Flip, Flop - Beware Short Sale Scams

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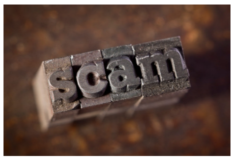

By now most everyone knows that a short sale occurs where the proceeds from the sale of a property are less than the debt owed on the property. Short sales have seen rapid growth recently as both investors and lenders turn to them as a way to maximize returns over foreclosure sales. As short sales have increased, so have short sale scams. Therefore, prudent homeowners, prospective buyers and real estate agents should be vigilant to avoid short sale scams.

Some examples of short sale fraud schemes include:

- **Flopping**. When a property is flipped illegally, it is sold for an inflated value in order to obtain a mortgage in excess of the property's real value. When the seller, who is often in on the scheme, is paid at closing, the difference between the actual selling price and the loan amount is split between the fraudsters. When a property is flopped, it is usually owned by an underwater borrower who has asked the lender to approve a short-sale at a price less than what is owed. In this scenario, the fraudster, which may be the owner, real estate agent, or both, supply one or more opinions of valuation that show the property to be worth significantly less than its actual fair market valuation. When the lender agrees to take the lower price, the fraudster purchases the property in his name or that of a straw buyer, thereafter flips the property to an arm-length purchaser at a higher price than the one negotiated with the lender, and pockets the difference. Like flipping, flopping is the intentional misrepresentation of a property's true market value. However, whereas flipping usually takes place when housing prices are rising, flopping occurs when values are depressed.

- **Predatory Short Sale Fraud**. This is where a firm or individual advertises themselves as expert short sale facilitators or negotiators. They promise to negotiate the short sale for the underwater property owner usually for an up-front fee. They collect the fee and never render any services.

- **Undisclosed Payments.** This may occur where there is more than one loan on a property and a short sale cannot occur without the junior loan or loans being released. An owner, lender or agent may request that an undisclosed payment to be made “off the record” or without being disclosed to other lender. This is illegal, as all parties to the short sale must be informed of all disbursements related to the sale. This may also subject the borrower to criminal fraud charges.

- **Fraudulent Approval Letters**. Fraudsters have been caught mimicking bank short sale approval letters including similar language and the bank's letterhead. In particular, Bank of America has recently been the target of this scheme. In response, Bank of America is requesting that any party intending to rely on a short sale approval letter purporting to be from the Bank verify its authenticity by calling (866) 880-1232. As a result, buyers and investors who purchased property relying upon fraudulent short sale approval letters thinking they had a clear title were actually subject to substantial liens.

The impact of short sale fraud goes beyond the losses to banks. The amount of fraudulent short sale activity has become so common that it has complicated and delayed the process for legitimate short sales thereby adversely affecting short sale sellers, potential buyers, real estate agents, and the marketplace in general. Short sale sellers, buyers, agents and lenders beware.

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