum 50% to 100% return for each investor after all costs. I receive 25% of the profit and a 3% commission going out.

Some of the properties I passed on would have provided this target profit within a year. Now, this will enable me to bring in more investors who don't have a lot of cash but want to get involved with probate real estate investing. If you put up \$20K and receive \$10K to \$20K profit in 12-36 months, you should be smiling! Of course, you may want to be the only investor and keep all the profit. The choice is yours.

This gives me another avenue to purchase probates and earn more than just commissions. I will also build sales each year, where my potential profit based on the numbers above would be \$20K in profit times 4, or \$40-80,000, plus commissions going in and out if I sell it myself. This could be another \$25,000 or more, based on a \$400K average price.

If you're an investor, you won't receive the commission going in and out, but that leaves more profit for the investors, so don't worry about rushing out and getting a license. For you agents, how would you like to have a built-in six-figure income per year, not counting your regular business? WOW! Again, I have kept the numbers conservative. Doing one of these per quarter will not be very hard if you're working the DF system every week. The properties are out there.

FINDING PARTNERS

OK, you like the idea, but where are you going to find partners, since you don't have any money? Well, I already explained how to find partners in an earlier chapter, so go read it again for a refresher. The advantage now is that you don't need someone with a large surplus of cash or a ton of equity in his or her home. You can work with family members and friends who have 401K programs, which qualify them to invest in real estate. There are millions of

dollars in the savings and retirement funds of people who would love to be part of a real estate deal. Contact your real estate agent, other agents, brokers, your accountant, CPA, attorney, financial planner, family, and friends. This does take some effort, remember!

EXAMPLE OF A LEVEL 5 TRANSACTION

I want to tell you about a property we recently bought and sold eight months later for a huge profit. This started me thinking about buying and holding properties I had previously just been taking commissions on or bypassing altogether. We purchased a single-family probate for \$225,000 that was worth somewhere around \$250,000, but had a potential lot split that could mean another \$100,000. My partner wanted this property to fix up, maybe add to the existing home, then split the lot and build a new home for himself in the rear. This was the plan, but it didn't end up going down.

We rented the house and started working on the lot split. Then we decided that the house needed too much work and the lot split was going to be tough, since one of the neighbors didn't want to agree to a lot adjustment to give us the square footage we needed to split the lot. My partner decided, rather than take a chance and pour more money into the property, he would just sell and move the money to another property.

We had been sitting on the house for about eight months and the tenants were getting ready to move, so we placed it on the market. We had five offers on it over a three-week period, countering back and forth until a solid sale was in place at \$315,000 "as is."

My partner was smiling ear-to-ear when I brought him the final offer. A property we purchased for

around 90% of retail had just turned into a fine Level 1 buy and sell. He was looking at \$90,000 gross, and after commissions and some credits, he netted around \$50,000. I was paid 6% going in, since this was not going to be a flip property, but a keeper for my partner, and I was paid another 3% going out. I made over \$20,000 on this probate in eight months, just acting as the agent. This started us thinking that holding for a year or two might not be a bad deal on probates we couldn't purchase for a flip. So, needless to say, my new Level 5 program is up and running.

If you're having trouble finding Level 1 deals, you may want to try buying and holding for a while. I'm looking at Level 5 as an integral part of my probate business. Yes, I will have to deal with tenants, but I can farm out the management and only keep track of the property until our profit is ready to be had. You can do the same; hire a manager. Just make sure you're in command of the group and the management company takes your orders.

If you're an agent and you're going on title, make sure you disclose this to the executor when you purchase so you keep yourself out of trouble for hidden profits. If you're an agent, charge a 3% commission going in, a 5% management fee for the rental, and a 3% commission going out. If you're an investor, charge the management fee and take 25% of the profit or whatever you can get. Only look at probate Level 5 deals with down payments that will prevent negative cash flow. You don't want to be asking your partners for money each month to feed the alligator. Calculate the rent and the P.I.T.I. payment, then place enough down to break even. If you can find 2- or 4-unit buildings, that's even better, as you will have multiple rents to offset the payment.

