



White Collar Crime

Fraud in Real Estate Transactions

by
Natalie Danielson

This 3 clock hour course looks at different types of fraud prevalent in real estate and mortgage transactions.

PROFESSIONAL *Direction* INC

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A Washington State Approved Real Estate School under R.C.W. 18.85.



Please Read this First! Thanks!

PROFESSIONAL *Direction* INC

Clockhours by Mail

1. You will be provided with a booklet of with the class material here in a pdf format. It is a THREE CLOCKHOUR CLASS FOR \$30.00 TUITION.
2. The course has been divided up into one hour sessions. In Washington State a “clock hour” is 50 minutes. There are questions about each session. They can be answered while reading the material, at the end of the session, or at the end.
3. ***Answer*** the questions on the quiz sheet.
4. If you have any questions regarding the material or the questions, don’t hesitate to call or email Natalie Danielson.
5. ***Mail*** Quiz and Evaluation to Professional Direction.
6. The certificate will be mailed within 10 days of receipt of course materials and handout. If you are desperate... just email us!!!!

Disclaimer.. the course materials and questions are not to be used for legal advice. Information can change over time. Real estate transactions are handled different ways in different regions in the State of Washington. If you have any comments or concerns about the material contact Professional Direction.

Thanks!

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Admission Policy: All courses are open to all persons whether or not they are licensed real estate agents. No person will be denied admission based on race, creed, color, sex, age, national origin, familial status, appearance, or sexual orientation.

Attendance Requirements: All students are required to be physically in attendance for the stated number of clock hours required for the course. Any class missed during the course may be made up at the mutual agreement of the student and the Administrator at a future time, if available. No auditing of courses.

Cause for Dismissal: A student may be dismissed and enrollment terminated from a course by the Administrator or the Instructor for failure to pay tuition, fraud, misrepresentation of their correct name, taking exams for another student, or disruptive interruption of class. Students can be dismissed and enrollment terminated if there is evidence of drug and alcoholic use. Dismissed students will not receive certificates or refunds.

Refund Policy: Students may terminate their enrollment and receive a full refund prior to the conclusion of the first full session of the course with a return of the course materials. Students who receive refunds will not receive certificates. Refunds are granted solely by the Administrator.

Examinations: Exams are given ONLY for 30/60 clock hour courses including Real Estate Law, Brokerage Management, Fundamentals and elective courses that are designated for use as part of the requirements of the brokers license. Students must have a 70% or better passing grade. Students will have the opportunity to retake examinations under supervision with an appointment

Course Materials: The student may receive workbooks or outlines as part of the course. There are some courses that require a text during the time period of the course. The course materials and the outlines are the property of Professional Direction, Inc., and are not to be duplicated without the prior written permission of the Administrator.

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White Collar Crime

Fraud in Real Estate Transactions

Curriculum

Session Hours	Major Topics	Method of Instruction	Equipment Materials
1 1/2 hour	Introduction to white-collar crime Excuses and reasoning the makes it multiply.	Read Material	Workbook
2 2 hours	Learn to recognize 10 different fraudulent schemes common in our marketplace. Understand where the fraud is in the examples.	Read Material	Workbook
3 1/2 hour	Learn the potential consequences. Identify a handful of the laws governing mortgages, appraisal and real estate agents. Identify Red Flags for fraud.	Read Material	Workbook

White Collar Crime

Fraud in Real Estate Transactions

As a real estate agent or a loan officer in Washington State, it can be hard sometimes to imagine that there could be a criminal sitting next to you at the office, across the table during a real estate transaction or online processing a mortgage loan. But, fraud is rampant in our industry. Money and property are being stolen almost invisibly. The only currency is paper and documents. It is quiet and very clean with a pen or a computer mouse. Most people involved in fraudulent transactions don't experience a great amount of guilt. In many cases, people are unaware of the crime committed and the consequences of their actions. No one *seems* to get hurt. There are no deadly weapons. The victim is not even bleeding.

Ignorance does not "save" you in our court systems. If you are sitting on the stand in court and you say you didn't know you were involved in a fraudulent transaction, you don't get a free pass to get out of jail.

