

STEALING HOME – THE PROLIFERATION OF MORTGAGE FRAUD

By: John E. Jacobs

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MORTGAGE FRAUD

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The Detroit Metropolitan area has the highest rate of residential mortgage fraud in the United States. Although this seminar is primarily concerned with income producing real estate, anyone could be the victim of mortgage fraud.

In one situation, multiple companies compete with each other to perpetrate the fraud. The companies maintain websites in which people are encouraged to learn how to make money investing in single family homes. A person is encouraged to attend a seminar to learn how to profit by buying, renting and selling homes. In order to register to attend the seminar the person will be asked to provide his/her name, address and social security number. The social security number is utilized to obtain a credit report on the person. Each company does conduct a seminar which teaches people how to purchase, renovate, rent and sell single family homes. Prior to holding the seminar, the company has identified those people at the seminar who have good FICO credit scores. At some point during the seminar the instructor or another person from the company will approach a person with a good FICO score and tell the person that they have a good investment opportunity for this person.

We encountered an attempted fraud, which to our knowledge did not occur, involving a home in Bloomfield Hills listed for sale for over a year at \$1,500,000. In this case, the company offered to buy the home for the asking price provided the Seller relisted the home for \$3,000,000 and the closing would occur about 90 days after it was relisted. If this had occurred, the person at the seminar would be told that the home

was worth \$3,000,000 but he could purchase the home for \$2,200,000. In addition, the purchaser would get \$200,000 to renovate the home and service the loan until the home could be rented or sold. If this transaction had occurred, the company would utilize the attendee's credit report and a false appraisal to obtain a loan of \$2,400,000. The result would be that the seller would have received his asking price, the seminar attendee would own the home and receive \$200,000. The seminar company will have a net profit of \$700,000. Unfortunately, the lender would have a \$2,400,000 loan secured by a home worth less than \$1,500,000.

Charities have also been the victims of mortgage fraud. The Detroit Free Press reported several cases of mortgage fraud involving homes that were donated to Motor City Blight Busters. In one case, a home for which the owner obtained an appraisal of \$84,000 was donated to Blight Busters which then contracted with Donate Real Estate to sell the home. Donate Real Estate arranged a sale of \$115,000. The purchasers obtained a loan of \$92,000 secured by a mortgage on the home. After closing costs and payment of certain liens, \$78,000 was available for distribution. The money was distributed to five different parties, including, Motor City Blight Busters which received \$15,000. Among other things, commissions were paid to an entity which appears to be directly related to Donate Real Estate.

In addition, to Blight Busters, Habitat for Humanity has also been a victim of fraud by Donate Real Estate. John Mogk, a Wayne State University law professor, was the Chairman of the Board of Habitat for Humanity. Even sophisticated people can be subjected to such a fraud. In one case Habitat for Humanity, through Donate Real Estate, sold a home in Detroit to JGE & Associates of Oakland County for \$15,000.

Donate Real Estate received \$11,375 for radio advertising and \$2,000 for commission, the net profit to Habitat for Humanity was \$730. JGE resold the home for \$62,000 on the same day.

Another common form of mortgage fraud involves the production of false documents. A mortgage broker prepares false W-2s, income tax returns, verifications of employment, verifications of payment on existing mortgage loans or land contracts and similar documents. There may also be a false appraisal. In many cases, the appraiser has utilized comparables which are not comparable to the property.

These fraudulent transactions are not limited to Michigan. We have a client who purchased three loans secured by homes located in the Atlanta, Georgia area. In these transactions the homes were purchased and immediately flipped for a much higher amount. The appraisals supporting the higher loan amount were false. One of the principal players in these transactions was the closing attorney. In Georgia title insurance companies utilize closing attorneys, not title agencies. This closing attorney assisted in the false disbursement of the sale proceeds. The FBI commenced an investigation which resulted in determining that a group of 15 people engaged in a scheme of flipping houses utilizing fraudulent information to originate 165 fraudulent residential mortgage loans.

All of the participants pled guilty, except the closing attorney who was convicted of 168 counts of fraud involving more than \$20,000,000. The typical fraudulent transaction involved the purchase and subsequent sale of the home on the same day. The sale was made with an inflated appraisal. The closing attorney prepared false

closing statements and disbursed the proceeds to various people involved in the fraud, rather than the seller of the home. The scheme, however, involved the presentation of apparently correct loan documents to the lender. Although the closing attorney has not yet been sentenced, Federal sentencing guidelines suggest that this person will receive a sentence of approximately 10 years in jail.

If you decide to purchase homes or residential mortgage loans for an investment, at a minimum, be certain that you are confident the home is worth at least the amount of the purchase price. In addition, for loans you should have independent confirmation of employment and income for the borrower.