



Who's Behind That Smiley Face?

Spotting Scammers and Schemers

If an offer is too good to be true, it probably is. Here are some common real estate scams.

When Keith Wettstein received a contract for more than \$40,000 above the asking price on one of his listings, he immediately became suspicious. As he read further into the offer, his suspicions were justified. The buyer's agent was asking him to change the multiple listing services (MLS) listing to the contract price immediately after an appraisal, which had already been scheduled for the next day.

"I've never seen such a blatant example of [mortgage] fraud in my nine years in this business," says Wettstein, a sales professional with Assist-2-Sell & Sellers Real Estate Advantage in Jacksonville.

The "assignable" contract said that the buyer was being sent on a military deployment and would need to settle within two weeks. The seller was to receive the original asking price, \$269,900, minus normal seller closing costs. The difference between this price and the offer was labeled an "assignment fee," with the 6 percent of the closing costs paid from this fee.

Wettstein called the sales associate with whom the buyer was working for an explanation. He then did a bit of research and discovered that this same contract had been offered several times to other sellers (who were working with sales associates other than Wettstein). He checked to see if the sales associate who made the offer was licensed and checked for a broker's license for the company name. All he found was an appraisal company with that name. Wettstein reported the fraud to his local real estate Association, the state government and the FBI.

"Real estate professionals should be aware that anything the lender doesn't know about is fraud," says Wettstein. "Changing the MLS after an appraisal is also wrong. I was alerted to this as fraud because it was so unusual to have a contract 'assigned' to a buyer who had never even seen the house."

Wettstein's client initially wanted to accept the contract since he would be receiving full price for the home. Wettstein, with the advice of his broker, severed his

relationship with the seller because he did not want to be a part of the fraud. After Wettstein sent the seller a Florida Realtor® magazine article on mortgage fraud [["How to Spot Mortgage Fraud," January 2007](#)], the seller backed out of the contract and signed Wettstein on again as his sales professional.

"When things slow down and sellers are more desperate, they're sometimes willing to do anything to get out of owning their home," says Wettstein.

On the Rise

While mortgage and foreclosure scams are on the rise as the market slows, the real estate industry always faces scams involving robbery rings that prey on open houses and real estate professionals showing homes.

With the volume of activity the real estate market's received over the past few years, it's no surprise that con artists have developed schemes to take advantage of unsuspecting homeowners, buyers and even real estate professionals.

Alert sales professionals can educate themselves, watch for red flags and use gut instincts to sniff out these scams and avoid finding themselves in the middle of one.

Here are some common schemes:

Mortgage Fraud

The Mortgage Bankers Association says that the number of suspicious activity reports to federal regulators involving mortgage fraud rose from 3,515 per year in 2000 to more than 28,000 in 2006. The Mortgage Asset Research Institute, a group funded by mortgage lenders, reported a 30 percent increase in suspected mortgage fraud incidents in 2006. Florida Association of Realtors® Legal Hotline attorneys say the same: they've received an increased flow of calls from real estate professionals with questions about short sales, mortgage scams and lender fraud in the past year.

Mortgage fraud can occur in a variety of scenarios. In addition to situations with falsely inflated prices, schemes can include title scams, foreclosure scams, home equity stripping, straw buyers and deed theft.

Buyers who want to make repairs on a home and wrap those costs into the loan will sometimes use an artificially inflated home price, which is considered fraud. Falsely inflating the selling price of the home allows buyers to be approved for the loan and keep the money to make repairs.

Similarly, buyers can use the difference between the true cost of the home and the fake price for a down payment on the property if they don't have enough savings, which constitutes fraud.

"These are bona fide buyers, but they just can't afford that house and they're committing fraud to get it," say FAR Legal Hotline attorneys.

Straw buyers are those who intend from the beginning to walk away from a deal, defaulting on the original loan and keeping the difference between the true and

inflated sales prices.

Dave Winger, a sales associate with Hometown Realty Services in Longwood, has been trying to help a 23-year-old man who unwittingly became the victim of a mortgage swindle.

“A car wash manager, Ryan, who purchased a home last year, was approached by a customer who offered him an investment deal,” says Winger. “The deal was that he was to purchase a new town home, which he was told would go up in value. He was also told that the customer would find a renter for the property. [The car wash manager] signed a blank loan application and turned it over to the customer, who then, without the car wash manager’s knowledge, filled it out with fraudulent information.”

The customer’s mother was the new-home sales manager of the town home complex and had contracts on several homes in the development for \$200,000 each. The application overstated Ryan’s income and assets so that he could qualify for a no-down-payment/no-closing-costs loan of \$310,000 at 11 percent interest, with monthly payments of more than \$3,000. A loan officer who apparently wanted future business with the sales manager approved the loan, and the sales manager pocketed \$100,000 as a fee. Ryan was unable to make more than one payment on the property, which has now gone into foreclosure. Winger is trying to sell the home for him, but the bank holds a \$300,000 loan on a property worth \$200,000.

Winger says Ryan should have been alerted to the scam because he signed a blank application and because no loan officer, processor or underwriter ever contacted him before the closing to verify any information.

“If something sounds too good to be true, like this deal did, then it probably is,” says Winger. “If you or a client is uncertain about something, then my advice is to hire an attorney to take a look at it.”

