



Consumer Alert: What You Can Do to Protect Yourself from Getting Ripped Off in Real Estate and Home Loan Relief Scams

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I. Introduction.

The New Year has unfortunately not brought about the end to real estate and mortgage relief scams. While a deep recession continues to affect the national and California economies, the business for swindlers is very good.

They continue to sell false hope to and prey on vulnerable and unsophisticated consumers, and the bad players far outnumber those of us in the government who prosecute them.

They advertise and cast their nets widely, using the Internet, newspapers, magazines, mail pieces, and radio and television,

This alert is written to remind you to be continually cautious and vigilant, and to give you some important tools and red “warning” flags so that you do not fall victim to real estate and home loan relief scammers.

The California Department of Real Estate (DRE) has issued prior topical warnings and alerts to consumers about the rise of fraud in connection with pre-foreclosure and foreclosure-related rescue, forbearance and forgiveness services, including loan modifications, forensic loan audits, and short sales.

The DRE has also written about problems with “Cash for Keys” programs, imposter landlords using bogus and absurd evidence of ownership to take advantage of unsuspecting renters, and the increased use of questionable and possibly misleading terms such as “expert”, “certified”, and “specialist” in the marketing and advertising of assistance to anxious homeowners and other real estate and mortgage consumers.

The fraud comes in many shapes and sizes, and there seems to be absolutely no shortage of ingenuity, creativity, marketing ploys and tricks used by unscrupulous fraudsters to capitalize on the desperation and vulnerability of unsophisticated and/or financially strapped California consumers.

II. What You Can and Should Do to Avoid Becoming a Scam Victim.

In addition to telling you that you really need to always be wary and cautious when thinking about retaining the services of people and companies offering assistance in the



areas of mortgages, foreclosure rescue, and real estate, you should check out and read prior alerts and warnings of the DRE.

Also, and importantly, you are wise to never pay for such services or assistance in advance of seeing results. It is extremely risky to do so, and it may be illegal for the “service provider” to ask you for or to collect fees in advance for some services, like loan modification, short sale, and mortgage forbearance services.

Further, you may be able to do some of the advertised services yourself, especially in the area of loan modifications. In other cases, such as with forensic loan audits, there is a serious question about the value of such services. In still other cases, there are free services that might be available to you through HUD-certified housing counselors.

If you choose to use the real estate and/or mortgage related services of third parties for a fee(s), ask them questions, lots of questions, and then verify, verify, and still verify some more.

Check them out on the DRE website, at www.dre.ca.gov. Make certain that they are licensed by the State of California. If they are licensed, see if they have been disciplined. If they are lawyers, check them out on the State Bar's website, at www.calbar.ca.gov. Again, look at their disciplinary record, if one exists.

Check them out through the Better Business Bureau.

Check them out through a Google or related search on the Internet. You may be amazed at what you can and will find out doing such a search. Often consumers who have been scammed will post their experiences, insights, and warnings long before any criminal, civil or administrative action has been brought against the scammers.

The purpose of the next section is to give you some specific, detailed questions that you can ask of those people and entities who/which have offered to assist you. Remember that legitimate service providers will not mind the questioning and scrutiny.

A. Suggested Questions to Ask (This List is Not Exhaustive, But It Will Give You Information on Which You Can Make a Reasoned Decision) –

1. Are you licensed by the California Department of Real Estate? If not, why not? What exemption from the licensing laws do you claim? Remember that most real estate and mortgage related services require a license issued by the DRE. There are some exceptions for California licensed lawyers who are engaged in the practice of law, and some other very limited exceptions. If they are licensed, ask them for their DRE Real Estate License Number, and check to see if they have been disciplined by the Department (go to www.dre.ca.gov).



It should be noted that certain mortgage lending and mortgage related activities require a special Mortgage Loan Originator (MLO) endorsement, and that requires the issuance of a unique identifying number. So ask the service provider if he or she has an MLO endorsement number as well, and then verify that information with the DRE.

If the person is a real estate salesperson, he or she must work through a real estate broker. Therefore, you will want to question the salesperson about the identity and experience of his or her broker, and then check on the broker's license at the DRE website shown above. If the salesperson says that he or she can do the work independent of a broker, do not work with or hire that person.

2. How many transactions or services of the type you are advertising or offering have you *successfully* performed? If they have offered to perform loan modification services, ask them how many "permanent" loan modifications they have negotiated. Make certain to get specifics and contacts, and do further checking.

