

REGAL PALMS

Owners Association

This is reported in California so it will soon be in Florida

California Real Estate Scams Seen by Lawyers, Loan Modification Rip Offs Found by Attorneys and Foreclosure Consultant Frauds Uncovered by Ca Lawyers

Today, it is estimated that one in ten homeowners is either in foreclosure or behind in their payments. As the economic crisis becomes more severe and the recession feeds upon itself, people have become more and more desperate to find some way to hold onto their houses. With such conditions, the average member of the public is ripe for a scam and the and those who try to dupe you or use trickery know this. It is no surprise, therefore that the number of foreclosure type scams are on the rise.

If you've been the victim anywhere in Southern California of real estate fraud or the target of an unscrupulous loan modification service, foreclosure consultant or someone acting on your behalf to modify your mortgage or cure your problems who is in violation of the strict regulations in California, call the Law Offices of R. Sebastian Gibson at any of the numbers on our website at <http://www.sebastiangibsonlaw.com/>.

If you are a licensed real estate broker or agent and have either been wrongly accused of being in violation of the laws and regulations governing loan modification services and foreclosure consultants, or acted as such without being aware of these strict regulations and need legal defense, we urge you to call us at any of the numbers which you can find on our website.

Those who are most likely to be targeted by persons attempting to perpetrate a fraud are the elderly, anyone entering foreclosure, people who have recently lost their jobs, families who have lost a loved one, people who have limited knowledge of English, people with limited resources, and homeowners whose payment amounts have recently been raised.

The moment you enter foreclosure, expect to be inundated with offers of help from many individuals with generic type sounding names, and some claiming even to have references from churches near you. These are, in most cases, some of the people you should stay away from at all cost.

The person who will approach you in this type of scam is more often than not, well-dressed, well groomed, and seems personable, kind, and trustworthy. Some utilize social skills to put you at ease such as their representation to be of the same religion as you, or even the same church, to have been in the military if they think that will put you at ease or feel more trusting of them, and others will claim to be working for non-profit organizations, or branches of the government.

These are some of the most common scams and what you can do to avoid being a victim.

1) **The Disappearing Foreclosure Consultant** – With a helpful sounding name, and armed with references and a kind voice, the person who contacts you promises to help you stave off foreclosure with just an up-front fee for their time. The only problem is, as soon as the money clears their bank, you never see or hear from them again. The soon-to-be phantom performs little or no service, takes your money and you are left with your original problems and less time to try to save your home from foreclosure.

2) **Loan Modification Helpers** – Unlike Santa's Helpers, in this scam you pay a fee up front to the “loan modification expert” to negotiate directly with your bank, only here you don't get a present from Santa. If the expert really gains your trust, you also make your mortgage payments directly to the expert rather than to the mortgage company. Both the up front fee and the mortgage payments go directly into the pocket of the loan modification helper with the white beard and the kind voice and by the time you receive notice that your house is in foreclosure, this elf has disappeared and is back at the North Pole.

3) **Just Sign Here Scams** – As you face the prospect of foreclosure, one offer of help seems far better than all the others because it allows you to stay in your home as they save it from foreclosure. Unfortunately, in the papers you sign without having a lawyer look at them, you agree, knowingly or unknowingly, to sign over the house to the person offering this help and still remain responsible for the mortgage payments. The person then either sells your house, collects other fees from you or holds onto the house and evicts you.

4) **Sale and Leaseback Scams** – In this scam, if you are a homeowner who still has some equity in your home, you will be convinced to sign over title in your home and pay rent to the scam artist with the promise that they can bail you out, cure your problems and that you will be allowed to buy back the house later at a bargain price. All of this can be accomplished, but only if the property is in the consultant's name. The payments you make go directly to the scam artist and eventually you will find yourself holding the bag. You may also find yourself evicted when you can no longer make the excessive rent payments. If you have lost your job and are having trouble making your house payments, even if you have equity in your home, you may be tempted by this scam. And while you would be entitled to the excess equity in your home if the house is sold in foreclosure, when you fall victim to this scam, you will lose the equity when it is either sold out from under you or the equity is stripped away by the new owner.

5) **The Trust Me, I'm Religious or I Was In The Military Too Scam** – These people posing as Christians, former members of the military or members of whatever social organizations you belong to come complete with references from members of your church or with military haircuts and promise that by adding them to the title to your home, they can rescue you from foreclosure, and have your credit repaired. Having gone through your mail or your trash, they probably know all about you. There's no need to see a lawyer, they tell you. Just pray with them or have a drink with them and swap military stories. Just be sure to hold on to your wallet, don't give them any money and don't sign anything.

6) **Sign Me Up Scotty And Get A New Loan Scam** – In this scam, you are told that if you add the nice looking good Samaritan onto your title by signing a Grant Deed or other legal instrument, (which you are told, you don't really need to read) this friendly person can apply for a new loan, which, unfortunately, if approved, will leave you on the hook for both the old loan payments and the new loan payments, and any up front fees you pay for this service will disappear with this fraud.