What echoes throughout real estate offices and mortgage companies is the excuse that "everybody is doing it." We heard that when we were children but it didn't save us when we did something wrong.

This course will define 10 of the most common types of fraud in our marketplace. In addition, you will learn about actual cases involving real estate agents, escrow, and lenders.

Course Objectives

As a result of taking this class the real estate licensee shall be able to:

- Learn the definition of white collar crimes, fraud and misrepresentation.
- Identify the most common fraud in the real estate industry.
- Learn how fraud is spread like a virus.
- Learn from actual cases of fraud.
- Identify clues to possible fraud in your transactions.
- Learn what the consequences can be to participating in fraud

White-Collar Crime Defined

An author of a leading text on criminology, Edwin Sutherland, defined *White-Collar Crime* as "a crime committed by a person of respectability and high social status in the course of his occupation." Usually it is a nonviolent crime committed in a commercial situation for financial gain.

The FBI has placed "White Collar Crime" as a seventh on the top ten list of investigative priorities. The FBI categorizes white-collar crimes as deceit, concealment, or in violation of trust and are not dependent on the application or threat of physical force or violence. Such acts are committed by individuals and organizations to obtain money, property, or services to avoid the payment or loss of money or services, or to secure a personal or business advantage. White-collar criminal activities can include money laundering, bank fraud, and fraud against the government.

According to the FBI, Mortgage fraud is a material misstatement, misrepresentation, or omission relating to the property or potential mortgage relied on by an underwriter or lender to fund, purchase or insure a loan. In other words, it is the intentional enticement of a financial entity to make, buy or insure a mortgage loan when it would not otherwise have done so, had it possessed correct information. If the misrepresentation alters a decision, then misrepresentation becomes fraud, which is a state and federal crime punishable by up to 30 years in prison and a \$1,000,000 fine.

In many cases, the opportunity to make money quickly and quietly becomes attractive to people that are scheming. Sometimes, people see others as easy targets.

Often real estate agents, mortgage brokers and investors get caught up in transactions that can easily make them money with only a few twists and turns. They don't see a hurt victim and use the "everybody is doing it" reasoning to justify fraud. Some perpetrators are of the criminal mindset and others just go along because it appears to be safe and quasi legal. Not very many agents and lenders have been "caught" but the Washington State Department of Financial Institutions and the FBI Financial Institution Fraud Unit are busy at work. You could be part of their next investigation. Do you look good in an orange jumpsuit?

Mortgage fraud is growing problem with losses totaling in the billions of dollars. Though the lender is the direct victim of mortgage fraud, fraud harms honest homeowners and homebuyers, as well, due to higher mortgage costs, higher property costs and the effect on the entire industry as it tries to recover the losses.

According to the FBI the problem is growing. In September of 2002, the FBI had 436 mortgage fraud investigations. Currently, they have more than 1,036. That's an increase of 237 percent in less than five years.

And of the 1,036 current cases, more than half have expected losses of more than \$1 million. Of the victims, about 57 percent are federally insured financial institutions; 8 percent are government entities like the Department of Housing and Urban Development; and 35 percent are investors.

In Washington State, Governor Gregoire has appointed a task force to research the mortgage market in the state to make recommendations by the end of this year. Scott Jarvis, the Director of the Department of Financial Institutions will serve on the task force. Washington State is not in the top ten states in the nation in terms of mortgage fraud, but it is growing incrementally.

Predatory lending vs mortgage fraud

Predatory lending and the sub prime loans increasing the foreclosure rate are a different issue. Predatory lending is a term used to describe lending practices that harm a consumer. Extremely high loan fees, soaring interest rates especially on adjustable rate mortgages, unreasonable yield spread premiums, undisclosed fees, bait and switch tactics, and false loan documentation are examples of predatory lending. In some instances, borrowers have purchased homes with mortgage payments higher than their income, or the adjustments on the loan are too high putting the homeowners into foreclosure.

Many of the predatory lending tactics can be fraudulent. In most predatory lending situations, the loan officer and the mortgage company are the ones that benefit with more money in the form of fees and commissions with the borrower as the victim.

Mortgage fraud focuses on the schemes and deals made to take money and property through material misrepresentation. An underwriter is deceived into funding a mortgage it would not otherwise have funded had all the facts been disclosed.