3. Do you have a list of current and past "satisfied" customers? If so, get it and call them. Ask them if they would use this person or entity again. Do your own background check. And note that even if the person or company is "highly recommended" by so-called satisfied customers, the risk of a scam is not eliminated entirely.

4. Do you have a list of business and banking references? If so, get the list and check them out.

5. How long have you been providing loan modification, short sale, mortgage relief, or other relevant services? Alternatively, you can ask, how long have you been in this business?

6. Are you a specialist in this area? If the answer is yes, ask what specialist qualifications do you have and what does that mean? And what course of study did you undertake to become certified or specialized?

7. What are you actually going to do for me? (What specific services will you be providing?) Get that in writing, and take the time to fully understand what the contract says and what the end result will be before proceeding with the services. Remember to always ask for and demand copies of all documents that you sign.

8. Where and when was your business formed? (Ask this question where there is a corporation or other form of business entity involved). You can then look at the website of the California Secretary of State to verify that information and/or to determine if the business is able to operate in the State of California. You can also check on the agent or agents for service of legal process, and the current status of that business entity. The Secretary of State's website is www.sos.ca.gov/.



III. Are there Surefire Ways or Red Flags to Detect Fraud?

Fraudsters are good at what they do. Many are sophisticated rings using fake websites and important sounding names. Others are just rogue criminals on their newest scam. They all continue to adapt and modify their schemes as soon as their last ones became ineffective.

It is really difficult to identify a “surefire” way to detect fraud in the area of real estate and mortgage relief services. But there are some red warning flags to look out for so that you do not become the latest casualty of the scammers. Those things include:

1. Advice that you can “walk away” from your home loan and repair your credit by quit-claiming your property to some third party.
2. Assertions that you can “delete” or fully satisfy your mortgage by assigning it to a third party.
3. Claims that you can get your home “free and clear” by suing your lender for something like failing to get your approval to assign the loan to some other party.
4. Letters that appear to be from a government agency claiming to help you obtain mortgage relief assistance, or offers of “official government assistance” or “government approved” mortgage relief.
5. Requests that you pay only in cash, or by wire transfer or a cashier’s check.
6. Discussions of “side deals”, paying for something “outside of escrow” or “after closing”.
7. An unwillingness to meet in person.
8. “Attorney-backed” or “attorney affiliated” entities that do not disclose the name or names of California licensed lawyers who are responsible for those entities.
9. The use of more than one contract for the same services.
10. Advice that you do not need to read an agreement that you have been asked to sign. Always remember that you should not be pressured into entering into an agreement that you do not read and understand.
11. Unsolicited help, such as people showing up at your home, or cold-calling you and professing their expert services. You need to fully research all of those who you consider paying for real estate and mortgage relief services.



12. Unqualified guarantees or promises that the service provider can get your loan modified, that they can get a short sale approval for you, or that they can stop a foreclosure action.
13. Requests that you provide personal financial information over the phone or over the Internet.
14. Requests for upfront payment before any services have been provided.
15. Requests giving the service provider a power of attorney.
16. Statements that you must act immediately, or without any delay.
17. Requests that you must sign a deed of trust, grant deed, quitclaim deed, or any document that has not been fully completed (such as where lines are left blank).
18. Advice that you should not talk with your lender, servicer, attorney, accountant, and/or anyone else.
19. The use of lofty language that you cannot understand.
20. Advice that you can make some false statements in documents to get mortgage relief since “everybody is doing it”.
21. Assertions that they have found some secret loophole in the banking laws that will help you eliminate or modify your mortgage.
22. Assertions that you can avoid foreclosure by giving “fractionalized” interests in your property to persons or entities that are in bankruptcy.
23. Assertions that you are a “sovereign person” not subject to the laws of California or the United States.
24. Assertions that bankruptcy is an easy fix and will save your home from foreclosure. Filing for bankruptcy is a major event, with large implications for your life and credit, and it does not wipe out your secured mortgage lien. Bankruptcy should not be taken lightly, or commenced without serious contemplation and the advice of a credible and reputable bankruptcy specialist.

IV. Conclusion.

Fraud by predators in the area of real estate and mortgage relief scams requires that you be skeptical, proceed cautiously and do your homework. There are legitimate, reputable, licensed and competent professionals in the real estate and mortgage field. If you need or want their assistance, you need to do some homework.



Ask questions, get referrals from people you know and trust, and always remember the following points. If it seems too good to be true, it probably is not true. Do not abandon your common sense. And if you feel alarm bells going off inside of you (and something does not feel right – the “uh-oh” feeling), you should pay close attention and rethink moving forward.

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