

## Facing Foreclosure? Beware the Greedy Vultures

This "just off the presses."

A former client called to tell me that her niece was being evicted from her one-family house in Queens County and asked if I could help. The niece, who had recently lost her husband after a long illness, had already paid thousands of dollars to a mortgage re-structuring firm which could do nothing for her because she could not come up with \$8,000 up front, and now some attorney wanted to charge the niece \$1,000 per month. The aunt didn't want to see this woman get taken advantage of. So could I give a second (honest) opinion?

I'm no foreclosure expert - I represent people hurt in accidents and handle plaintiff's personal injury cases and lawsuits. Mindful that a little knowledge is a dangerous thing, I offered to look over the young woman's papers and see if I could give any meaningful advice - with all disclaimers that I'm not a foreclosure expert, but in the interest of decency and helpfulness I'd gladly apply some common sense to the problem as a favor to my former client.

So this woman came to see me that very evening with some papers. She owed a total of \$370,000 on a one-family house that I doubt is worth that much now, in light of the problems in our nation's and New York State's economy and the real estate market. She is presently in mortgage arrears for more than \$60,000 and her annual income is less than \$40,000; plus she has credit card debt.

The house is scheduled for auction in less than two weeks.

The attorney she consulted had her sign a long retainer agreement giving him a fee of \$24,000: payable at \$1,000 per month for 24 months and giving the attorney (believe it or not) a mortgage on the woman's home to secure his fee. The retainer mentioned sending the husband's death certificate to the lender's attorneys, which should delay the eviction since the deceased husband is a named party to the lawsuit whose death, technically, freezes the lawsuit. The retainer also mentioned some other steps the attorney might take, including advising the woman to go bankrupt. None of which should cost \$24,000.

Basically the attorney told her that while she paid him \$1,000 each and every month, he'd keep her in the house. But none of that money would go to the bank, so at the end of 24 months she'd still owe the lender 24 more monthly mortgage payments. Interestingly, the lender had offered to take the house in exchange for erasing her mortgage debt - maybe a good deal if the house is worth less than the amount owed. Also, I suggested that she might consider bankruptcy right away (rather than at the end of 24 expensive months). She could give back the house and/or declare bankruptcy (especially considering her other debts) hiring a less greedy attorney for way less than \$24,000, and use the rest of her money for rent elsewhere.

By the way, this attorney solicited the woman through the mail, apparently obtaining a list of

houses being foreclosed or auctioned off (which is a public record) and writing to those unfortunate homeowners, offering his legal services.

So I did what any smart personal injury lawyer would do. I referred the niece to a trusted friend and fellow attorney who handles bankruptcy and debt problems and could help her for far, far less than \$24,000, an amount which shocked me and still has me shaking my head.

From: New York attorney Gary E. Rosenberg (personal injury and accident attorney and lawyer; serving Brooklyn Queens Bronx; Queens Accident Lawyer)

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