The loose sub prime loans and limited documentation has fueled mortgage fraud. Many of the loans to create the schemes were done with some of the tactics that are bringing down banks and mortgage companies in the subprime decline.

Some people claim that if the information is on the HUD 1 form, that the lender "is" made aware of the facts of the transaction. But, if the information is hidden or disguised then it is fraud.

Sometimes echoes are heard that the lender is a "private lender" or it is "private non traditional financing." Those are just names to try to say it is ok to deceive a lender that may not be the bank down the street.

In January 2004, Metropolitan Mortgage declared bankruptcy, taking down with it the fortunes of many investors who placed their trust in the decades-old Spokane company that sold unsecured bonds. In recent settlements, investors were paid only 9 cents to the dollar.

The following is a list of the 10 most common types of mortgage fraud in the industry, today. This is not an exclusive list. At any time in a the course of a real estate transaction and loan processing fraud occurs when there is a misrepresentation of the actual facts.

1. Inflated Sales Price

With the loose standards in the subprime mortgage market and the hot real estate market borrowers were creating documentation so that in the purchase of real estate they could get cash in their pockets at closing. In fact, it has become so common that the “everybody is doing it” excuse has run rampant.

In order to create cash at closing, the borrower would write up a purchase and sale agreement inflating the sales price. In order to make the property collateral for the loan a false appraisal had to substantiate the inflated price. The seller would get the price the property was listed at or agreed to. The borrower would then create documentation to get cash back at closing usually through escrow or by having funds paid to a third party. Sometimes even excess funds were paid to the loan officer or the real estate agent in the form of increased commissions.

There is no way to get cash back on a first purchase mortgage. That would mean that the lender would be lending the borrower money more than the collateral that is being used for the loan. With a false inflated appraisal, the lending institution would believe that the house could be collateral, when in fact it is not. Then to take money out to spend on anything from purported repairs to development is in effect borrowing money for a 30 year term without collateral and only false documentation to substantiate it.

Real estate agents will argue that it is “legal” to have the seller pay a portion of the buyers closing costs. Yes, but those funds were to come out of the sellers equity. If the price is raised to cover those costs the house must still appraise. The appraiser does not have an obligation to inflate an appraisal for the buyers loan costs. In addition, FNMA has guidelines and all the funds are accounted for and disclosed to the lender.

The appraiser is hired for the bank to determine if the property is collateral for the loan. The appraiser is by law to give an opinion of the market value of the property which is the most probably price that the property would bring in a competitive market if paid in cash unaffected by any special or creative financing. Appraisers are bound by state and federal laws.

The Century Mortgage case is a classic case and one of the largest prosecuted in Washington State. Century Mortgage was one of the most aggressive sub prime lenders in the state. Sally Gibson was a real estate agent that worked directly with the owners of the mortgage company to get people into homes and loans that they could not afford while she made out like a bandit. What real estate agents forget is that the property value and loans in Spokane are only a fraction of those in Seattle and Bellevue!

“Century Mortgage created a scheme to sell low value homes in the Spokane area for dramatically inflated prices,” stated Chuck Cross, Acting Division

Director and Enforcement Chief. “Not only were consumers harmed in these transactions, but lenders were duped into making large loans on the properties through the use of fraudulent appraisals and phantom second mortgages.”

“Appellate court Affirms Convictions in Century Mortgage FRAUD”

James A. McDevitt, United States Attorney for the Eastern District of Washington, announced that the Ninth Circuit Court of Appeals has affirmed the convictions of Dale D. Gibbons and Sally Gibson and dismissed John T. Hansen’s appeal.

Dale D. Gibbons, formerly the President of Century Mortgage and Sally Gibson, formerly a real estate agent, were convicted in August 2004 of multiple counts of conspiracy and wire fraud after a four-week jury trial. The evidence at trial showed that Mr. Gibbons and Ms. Gibson sold homes to unsuspecting buyers at inflated prices; made false and misleading entries on uniform residential loan applications, made false and misleading entries on real estate purchase and sale agreements; and prepared false gift letters and second deeds of trust. As a result of these and other false documents, lenders were duped into wiring monies to fund the loans.

