

## **RISKY BUSINESS – FRAUD AND MISREPRESENTATION**

November 27, 2006

Sometimes when a deal sounds too good to be true – it is. Recent articles in the Tampa Tribune regarding activity, now under investigation by the FBI, Florida's Attorney General, and DBPR, by a former member of PRO and GTAR, indicate there are a number of members who may have been caught up in questionable transactions and now could face intense scrutiny by the same agencies.

The Tampa Tribune reported, "Attorney General Charlie Crist said the economic crime division, based in Tampa, will look into 36 sales by Tampa real estate agent Dawn L. Molen. The Tribune story showed that Molen's sales had recorded sales prices of an average of \$60,000 above the original list price. The unaccounted money - at least \$2 million collectively - was paid to companies associated with Molen.

"Others may turn their heads to this kind of activity in a slow real estate market, but the attorney general's office will not," said Crist, who is a candidate for Florida governor."

The question is, if you were the listing broker or the seller, what was wrong with accepting an above list price offer? After all, we had plenty of that just a few months ago. This time, though, the problem was the listing in the MLS may have been for \$200,000, but when the buyer's agent brought the offer in, she asked the listing broker to increase the price in the MLS by \$40,000 to \$60,000. Each mortgage fraud scheme contains some type of material misstatement, misrepresentation, or omission relied upon by an underwriter or lender to fund, purchase or insure a loan

When appraisers – who, by the way, were among the first of the membership to recognize that something was not right – look at a property, they have to be able to explain to the underwriters an above price offer. In this case, the buyer's agent bypassed disclosing what was really going on in order to get more money. The inflated price was not legitimate, nor did it accurately reflect the value of the property. It was misleading appraisers, mortgage lenders, investors, and banks at the very least and fraud at the very worst.

As all Realtors know, it is a violation of Chapter 475.25 to commit fraud, misrepresentation, concealment in any business transaction. It is also a violation to aid, assist, or conspire with any other person engaged in any such misconduct.

If a buyer or buyers representative asks you to increase the price of the property in the MLS prior to writing the contract, the answer is no. The value of the property did not increase. If they need the funds to rehab or for some other purpose, it needs to be handled on the up and up through their mortgage lender. The practice of increasing the sales price in order to rehab or for any other reason is just wrong and could lead to big trouble for the listing broker and possibly the seller.

### **Some general tips:**

- If it sounds too good to be true—it probably is!
- Never sign a blank document or a document containing blanks. This leaves you vulnerable to fraud.
- Don't sign anything you don't understand.
- Be suspicious of outrageous promises of extraordinary profit in a short period of time.

Although there are many mortgage fraud schemes, the FBI is focusing its efforts on those perpetrated by industry insiders. Law enforcement is faced with an educated criminal element that is using identity theft, straw borrowers and **shell companies, along with industry insiders** to conceal their methods and override lender controls.

For more information on how mortgage fraud affects you and your industry and how to recognize various schemes, click here.

<http://www.fbi.gov/page2/dec05/chartsandgraphs.pdf>

To read the articles in the Tampa Tribune, published October 22 to 26, here are the links:

A Rapid Rise: <http://www.tbo.com/news/nationworld/MGBXTU3SKTE.html>

2 Agencies will examine real estate deals: <http://www.tbo.com/news/metro/MGB81I2WNTE.html>

Home sales draw more scrutiny: <http://www.tbo.com/news/money/MGB6HL80PTE.html>

Underwriter launches inquiry into home sales:  
<http://www.tbo.com/news/money/MGBGHK9GQTE.html>