As Level 1 deals become harder to find, we must keep looking at alternatives. Level 4 (court overbids

the proper way) and Level 5 can bring Level 1 profits. Oh yeah!

15

FILING SYSTEM

As in all business, you must be organized. When you begin to track probate real estate files, you will soon reach a point where a filing system is necessary. Think about it for a minute; if you are tracking 25 to 100 properties per month, what happens to all your paperwork after a few months? If you don't organize yourself and set up a filing system, you will find yourself losing properties and becoming discouraged with probates.

Realize that the majority of the properties you will track on all levels will not surface for weeks or months after you send your initial letters of inquiry. It may be months before you're contacted by the executor or heirs. If you are not keeping track of what you have done with the property, you may miss an opportunity. We are all individuals who want to do it our own way, and that's fine. I'll show you how I keep track of my files to give you a starting point. If you wish to adjust the process, go right ahead. After my first look at the probate court file, I make a note on the bottom of the tracking sheet: "On this date I first reviewed the file." If the court file is not in the file room (the attorney could be late in establishing the file or the file could be checked out), I indicate this on my tracking sheet and look at for the file the following week.

The reason for this is twofold. First, when I return to my office and start preparing my letters of inquiry, I

know what files need letters. I also know what files were out and need to be placed in the following week's research group. Next week, when I return to the court file room, I will have new probate case numbers for the week, plus any old files that were not in last week. You will always have a handful of cases that carry over to the next week. If you are prepared for it, no problem; if you aren't, you will lose potential properties.

I note the date when I sent the initial letter of inquiry and anything else pertinent to the property. If the executor calls me three months later, I can pull the file and immediately update myself on the status of the property. If you examine the sample probate tracking sheet (supp# 4/4b) you will see my tracking remarks.

WEEKLY LETTERS

After you have researched the week's files and sent out letters, place all the probate tracking sheets in a separate file. You want to keep these separate, because many of your calls from the executor and/or heirs will come within the first week after they receive your letter.

I keep all my first-time letters of inquiry on top of my desk until the following week, when the new batch is ready. This way, when I receive a call from an executor or heir, I have the file immediately at hand.

When you get a call, pull the tracking sheet for the property and place it in another file folder. I call this my contact file, and I make sure I stay on top of any property placed in this file.

The probate properties for which I receive no response are placed in a general file labeled with the month I started tracking the properties. At the end of the month, this file goes to a master file separated by month. The exception to this is property for which I received a response that is going to be sold; these tracking sheets go into a “hot property” file that I check monthly.

I check the master file by the month on a 90-day rotation; in other words, I recheck the probate files every three months after the initial check. I do this because the average probate takes six months to complete. Many executors and/or heirs wait until the end of the process to sell the property. You must keep track of this in order not to lose a potential property.

Now that you know how I structure my filing system, arrange yours any way that works for you. Try my system on for size, and then modify it to suit yourself. The point is to stay on top of your files—especially those where the executor has responded. Remember to keep a record of everything you do regarding the property: every letter you send, every conversation you engage in, and every action you take. This will keep you organized.

Don’t ignore a property just because there wasn’t any initial contact from the Estate. I have made thousands on property bought months after my first letter of inquiry. All this can be worked around your regular real estate business, or your job if you’re not doing this full-time. The more efficient you are, the less time it will take. Remember, this is a six-figure opportunity.

REVISED FILING SYSTEM

I created the filing system described above in 1992 and used it until around 2000. However, I’m now computer-based, so everything has become streamlined and much more efficient.

Thank God for my wife, who is the computer person in this partnership. She arranged to meet with a title company I use, and the title rep introduced us to a program called Instant Impact that has made my research, file-keeping, and letter-writing system much more efficient. Everything is done through my laptop now.

I spoke about this in an earlier chapter, but the Instant Impact software allows me to use my laptop at the courthouse. I have my tracking sheet installed, and I no longer have to handwrite separate tracking sheets or individual letters of inquiry. Also, I can search my files by date, executor name, property, or any other tracking sheet heading and instantly pull up the tracking sheet. This is really the only way to go; it has cut my research and first contact time in half.