Mr. Gibbons and Ms. Gibson were both sentenced on March 3, 2005. Mr. Gibbons was sentenced to serve 60 months in federal prison, followed by three years of supervised release after prison, and was ordered to pay \$449,935 in restitution. Ms. Gibson was sentenced to serve 30 months in prison, followed by three years of supervised release, and was ordered to pay \$264,406 in restitution. Mr. Gibbons and Ms. Gibson both appealed their convictions and sentences to the Ninth Circuit Court of Appeals. Argument was heard in Seattle in June, 2006, and last week, the appellate court affirmed their convictions and sentences.

In a related case, John T. Hansen, a Spokane real estate appraiser, had been ordered to serve 18-months in federal prison, followed by three years of supervised release, for his role in the conspiracy to commit wire fraud. The Court also ordered Mr. Hansen to pay \$287,796 in restitution to the victims.

The mortgage fraud scheme operated during the years 1997-2000. Mr. Hansen, who operated J. Hansen Appraisals, Inc., inflated appraisals on homes purchased by vulnerable home buyers. In February 2004, Mr. Hansen plead guilty to conspiracy to commit wire fraud and he too, appealed his sentence. Last week, the Ninth Circuit also dismissed his appeal, leaving his sentence to stand. The investigation was conducted by the Federal Bureau of Investigation, the United States Department of Housing and Urban Development and the Washington State Department of Financial Institutions.

This kind of fraud is so common that real estate agents and lenders actually insist that it is all legal.

For example, in several situations, real estate agents have inflated the sales price of homes in the Seattle area to the tune of over \$90,000. They change the commission disbursement form to show a \$90,000 commission which could be up to five times the listing commission. For some reason, the commission is paid through the real estate broker who doesn't notice the unusually high commission. The agents argue that the commission is "negotiable" and that it was disclosed. But, that doesn't explain the inflated sales price. In one instance, the agent was purchasing a home in a plat with the inflated sales price. Then the builder had a comparable selling other homes at nearly the same price. The home owners then would find it nearly impossible to sell the home within the next few years.

What about inflating the sales price to add in the borrowers loan costs. FNMA guidelines allow a seller to pay a small portion of the borrowers loan costs. But, they do not allow the property price to be inflated. The property is "collateral" for the loan. If the property cannot appraise at even 3% higher than the sales price, the lender and the real estate agent must understand that it is the appraisers job to determine the market value. It is totally illegal to base the appraisal payment on a predetermined appraisal value.

Can funds be held in escrow to pay for repairs and additions. The appraisal must reflect the condition of the property as it is at closing. In many cases the amounts paid to "contractors" outside of closing are often paid to brothers or friends of the person inflating the price to get cash at closing. In other words, many times the funds are not used for the purpose intended. The lender has no guarantee that the "repairs" will be made following closing so that the property will not be the values that the inflated sales price reflects.

Legitimate repairs can be done with a rehab loan available from FHA and conventional lenders.

There is no legal way to inflate a sales price/value of a property and receive cash at closing.

2. Ghost Second's

Ghost second deeds of trust are also known as "silent seconds." Typically, the scam involves the seller agreeing to carry a second mortgage that will never exist. The real estate agent, lender, appraiser, and escrow are often all involved.

In a very simplified example, a house may be listed for \$300,000. The buyer makes an offer for \$360,000 asking the seller to carry back a second mortgage for \$60,000. The purchaser gets a first mortgage for \$300,000 with a down payment of \$60,000 (which doesn't exist) using an inflated sales price and not disclosing the second mortgage. The buyer then closes with a \$360,000 sale price and a \$300,000 loan and the bank believes that they borrower put up \$60,000 out of savings for a down payment. (which is basically a 100% loan). The seller and the buyer agree to rip up the second mortgage paperwork after closing. The appraisal would be inflated and mislead the bank as to the actual value of the house. The bank would not be given the documentation on the second mortgage. The bank would be misled as to the lack of a down payment. Escrow would be often involved drawing up the documents. The real estate agents would be negotiating the transaction.