7) **Buy My Books, Take This Seminar And Make Millions Scam** – You may see this offer on late night television, on roadside signs or even on billboards. Only this time, you are talked into buying materials that are full of worthless information that will do nothing to help you avoid foreclosure. Even worse, the materials you receive may offer advice that will land you in jail by telling you how to approach others in foreclosure and advise you to tell them you can save them from foreclosure. The trouble is, what you will be doing is either practicing law without a license or acting as a credit repair

agency or loan modification expert without a real estate license and without an advance fee agreement approved by the Commissioner of the California Department of Real Estate and without being registered with the California Department of Justice.

The Short Sale Scam – In this scam, the “short sale specialist” who contacts you promises his expertise to accomplish a short sale in a small amount of time that will protect your credit. There is a fee of course that would have been better spent on groceries. When the real estate market was better, there were additional wrinkles to this scam that today are more difficult to perpetrate due to the difficulty of selling homes in this economy.

9) It's Like Magic – Here the homeowner is told to sign one thing, but the homeowner winds up signing something altogether. In some instances of this bait and switch scam, the scam artist will serve as the notary as well. In conjunction with this and other scams, or in other variations, forgery may be utilized, and identity theft employed as well.

10) Want Somewhere Cheap To Rent Scam – Here the bogus homeowner or leasing agent takes your rent payment and security deposit and rents or leases you vacant residential or commercial property, that isn't owned by the person you are talking with and if you are talking with a leasing agent, this “agent” has no authority to offer you the property for rent or lease.

11) How About A Nice Loan Modification Scam – As with foreclosure consultants, loan modification services are strictly regulated by California statutes. If you have lost money or your home to a foreclosure consultant or someone promising to obtain a loan modification or cure to your problems and they have violated these statutes, in some cases you may be entitled to any moneys paid to them, but also, in some cases, your other actual damages, equitable relief, reasonable attorney's fees and costs and punitive damages of three times the compensation received or misapplied by the foreclosure consultant or loan modification service who contracted with you.

It is difficult, if not impossible, to recover your money when you have been the victim of any of these types of fraud. However, there are times when the persons attempting to defraud you simply don't know better and are otherwise responsible citizens and business people who don't know the law, or conveniently fail to research the law, and who may either have errors and omissions insurance or assets which may cover their indiscretions.

Such defendants may include real estate brokers, foreclosure consultants, loan modification companies and services and mortgage brokers.

These parties may be responsible if they made misrepresentations to you, committed fraud, charged you fees and collected such fees in advance for foreclosure consultant services, failed to follow the strict regulations set forth in the California Civil Code and Business and Professions Code or had you pay fees in advance for loan modifications under agreements that have not been approved by the Commissioner of the California Department of Real Estate. The laws in California are very strict as to when you may be charged fees for such services and under what circumstances.

If a person makes promises or representations to you without any intent to perform the services promised, and if you have been damaged as a result of your reliance on those promises or representations, you may have a valid claim against that person for fraud. Such promises may include a promise that they will be able to obtain a modification of your loan or to save you from foreclosure, and will likely require you to pay up-front fees that do little, if any, good.

Here are the five tips of advice we recommend to anyone in this situation being approached by people offering help.

1. Avoid any solicitations of help that come unexpectedly, by mail, e-mail and by telephone or to your door.
2. Avoid using any help agency whose name you find on roadside signs such as those which state “We Buy Homes For Cash” and those which promise to “Stop Foreclosure.”
3. Avoid paying up-front fees to foreclosure or loan modification experts.
4. Disregard anyone who tells you not to talk to your bank or tells you to avoid consulting with a lawyer.
5. Don't sign anything without having it reviewed by a real estate lawyer.

Red flags to you that you are about to be scammed should include requests of you for any of the following: to pay money up-front before any service has been performed, payment by cash, cashier's checks or bank wires only, transfers of title, actions to be taken immediately, power of attorney, signatures on grant deeds, signatures without any explanation or while under time constraints, signatures on incomplete documents, and mortgage payments to persons other than the mortgage company.

Other red flags include unqualified promises, offers that sound too good to be true, failures to provide you with copies of what you sign, oral promises that are in conflict with written provisions, refusals to put the oral promises in writing, oral statements that the provisions in writing don't mean what they say or won't be enforced, and warnings not to discuss the matter with an attorney, your lender or anyone else.

If you have a business or real estate legal matter in Palm Springs or Palm Desert, in Ontario or Rancho Cucamonga, Temecula or Murrieta, Newport Beach or Huntington Beach, Anaheim or Santa Ana, El Cajon or Carlsbad, Palmdale or Victorville, Long Beach or Santa Monica, Ventura or Oxnard, or anywhere in Southern California, our Palm Springs, San Diego, Orange County, Inland Empire, Los Angeles, Santa Barbara and San Luis Obispo law firm has the knowledge and resources to be your Business Lawyers and Real Estate Attorneys. If you've been the victim of a real estate, business, loan modification or foreclosure scam or fraud, be sure to hire a law firm with experience in loan modification, foreclosure and real estate fraud in California and who will endeavor to ensure that your rights are properly represented.

To learn more about such scams or the statutes which regulate loan modification and foreclosure consultants, or for legal representation, call the Law Offices of R. Sebastian Gibson at any of the numbers on our website at <http://www.sebastiangibsonlaw.com/>.