



April 2016

## **NOT ALL CASH FLOWS ARE REGULATED**



*By Marty Granoff*

*Some cash flows we acquire are regulated. And that's a good thing because it ensures that sellers are getting a fair deal. But if you are no friend of regulations, you can avoid them by buying cash flows that are not regulated. It's your call!*

**L**ast week, I was attending a networking group luncheon of bankers, loan brokers, and private lenders at a local hotel.

I go there every month, and this time I was asked to be on a panel to discuss alternative and unconventional cash flows including seller-carry-back real estate notes.

To my amazement, a major discussion between the other panelists (a mortgage broker and a private lender) and the audience erupted.

They were crying the blues about all the new rules and regulations affecting their industry, and how difficult business has become. It is no longer fun and getting worse, I heard.

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### **LOANS AGAINST REAL ESTATE DON'T EVEN SCRATCH THE SURFACE OF THE COLLATERALIZED AND UNSECURED LENDING POSSIBILITIES**

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I sat there listening and putting my thoughts together before my 10-minute presentation to be followed by a short Q & A.



April 2016

When I got up to the podium, I looked around the room and asked if anyone had any idea of the probably hundreds of cash flows that can be lent against or acquired with no licensing requirements and no or only few regulations governing these transactions. By the way, I am using the terms "lending" and "acquiring" interchangeably here.

Loans against real estate – which is what they were mainly involved with – don't even scratch the surface of the collateralized and unsecured lending possibilities out there.

Then I started discussing some of the cash flows we acquired over the years and jaws started dropping.

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**I AM AMAZED HOW FEW PEOPLE KNOW ABOUT AN INDUSTRY I HAVE BEEN SO DEEPLY PART OF FOR OVER TWENTY YEARS**

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I mentioned some of the business notes we own, the various contest payouts we've acquired such as from the winners of large prize TV game shows and chain restaurant contests that paid out their prizes over 10 to 20 years that we helped to partially or fully cash out.

There were plaintiffs of sexual harassment lawsuits and Diocese lawsuits being paid out over time who did not want to wait for their money, and the list goes on.

Facial expressions like, "You're kidding", "Get out of here", and "How could I have not known about these after being in the lending business for X number of years".

Yes, I could see this in their eyes and through their questions. Once again I am amazed how few people know about an industry I have been so deeply part of for over twenty years.

Yes, we do have regulations and laws to follow regarding some cash flows we acquire like state lottery and structured settlement payments. To assure the seller of full disclosure, a court order is needed to acquire future payments, which means a judge's blessing is needed.

I think this is a great idea but I am frustrated to see some judges refusing to allow all structured settlement annuitants to sell future payments, no matter what, and other judges not even looking at the required paperwork and just signing the orders.



April 2016

Fortunately, most judges do a nice job reviewing the file, making sure, all is in order, and that the seller is getting a fair deal.

There are also some new laws regarding acquiring seller-held real estate paper but these appear manageable, at least so far.

I think we have been most fortunate in our field, and I have no idea how long it

will continue. It is bound to happen, though, that someone in the industry will or is already doing some nasty things, which will eventually be discovered, resulting in national press, then government intervention, and then over-regulation rather than the current little regulating we have. It happens all the time, doesn't it? Anyway, isn't this a fabulous business (at least while it lasts)?

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*Martin (Marty) S. Granoff, President of South Florida based Granoff Enterprises, has been in the cash flow acquisition business since 1992 and specializes in acquiring any future payments due recipients coming from strong payors. You can reach Marty by phone at 1-800-869-6060 or 954-370-1806, by fax at 1-954-370-1807, or via e-mail to [granoff@granoffenterprises.com](mailto:granoff@granoffenterprises.com) or through his website at [www.granoffenterprises.com](http://www.granoffenterprises.com).*