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LETTERS TO THE EDITOR

Agent scapegoated for slow sale

Re: '[Desperate seller urges real estate marketing shakeup](#)' (Dec. 8)

Dear Editor:

Blame it on the agent; it never has to do with the fact the house is overpriced or condition doesn't warrant the price or the location is not very good. Mr. Bruss is too quick to blame it on the agent. If the agent was given high recommendation by her peers, then I think she knows what she is doing. Plus the market in her area could be down for high-priced homes. In our area, the really high-priced homes are taking a long time to sell.

Real Estate Articles from Inman News

Crackdown on mortgage-elimination scams

Federal investigators are watching closely

Wednesday, December 08, 2004

By [Glenn Roberts Jr.](#)
 Inman News

Federal and state investigators are targeting schemes that claim to erase a homeowner's mortgage debt through creative paperwork. What some of these business models don't advertise is that their programs can put consumers at risk of foreclosure and even fraud.

Dubbed "mortgage elimination," the schemes have caught the eye of the FBI, which has been working with the title industry to snare those firms that are taking advantage of unsuspecting homeowners, *Inman News* has learned.

Dwight Bickel, a lawyer for LandAmerica Financial Group, Inc. said a company representative met with the FBI last week, and he has "confirmed there are investigations ongoing nationwide" relating to mortgage-elimination schemes.

"This has got to be one of the top issues facing our industry right now with regard to the potential for loss," said Tim Krell, a lawyer for First American Title, who also confirmed a meeting with the FBI to discuss mortgage-elimination.

There are some general patterns with mortgage elimination plans, such as creating legal documents that attempt to discharge a mortgage lien and then taking out a second loan or refinancing the property in order to pay off the perpetrators of the mortgage-elimination scheme. The debt elimination companies often argue that the banking system is flawed and encourage homeowners to challenge this system.

Some homeowners who followed through with mortgage elimination programs have lost their homes to foreclosure, say industry experts. Others face an uphill battle to clear up the financial and legal mess.

On Oct. 1, 2003, the Office of the Comptroller of the Currency, which charters, regulates and supervises all national banks, issued an [alert](#) to warn of illegal "debt elimination schemes using fictitious or worthless bonds, due bills and bills of exchange." The advisory stated, "Regardless of how such instruments or

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Roy E. Poronto
RE/MAX Metropolitan
Inc.
Utica, Mich.

documents are titled or whether they appear authentic, they are worthless, have no legal validity, and are not payable through the United States Treasury or any other federal or state agency."

Also, the office's advisory listed several organizations and Web sites "promoting these fraudulent schemes."

A simple Google search for "mortgage elimination" turns up many more examples of services to free consumers from mortgage payments.

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In January, the Minnesota Attorney General's Office announced several lawsuits against companies that claimed to assist consumers in managing or eliminating debt.

The office launched legal action against two companies, alleging that the companies "bilked Minnesotans out of thousands of dollars by falsely claiming that they can eliminate home mortgages." Both companies allegedly charged an up-front fee of about \$7,000 for their services "but the companies neither provide the supposed services or return consumers' money as promised," the state charged.

In a consumer advisory, the Minnesota Attorney General's Office cautioned, "If it sounds too good to be true, it is. You cannot eliminate a debt of tens of thousands of dollars for only \$7,500. Don't take what the 'debt elimination' company tells you, even if it is in writing or on a Web site, at face value. If a company is unable to provide you with the specifics of a transaction – walk away. Walk away if the company tells you that the information is 'confidential' or proprietary."

The advisory also states, "Many of these companies are 'fly-by-night' operations that have few, if any, assets. There may be nothing to collect even if you prevail in a lawsuit."

[Inman Blog: Industry pros give their take on everything from home ownership, foreclosures, mortgages and real estate life to the weather, our economy, and politics. Check in daily to get the scoop.](#)

These steps haven't stopped such schemes from cropping up across the country. While law enforcement agencies are working to catch up with the alleged criminals, consumer education about such services has generally lagged behind.

Though the scheme varies, this is an example of how it works, according to industry experts: A mortgage elimination outfit works with homeowners to initiate communication with their home loan company. If the lender doesn't respond within a specified period of time the homeowner or a representative makes a legal claim that they have the authority to act on behalf of the lender. Next, the homeowners file paperwork with the county recorder's office that names a trustee for the property – this trustee may be associated with the mortgage-elimination service – and this documentation often includes a deed that claims to discharge the mortgage.

In this example, the homeowners and mortgage-elimination companies seek a second mortgage on the property. If title companies mistakenly validate the documents filed with the recorder's office, then a second loan may be issued and the participants pocket the proceeds of this second loan.

Krell said that with some of these programs, "The house of cards doesn't fall until after they do a second loan application." Once this second loan is recorded, the payments on the first loan typically stop, Krell said. At this point, the first loan is in default and the original lender begins foreclosure proceedings, he said.

Experts say that with these schemes, courts have found that the documents claiming to discharge the loan are invalid, and homeowners are held accountable for the mortgage debt and may be found guilty of fraud.

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Bickel said he has seen several cases in which people have had their home lost in foreclosure – "That's the usual result," he said. "Once their records show the unusual documents that indicate an attempt at mortgage elimination, we might not insure their refinance." Those who attempt to clean up the title to their homes after participating in a mortgage-elimination program can find it's a very difficult process, he said.

"My job is to make sure that title companies are educated about this – to make sure they don't provide free and clear title based on invalid documents," Bickel said. Several companies touting mortgage elimination programs seem to define success as "getting a piece of paper back from the county that shows a (mortgage) discharge," he said, though he said that the courts typically hold homeowners liable for all mortgage debt, regardless of these discharge documents.

"The lenders who begin foreclosure end up being allowed to foreclose the prior mortgage. Legally the courts are going to enforce the prior document," he said. There are a whole range of laws that can potentially be violated by mortgage-elimination companies, he said – everything from forgery to federal mortgage fraud.

"I've never seen an example yet where a mortgage was legally eliminated," Bickel said. "What I don't understand is why people are so resistant to the possibility that they are being scammed."

Bickel said that courts, lawyers, banks and title insurance companies have found, in every instance that he is aware of, that the lien of a mortgage has never been legally eliminated "without payment in full."



Rachel M. Dollar, of Dollar & Graves, a mortgage banking law firm, agreed that if a mortgage is released by the lender in error, "The original borrower remains liable on the debt."

Rachel Dollar, Dollar & Graves

She added, "Consumers that try these types of 'something for nothing' schemes may very well end up with multiple mortgages or may end up losing their property to foreclosure if they don't make payments based on the representations that their mortgage has been satisfied when, in fact, it has not been."

Krell said, "It's hard to understand the number of people that apparently have bought into these scams because of the sheer volume we've seen. Literally, for a time there this summer we were getting, I would guess 15-20 of these documents per week."

Krell acknowledged that consumers may not always be well-informed about the existence of these types of schemes and the potential ramifications for entering into a mortgage-elimination program. He cited a case in which a couple claimed they had received mortgage-elimination advice from a group, and the court ruled that the couple had perpetrated a fraud and held them responsible for payment of the loan.

Send tips or a Letter to the Editor to glenn@inman.com or call (510) 658-9252, ext. 137.

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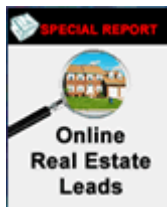
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