Title Fraud

Victoria Zambrano Pando, a sales associate with Coldwell Banker Residential Real Estate in Miami, worked with a customer who was the victim of a mortgage scam, but with a less painful result than Winger’s customer experienced.

“I received a call from a supposed sales associate who told me that her client had seen my client’s home on the Internet and wanted to make an offer but needed an appraisal done first,” says Pando. “I met the appraiser and let him into the house, and then we never heard anything else until the Wells Fargo [Home] Mortgage fraud department called the owner and the FBI called both the owner and me.”

The people involved in the scam had used the appraisal, written a fake contract and obtained a loan from Wells Fargo. The mortgage money was dispersed to a title company, which stole the money and never closed on the loan.

“Our biggest concern was that there would be a problem with the title to the house, but because they never closed the loan, the title was OK,” says Pando. “With the

market slow like this, sellers want to open their doors to people no matter what the circumstances. Now I've learned to ask for the appraiser's name and license number and to find out who the real estate agent is before I will open a house for someone."

Foreclosure Scams

While real estate sales associates and their customers may be the victims in many mortgage scams, foreclosure scams hurt consumers who are already in distress. FAR attorneys say one common current scam in Florida is for a group of investors calling themselves a "trust company" to approach homeowners facing foreclosure.

The investors ask the homeowners to quitclaim their home's deed to the trust, saying that they will negotiate a short sale with the bank that is about to foreclose on the property, according to FAR attorneys. (According to the National Association of Realtors®, a short sale occurs when the net proceeds from a home's sale are not enough to cover the sellers' mortgage obligations and closing costs, such as property taxes, transfer taxes and the real estate practitioner's commission. The home seller must negotiate a pay off with the lender.) Some sellers are unwilling or unable to cover the difference.

What consumers don't understand is that the lender must agree to a short sale. [For more information on short sales, see "Short Sales: Serving Sellers in Financial Distress," September 2007, Florida Realtor magazine.] Many loan documents have provisions such as a "due-on-sale" clause, which means that the loan must be paid in full if the ownership transfers. In the foreclosure scam, the trust pays off the loan at less than the full amount without negotiating with the lender or getting the lender's approval, so the lender goes after the sellers for the difference even though they no longer own the home.

In Prince George's County, Md., a class action lawsuit was recently filed against several local businesses that were targeting homeowners facing foreclosure. The scam involved the sale of the home to a straw buyer, who would borrow against the home's value and pocket the money. The original owners were told their payments would be brought up to date, allowed to stay in the home and were promised that they'd be able to buy it back from the investor. But when they were in a position to do so, the home equity was gone and the buyers were unable to afford to buy it. In some cases the residents are evicted from the home. FAR attorneys say similar scams have taken in place in Florida.

Robbery Schemes

A less sophisticated scheme involves bands of thieves who take advantage of sales associates showing vacant homes or holding open houses. Martine Bizier, a broker with Help-U-Sell Innovation Realty in Port Orange, says that one of her clients was robbed by a couple who came to her door claiming to be interested in buying the home.

"The client was an older woman who lived alone and allowed the couple to come into her home," says Bizier. "They stayed several hours, and she only discovered that they had stolen her credit card after they left. That same afternoon, there were six

reports to the police department about a couple wanting to come see a house without a sales associate.”

Bizier recommends that sales associates warn their clients about the potential danger of letting someone into their home without having a real estate professional present.

“There’s always a phone number on the sign, and legitimate buyers will call that number,” says Bizier. “If someone calls and says they need to see the house right away, I will call their agent and call the owners and then call the buyers back before suggesting that they be allowed into the house.”

Sales associate Debbie Goetz, of Derenthal Realty Group in Orlando, was robbed at an open house by three people who had carefully planned their attack.

“I immediately had a sixth sense that something wasn’t right when these three people came into the home,” says Goetz. “One man kept trying to draw me upstairs into the master bedroom or to see the garage, but I just wanted to get out of the house. I finally got him to look at the side yard, where he kept me talking until his two companions finally came out of the house. They were very clever, taking only two of my [credit] cards so I [wasn’t immediately aware that they] had taken anything until my husband was balancing our business accounts online and discovered about \$5,000 in charges on the two cards.”

Goetz has several suggestions for ways sales professionals can protect themselves, including keeping the door locked at an open house until it starts. She says these robbers deliberately came early to avoid other people. In addition, she suggests you keep valuables locked in the trunk of your car and avoid wearing expensive jewelry. Home sellers should also be told to lock up valuables and keep enticing objects out of sight.

“Every [sales associate] should have a plan,” says Goetz. “My cell phone was in my pocket the whole time but I was too nervous to pull it out. Now, if I ever feel nervous I will say, ‘Hang on one second,’ and I’ll call my husband and tell him I forgot to turn off the iron. He always knows where I am now and will come right away if he gets that call.”

Goetz says sales associates should follow their instincts if they feel uncomfortable and get out of the house. She also recommends getting a license plate number if there’s even a hint of a bad vibe about someone.

While not every scam can be prevented, real estate professionals who stay alert and who alert each other to potential fraud or dangerous situations can reduce the number of successful scams.

Michele Lerner is a Washington, D.C.–based freelance writer.