Ask your title rep about the Instant Impact software. Instant Impact is a software company based in LA. If you go through your title company, you should be able to buy it for next to nothing. When I finish my courthouse research for the week, all I need to do is hook up the laptop to my printer and click Print; all my letters are mail merged and printed in a few minutes. No more doing each letter separately. I highly recommend that you check this software out.

Also, for the last few years, I haven’t been going back and checking old files unless I have a contact or a Notice of Sale is posted. I am super-busy with my general real estate business, working with students, and other things, so I’m only working leads.

If you are in an area that doesn't have a huge volume of probate files, you may want to track everything, send multiple letters, and maybe try calling if you can locate phone numbers (watch out for Do Not Call Lists), as this will separate you from competitors and increase your success rate.

As of 2002-2003, I only work Level 1 opportunities when I get responses to my letters of inquiry, and I work Levels 2 and 3 per DF. I have increased my Level 4 business by tracking more courthouses for overbids, and with my new Level 5 system on top of that, I just don't have the time to go back and review old files. You can make that choice based on your plan.

16

HELPFUL HINTS

The more I track probates, the easier it gets. I'm going to share some helpful hints and shortcuts I've learned along the way; these will make your probate hunting easier and allow you to work more efficiently and profitably. You'll pick up other ways to streamline operations as you track your own probates. Every transaction you work on will teach you something. This is not a race, so read, learn, do, experience, and get your questions answered, but keep moving forward.

1. REGULAR ROUTINE

ORIGINAL 1992 HINTS

When you begin tracking, set a schedule to follow on a weekly basis. I cut out new death notices each day. On Monday, I go to the Hayward courthouse and research the files of property owners that are in probate in my tracking area. I usually arrive at the courthouse by 9:00 AM and finish by 10:00 AM. On Tuesday, I go to the Oakland courthouse and research the new probate files in Oakland. Again, I start at 9:00 AM and finish by 10:00 AM. On Tuesday evening, I prepare my letters of inquiry for the week. I use Wednesday and Thursday as preview days. When I set up an appointment to see a property, I use Wednesday and Thursday as my appointment days. Friday is title company day; this is when I take all the death notices for the week and search

for the ones who own property in my tracking area. As you can see, I have plenty of time for my regular real estate business, and my weekends are free for open houses, showing property, or whatever. You can do this business along with your present real estate business, job, or retirement schedule if you are disciplined. You should only need 5-10 hours a week to maintain your probate tracking (newspaper check, title research, courthouse visit including drive time, letters out, and appointments).

2005 REVISED SYSTEM

OK, well, it's been 14 years since I wrote the original system, so of course I have expedited what I now do. Here is my current schedule: I visit the Hayward courthouse on Monday, Oakland on Wednesday, and Martinez on Fridays. I no longer handwrite tracking sheets, as I mentioned in an earlier chapter. My laptop with the Instant Impact software is all I need. I visit the courthouse and enter the information from each file into my laptop, where my tracking sheet is now located. This takes about 1 hour per courthouse, on average.

I no longer cut out Notices to Administer the Estate from the newspapers; I now just visit the courthouse and ask for the new probate files for the week. I note the first and last file I work with, so that when I return the following week, I don't duplicate. On Fridays, my wife prints all my letters of inquiry from the

laptop, which mail merges the addresses and prints each individual letter. I no longer send letters to each heir; I'm doing volume now, and I'm only interested in the files where I get phone contact from the executor in response to my letter. You can work everyone until you're busy, but it will take time.

When I visit the courthouses, I also check the bulletin boards where the Confirmations of Sale are posted. Check for anything coming up, then access the file and see if the property is worth checking out. If it is listed with a broker, check the MLS if you can to see if the broker placed it on the real estate board. Check the property for a "For Sale" sign; if there is no sign, the agent may be trying to hide the sale or doesn't know what he/she is doing. This could be a good overbid. If the probate is not listed, then really check this one out, as it may be a family-to-family transfer and that's where you find the Level 1 buys.

