



The Patriot Act – How Does it Affect Your Real Estate Transactions?

Promus recently entered into lease negotiations with a group promoting Islamic-American relations. The goals of this group are worthy, but as this is relatively new territory to the real estate industry we thought it prudent to check with the FBI to see if there was any prohibition against the organization. To our surprise, the local FBI branch said they were unable to help us. If you have had a similar experience, the following may be of interest to you:



From CREW NetWORKS Newsletter, March 2006
"The prudent real estate practitioner should remain vigilant, however, because regulations for persons involved in real estate closings and settlements' are expected to be available in 2006. However, persons involved in real estate (and all other U.S. persons) may not be aware that they are already subject to Executive Order 13224 and its amendments.

President Bush signed Executive Order 13224 into effect on September 23, 2001.

The Executive Order prohibits all U.S. individuals and businesses from engaging in transactions with persons and entities that 'assist in, sponsor or otherwise provide support to terrorists and terrorism.' The Executive Order added the names of such persons and entities to an existing list of terrorists, money launderers and drug traffickers maintained by the Office of Foreign Assets Control (OFAC), and the list is known as the Specially Designated Nationals & Blocked Persons list (the SDN List). The President granted enforcement authority to the

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People Are Talking:

I also want to take the time to thank you for your personal help with the prospective buyers for the Center. If the deal goes through I will send them a strong letter of recommendation to have you continue managing the center for them...

As for your work, I have to say that you have done an exceptional job and I am indebted to you for the last year...I thank goodness that you have been taking care of my property.

*- Vince Castagnolo
Client*

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Property Managers a Valuable Asset to Owners and Their Properties

A panel of leading real estate executives discussed the valuable role property managers play in the acquisition and disposition process at the "Capital Markets" session offered during the 2005 IREM Education Conference in November. According to an article featured in the Jan/Feb 2006 issue of the *Journal of Property Management*, "panelists determined that property managers are as valuable as the properties they keep, or rather, the knowledge they keep about their properties."

The *JPM* article reported that because property managers are informed not only about their individual properties but are also aware of the state of surrounding markets, they maximize the value of properties as well as strengthen the relationship among other real estate team players, including owners, leasing agents, asset managers and vendors.

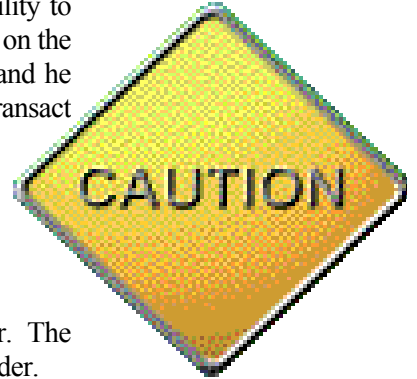
"The property manager is that person in my opinion that pulls it all together, that takes responsibility and is challenged to not only know (his or her) property but to know the market and all the players in their market," said panel member Vince Ciavarella of Sares-Regis Group.

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SDN List article continued

Secretary of the Treasury to enforce the Executive Order, and he has delegated to OFAC the ability to impose civil and criminal penalties on U.S. persons who transact business with any person or entity on the SDN List. As of December 2005, the Secretary of the Treasury to enforce the Executive Order, and he has delegated to OFAC the ability to impose civil and criminal penalties on U.S. persons who transact business with any person or entity on the SDN List. As of December 2005, the List was more than 220 pages long with three columns of names per page. New information is added almost weekly. Penalties for violations of the Executive Order can be as high as \$275,000 per count for civil violations and up to \$1,000,000 per count for criminal violations. Individuals willfully violating the Executive Order can be subject to jail time.



There is no threshold transaction amount that causes an application of the Executive Order. The prohibition applies to all U.S. persons and to all transactions, even those predating the Executive Order.

Therefore, it is recommended that all U.S. individuals and businesses implement a screening process to ensure that all persons involved in transactions are not included on the SDN List. Regulations under the Patriot Act that have been promulgated thus far suggest that it is insufficient to search only an entity name and that beneficial owners should also be checked against the SDN List. Although the Treasury Department has not provided direct guidance as to the level of beneficial ownership that should trigger a search, in the absence of any suspicious signs relating to the transaction, it is typically recommended that a person or entity holding a 25 percent or greater ownership interest would warrant a search.

Some landlords have taken note (or are required to do so under their financing documents) and now include similar representations, warranties and covenants in their leases and in amendments to existing leases. Tenants, however, should not solely view this as information provided to the landlord, as such language is typically worded, but as an opportunity to obtain similar representations and warranties from their landlords. Landlords and tenants may want to have their attorneys review the representation and warranty language to ensure it is not too broad.

The List is available at: www.treas.gov/offices/enforcement/ofac/sdn/index.html. The OFAC Web site includes a flow chart on how to deal with a match against a name on the list. Included in the chart are phone numbers that can offer additional assistance. The chart is available at: www.treas.gov/offices/enforcement/ofac/faq/one_page.shtml.

As this area becomes increasingly regulated, it is important to ensure that you and your organization are in compliance in order to avoid civil and criminal sanctions. A regular program of checking names against the SDN List is one aspect of compliance."

About our company:

At Promus, we've managed commercial real estate for some of the most sophisticated and demanding investors in the country, but our heart - and our headquarters - are in San Diego.

So while some companies consider San Diego a second-tier market - and provide a corresponding level of service - we give our clients and their investments first-rate service.

Promus, Latin for steward, reflects our role in helping our clients reach their investment goals for their commercial properties. We believe the road to success lies not in glossy brochures, but rather by doing the right things, at the right time, for the right reasons.

To learn more about Promus Management and what we can do for your investment property, contact Lauri Greenblatt, CPM, CCIM at (858) 751-6331.

If you would prefer to receive this newsletter electronically, send an e-mail with "Newsletter" in the subject line to info@promusmanagement.com.

IREM Panel article continued



According to the *JPM* article, panelists felt that finding qualified and knowledgeable property managers is important to owners and asset managers because property managers can have a direct effect on property values.

Panel member Jean Murphy, vice president of acquisitions for Argus Realty, said that the insightful information property managers provide regarding a property is invaluable.

"I talk to the property managers when I'm underwriting deals," Murphy said. "They can help you in a lot of ways, and they understand the expenses. The property managers are there on a day-to-day basis with the tenants, with the properties: They have the most knowledge of anybody, including the asset managers."

Overall, the panel concluded that accurate and complete information from property managers gives investors the competitive edge they seek.