

GIARDINELLI & DUKE

A PROFESSIONAL CORPORATION

FREEDOM WITH RESPONSIBILITY



MORTGAGE FRAUD: REALTORS® BEWARE!



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- California has seen a sharp increase in fraudulent real estate transactions in the last few years.
- California ranks 2nd in the nation for frequency of Mortgage Fraud
*Source, Mortgage Asset Research Institute
- Real estate agents and brokers are being partly blamed for the problem and are being exposed to.

Background:

- In early 2006, several associations in the Inland Empire were hearing from their members about over inflated offers.
- Provided copies of documents to District Attorney, California Department of Real Estate and other investigative bodies for review
- Created warnings and risk management papers for members.
- In August 2006, met with California Department of Real Estate Investigators.
- DRE recommended 3 ways to deal with these potential fraud issues.

3 DRE Recommendations:

- At listing appointment, REALTORS® should advise clients of potential of fraudulent offers and discuss ways to handle with client in advance.
- ii. If client wants to accept offer that REALTOR® deems questionable, need to document the file.
- iii. REALTOR® should not act outside of normal transaction practices.

Case Study:

- Stonewood Investments, Inc.
 - Lack of response from Police/District Attorney
 - Association efforts to curtail the perceived fraudulent conduct.
- Public concern encouraged IVAR and SRCAR to do something to preserve the reputations of REALTORS®.
 - Formed Joint Fraud Task Force

4 Goals of Joint Fraud Task Force: REALTORS® Need to be Part of the Solution, Not the Problem.

1. Be Proactive
2. Put Pressure on Government Officials and Law Enforcement
3. Public Awareness and REALTOR® Education
4. Report suspected Fraud

1. Be Proactive: REALTORS® can work with the local government law enforcement and others in real estate industry to prevent and deter fraud.

Actions taken by Joint Fraud Task Force:

- Hired Public Relations Company to assist with media relations and interviews:
 - Know what you are talking about
 - Talking points created and continually updated
 - Remember your objective: get the message about fraud out

• **Media Outreach Program:**

- LA Times
- *“Real Estate Group Toughens Fist”* By: Chris Bagley, staff writer for Californian
- *“Local Realtor® Association Announces Fraud Offensive”* By: Art Visintin for The Valley Business Journal
- *“Feds Take Action Against Real Estate Group”* By: Chris Bagley, staff writer for Californian
- *“Two Groups of Realtors® Try To Be Agents of Change Against Real Estate Fraud”* By: Aaron Burgin for The Press Enterprise
- *“From Dreams to Debt”* By: Leslie Berkman for The Press Enterprise

2. Put Pressure on Government Officials

- Presentations to City Councils and Government
- Meetings with Police Investigators
- Ongoing meetings with the Riverside District Attorney to encourage action to punish and prevent further crimes.
 - Prosecutions are very complicated
 - Each case needs a search warrant and a review of all the real estate documents
 - Assisting DA with investigations and public education
- Meetings with FBI
- SEC/DRE actions

3. Public Awareness and REALTOR® Education Campaign

- Raise awareness of the fraud problem to inform, prevent, and deter fraudulent transactions.
- REALTORS® can provide education programs geared toward raising awareness with:
 - Senior Citizens
 - New Homebuyers
 - Individuals Facing Foreclosure
 - Persons with language or cultural barriers

Public Awareness and REALTOR® Education Campaign Cont.

Types of Fraud:

- Most Common:
 - **Fraud for Profit Schemes:** involves industry professionals
 - **Property Flipping:** Property values are artificially inflated through false appraisals. The property is then transferred or refinanced several times for a higher price.

Fraud For Profit Schemes, cont.

- **Straw Buyers:** Identity of the borrower is concealed through the use of someone else's name or credit. Here someone may allow their credit to be rented in return for a payment of money taken out of the loan proceeds.
- **Churning:** Borrowers continuously refinance or sell, each time within 45-60 days so no payment becomes due. Borrowers will use funds from a subsequent closing to make 1-2 payments on earlier loans to delay closer investigation.

Fraud For Profit Schemes, cont.

- **Ponzi Scheme:** a fraudulent investment operation that involves paying abnormally high returns ("profits") to investors out of the money paid in by subsequent investors, rather than from net revenues generated by any real business.

Fraud for Profit (cont'd.)

Foreclosure Schemes:

- **Foreclosure Rescue:** any program that induces homeowners to part with the title to their home based on claims that doing so will save the home from foreclosure.
- **Equity Stripping:** in some cases the operator immediately refinances the property as soon as the title is transferred, stripping out any equity that the homeowners had.

Fraud for Profit (cont'd.)

Elder Abuse

- Fraudulent Reverse Mortgages

Fictitious/Stolen Identity

- A fictitious or stolen identity will be used on a loan application. Perpetrator keeps the money and ruins the victim's credit.

Fraud for Profit (cont'd.)

Appraisal Fraud

- Inflated Appraisal
 - Appraisals ordered prior to the loan application or the execution of a sales contract
 - Inconsistencies between the origination and the foreclosure appraisal
 - Wide variances in value
- **The detection of a faulty or fraudulent appraisal involves more than one glaring mistake or omission-there is seldom an obvious "smoking gun".
- Potential RICO claims

Steps to achieve educational goals:

- Speaker's Bureau
- Information Bulletins/Pamphlets
- Q&A with C.A.R.
- City councils and government agencies

Steps to achieve educational goals:

- Partnering with C.A.R. to assist in spreading the issues of mortgage fraud throughout California and into the hands of Elected Officials in Sacramento.
- Should be a Statewide Effort: The Joint Fraud Task Force would like to assist in the creation of a multi-agency task force across the state of California.

Example of County taking Action:

Ventura County Fraud Unit:

- Educate public
- website: report fraud link, post articles, created videos
- Hired Prosecutor paid with \$2.00 real estate fraud fee
- Worked with real estate professionals: legal, mortgage, title, banking, lending and realty
 - Established relationship with Freddie Mac and Fannie Mae

4. Report Fraud:

REALTORS® must report fraud

- Local District Attorneys' Office
Riverside County: Jim Larsh, (951) 955-0826
Ventura County: www.DA.CountyofVentura.org
- Set up legal hotline to report REALTORS® exhibiting fraud-like tendencies: Call _____ at _____ Association: [Phone Number]
- Legal Defense Team: made up of all counties in order to help each other

Conclusion:

There will always be bad guys.

What we can do as an industry to deal with fraud?

Stay ahead of the bad guys.

Q & A Session

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