On any probate overbid I'm interested in after checking the above, I will run an In tax check to see details of the property (size, bedrooms, etc). This will tell me if the overbid price is really low. If it's 10% under market, I hunt for a buyer; if it's 20% or more under market, I buy it myself. We have found some great paydays at the overbids, but you have to work the right ones, as I have explained

2. OUT OF AREA FILE

ORIGINAL 1992 HINTS

Set up an out of area file for tracking sheets where the executor and/or heirs are located out of the area. You will find these executors and heirs easy to deal with and more willing to give you your price. They need a professional to look after the property or to give them a quick, clean sale.

2005 REVISED SYSTEM

I still do this, although I print the tracking sheets from my laptop and place them on my bulletin board to follow up. I will try to call these estates, send something to them twice a month, and really work it. These will produce good buys, so work them hard. I also place in this file any probates where I received a call from my letter of inquiry.

3. KEEP ACCURATE RECORDS

ORIGINAL 1992 HINTS

Probate tracking sheets must be kept current. Keep track of everything you do with each probate by making notes of your progress on the bottom of the tracking sheet.

2005 REVISED SYSTEM

I still keep track of everything I do regarding a property and my conversations with the executor or heirs. Of course, I only do this on overbids and probates where I had contact from the estate. I simply print the tracking sheet from my laptop and post it on my bulletin board.

4. RUBBER STAMP

ORIGINAL 1992 HINTS

When you start researching at the courthouse file room, get a rubber stamp with your name, address, and telephone number on it. This will save you time when filling out cards at the courthouse file room. You will only have to fill in the date, court file number, and the reason for your inquiry, which is "To Preview." You will save time having to write out each card, and this really makes a difference.

2005 REVISED SYSTEM

I no longer pull individual files, since I access all the new files for the week. You only have to fill one out card for all the new files, so if you do it this way, you really don't need the stamp. I only pull files for overbids or properties who have contacted me.

Note: Some courthouses require you to have a court case number to pull a file and don't have new files available. If this is the case, go back to the original DF system of pulling Notices to Administer the Estate to access the court file numbers. If the court has a computer system, you can access Petitions to Probate online and it should cut down on time. I have found that it is still better to visit the courthouse and use their computer to access files, although you will need the case numbers and names.

5. SCANNING THE FILE

ORIGINAL 1992 HINTS

When you look at the probate file, the first thing to verify is the property. Check the Petition to Probate to see if the executor/heirs listed the estimated value of the property. If there is no estimate of value, it is possible that the estate doesn't presently own the property. Check to make sure the estate is the current owner before you spend time researching the file.

6. LETTERS OF INQUIRY

ORIGINAL 1992 HINTS

If you're an agent, do not say so in your initial letter of inquiry. You will be eliminated. Also, do not give any prices on the first contact. Your sole reason for sending the letter of inquiry is to get a response and then make an appointment to visit the property.

7. AND/OR ASSIGNEE

ORIGINAL 1992 HINTS

Make sure your offer is in your name and/or your assignee's name. If your partner can't perform for whatever reason, you can name someone else as the buyer. As long as you have your escape clause, you are not obligated to purchase the property, but you can control it. After all inspections are approved and you intend to close the sale, submit your partner's name as your assignee on the contract and start your loan. If you are an agent, make sure you state in your contract that you are a California-licensed real estate agent buying for profit and speculation. This will insulate you a little.

8. ADDENDUM TO PURCHASE

ORIGINAL 1992 HINTS

Make up a master addendum including the language needed to keep the property out of the court confirmation process, as explained in Chapter 6. When you have a property, you can just fill in the blanks on the addendum with the estate information and save some time. Even if you're not sure the property can go through the IAEA, use the addendum and adjust later.

9. SELLING THE PROPERTY

ORIGINAL 1992 HINTS

When you are ready to sell the property, remember to tell the new buyer that you purchased the property out of probate and the property was exempt from disclosure laws. Then, disclose to the buyer everything you know about the property, including existing reports. Let the buyer obtain any inspection reports he or she wishes, as long as you are not obligated to pay for the reports or the work called

for. Let the buyer back out if he/she does not approve of any report.

10. LETTERS OF RECOMMENDATION

ORIGINAL 1992 HINTS

Make sure you ask for letters of recommendation from the executor, heirs, and attorney, if possible. This will help you in later purchases. You want something stating that you did what you said you would and recommending you to anybody in probate.

11. FINDING PARTNERS

ORIGINAL 1992 HINTS

Start a newsletter and send it to everyone you know. Talk about what you do and give examples of properties you have worked on. You can use this to recruit new partners if you're not doing this on your own. If you are an agent, you can use this newsletter to attract new clients, either to buy your probates or to become partners—another chance to get your name in front of them. Add everyone who responds to your probate ads to this mailing list.

12. LEVEL 2 TRANSACTION

ORIGINAL 1992 HINTS

If you're an agent, never give the address of the property when placing an ad. List only the street and price, plus a brief description. You will get calls from other agents, and since you may not have the listing, you do not want to give the property address away and allow them to go directly to the executor.

13. BUYER'S AGENT AGREEMENT

ORIGINAL 1992 HINTS

If you're an agent and don't have the listing, use a buyer's contract to set the record straight that you were the procuring cause of the buyer finding the property. This will help keep the buyer committed to you. Have the buyer sign a form which explains that you found the property and you will be the buyer's agent if he/she purchases this property. Also, stipulate that the buyer will pay your commission if the estate doesn't. This may be tough, but it's a good way to ensure you receive at least 3%. I use a Buyer Broker's Agent form listed on my Win-Forms for agents. You will have to find your own or make one up.

14. COURT CONFIRMATION (LEVEL 4)

ORIGINAL 1992 HINTS

If you are bidding in court, have a maximum price you will pay. Don't get caught in a bidding war. If you are an agent representing a buyer, have the buyer already committed to his maximum price, since there will not be a second chance to bid. Investors, move on if you can't get your Level 1 price, but if you read the chapter on Level 4 opportunities, you already know you won't be bidding on a property that's exposed or listed on the MLS.

15. SELECTIVE PROPERTIES

ORIGINAL 1992 HINTS

Don't try to track every property in your county when you first start. You will be overwhelmed and confused, and may quit as a result. Start with a small area you know, and work properties there until you know what you're doing.

16. 1099 INCOME

ORIGINAL 1992 HINTS

I leave my name off the closing papers. After the deal closes, my partner gives me half of the profit. My title company will issue 50% of the proceeds to me directly from escrow. If you do this, make sure your accountant prepares a 1099 income statement for you so your partner doesn't pay capital gains on your half.

2005 REVISED SYSTEM

I now take my profit in the form of my commission. If I'm making 3% coming in and I still have another \$15-20K on the backside, I take this in the form of a commission going out, regardless of how much it is. This keeps my investor from having to send me a 1099 and keeps me off the transaction, acting just as the agent for the seller. This has worked out better, although it counts as earned income for me now, not gains from a sale. If I place any money in the deal, it is paid back to me as a loan to the seller for fix-up.

17. ATTORNEY ROADBLOCKS

ORIGINAL 1992 HINTS

Do not let an attorney stand in your way. Once the attorney realizes you know what you are doing, he will usually back off. You will know more about probate real estate than most attorneys, so act like it. Deal only with the executor, unless there is no choice but to go through the attorney. If this is the case, have the executor sign your contract first, then give the attorney a copy. The attorney is only there to handle the probate, not to advise on price, terms, or conditions. Attorneys will usually want their own agents to handle the sale, so you must head this off.

18. ATTORNEY/EXECUTOR

ORIGINAL 1992 HINTS

Once in a while, an attorney will also be the executor of the estate. Try to avoid this, but if the property is hot, you must try for the purchase. I will go through the heirs if an attorney is the executor and is giving me a bad time. After the heirs agree to my deal, I will insist that the attorney follow through with their wishes. It may get tough, but don't take no for an answer. I have lost thousands backing off on probate property because the attorney was unreasonable. Now I stop at nothing until the heirs tell me no.

19. SPOUSES

ORIGINAL 1992 HINTS

Let me give you a word of advice. If the spouse of the deceased is still alive and living in the property, do not send him/her a letter of inquiry. Send it to another family member. The spouse will most likely be in the wrong frame of mind. Respect their loss and go around the back door in case the property is going to be sold.

20. LIMITED AUTHORITY

ORIGINAL 1992 HINTS

If the executor of the estate has limited authority, the sale will most likely undergo court confirmation. If this is the case, you will probably not receive a Level 1 discount. If you're an agent, try for a Level 3 or work the overbid (Level 4) but usually, this is a dead end. You might ask the executor to apply for the right to probate under the IAEA or take what is called a distribution in kind. This is difficult, but basically it means that whoever is going to receive the real estate can petition the court to remove the

home from the probate and grant title to the heir. Once this is done, they can sell to you without the court supervision. I don't fool with this, since I'm an agent; I just try to list the property or sell it to a client who will pay close to retail, but if you're an investor, you can try this if the property is a hot one.

21. SLOW MARKET

ORIGINAL 1992 HINTS

This system works in a hot market, but Level 1 opportunities will be fewer, since executors will want to place their property on the market and will receive multiple offers. You can still find Level 1 deals, but you have to stay consistent with your tracking, letter sending, etc.

What I do in a seller's market is focus on Levels 2 and 4, especially Level 4. I increase the number of courthouses where I track overbids. I already explained what we are looking for in overbids, so re-read that chapter if you need to. The point here is, know your market and focus on the best chance for a deal. We still research all files and send letters of inquiry, but we increase our court overbid searching.

Now, if you buy a probate and you're having a hard time reselling it, think about taking out a second mortgage and pulling out as much capital as you can to return to your investor if needed, then sell on a lease option for a year. This will stop any payments for your investor if the property has negative cash flow, and in a year the market may change. You will need to prepare your investors for this possibility when you first get into the deal so they don't have a problem. You would now call this a Level 5 opportunity and wait out the market. Again, this is not a race.

22. FARMING ATTORNEYS

ORIGINAL 1992 HINTS

As you track, notice the attorneys who do the majority of the probates in your area. Start making contact with them, and they eventually may start referring property to you, or if you're an agent, giving you listings. This may take a while, but once you get in with an attorney, you'll have it made. Use one satisfied attorney's recommendation to find others. Use your imagination. As you know, every probate Notice to Administer the Estate lists the attorney's name, address, and phone number.

2005 REVISED SYSTEM

I have not really pursued attorneys for probate property, either as an investor or as an agent, because I have found them difficult to work with. If you're starting out, you may want to go after them, and if you're consistent, you may get a deal now and then. Attorneys are worried about referring someone to their clients who wants to buy the property at a discount, so use this as your guide. Bottom line, unless you find an attorney who wants to be your partner in buying and selling, you may find a roadblock here. I do not go after attorney business, but I am thinking about hiring an assistant to just work with attorneys. You only need a few to make it work if you have the time.

2005 REVISION

I have made some inroads by chance and have hooked up with a few attorneys who appreciate my probate knowledge. I am receiving listings from them now, just acting as the agent, although I have bought a few that didn't sell for the higher amount and the estate wanted a sale. It works either way, and I will pursue working with these attorneys and

using them to get in touch with other estate attorneys.

23. INDEPENDENT ADMINISTRATION OF ESTATES ACT

ORIGINAL 1992 HINTS

I have included in your package a copy of the California Independent Administration of Estates Act. Familiarity with this act will heighten your confidence and understanding of probate. This act, as explained in an earlier chapter, empowers the estate to sell property without court supervision. While it's not necessary to read the entire IAEA to make DF work for you, it's here for your review.

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