Any secondary financing or seller financing must be disclosed to the underwriter including all sources of funds for down payments. Sometimes, buyers and the loan officer disclose that there is a 10% down payment when in fact the buyer does not have funds and "borrows" them from the seller for a matter of hours to get the transaction closed. After closing the loan from the seller, the second mortgage, is destroyed so that the buyer purchased the home with no down payment. This would be misrepresentation to the underwriter and called fraud.

Why? There is a reason that a buyer would be involved in this scheme. The money is to be made, most likely, after the closing. The buyer can then refinance the house maybe using the original appraisal... or resell the house to an unsuspecting buyer.

According to the Seattle Times, February 26, 1997, a Seattle-area entrepreneur who ran a real-estate loan scam has been sentenced to 13 months in prison and a \$20,000 fine.

Gregory Pinneo, 38, was among four people sentenced by U.S. District Judge William Dwyer in a so-called "no money down" real-estate-financing scheme.

According to federal officials, Pinneo led the operation in which banks were told that cash down payments were being made on residential property purchases, persuading the banks to lend the balance of the loan. In fact, the buyers were given only promissory notes called "silent second mortgages."

He also had his real estate license revoked by the Washington State Department of Licensing.

Currently in 2007, he speaks at investment workshops throughout the Puget Sound area on how to invest in real estate. Information on his conviction is difficult to find on the internet.

3. Money Laundering

Money laundering is the movement of illicit funds for the purpose of concealing the true source, ownership or use of the funds. The monetary proceeds derived from criminal activity are transformed in for funds with an apparently legal source. Money laundering provides the fuel for drug dealers, terrorists, arms dealers and other criminals to operate and expand their enterprises.

Somehow hiding and using drug money in real estate seemed like the perfect solution, until those involved got caught.

Joshua Macke, 35, Bellevue, Washington was sentenced in U.S. District Court in Seattle to six years in prison, and three years of supervised release for Conspiracy to Distribute Marijuana and Conspiracy to Engage in Money Laundering. As part of his plea agreement, Macke will forfeit to the government three late model vehicles, nearly \$1 million in currency and investments, and his home. At sentencing U.S. District Judge Ricardo Martinez noted *“this was an extensive organization with large amounts of illegal drugs and money.”*

As previously reported on [Mortgage Fraud Blog](#), Macke was arrested in May 2006, following an investigation of his drug trafficking activities. Macke was distributing pound quantities of B.C. Bud marijuana in the Seattle area. The marijuana was being transported into Washington State from Canada. Macke was one of some 40 defendants identified as part of Operation Frozen Timber. Macke attempted to launder the proceeds of his drug activity by using cash to invest in real estate and in one instance a fledgling business. Specifically, between June 2003 and February 2005, Macke invested more than \$100,000 in cash in a flat screen TV company called Flat TV USA. No records of the investment were ever created. Later Macke delivered more than \$500,000 to a mortgage broker for real estate investments. Some of that money was transferred to real estate lawyer Joel Manalang. Macke also invested in real estate in 26820 Arden Court, Kent, Washington, and purchased a Lexus, Ford Truck and Dodge Truck with cash from the drug trade.

Some of Macke’s co-conspirators have already been sentenced to prison. Attorney Joel Manalang and businessman James Baxter were both sentenced to 18 months in prison for their roles in the money laundering.

Todd Love, 48, Seattle, Washington pleaded guilty in U.S. District Court in Seattle Wednesday August 9, 2006 to Conspiracy to Engage in Money Laundering. Love, a mortgage broker at Seattle Mortgage Advisors LLC , admitted that he assisted three drug dealers with investments in property, knowing that the hundreds of thousands of dollars in cash used as the down

payments were the proceeds of illegal drug dealing. Love faced up to twenty years in prison when sentenced in August 2007, but he was sentenced to 18 months in prison. Love has agreed to forfeit \$149,500 in cash as part of a \$600,000 forfeiture.

According to the plea agreement, in September 2003, convicted drug kingpin Robert Kesling purchased a home for \$722,869. Love served as mortgage broker on the transaction. Love took from Kesling, a known convicted drug dealer \$176,600 in cash for the down payment on the home. Love knew that Kesling made his income leading a drug organization that smuggled marijuana into the U.S. from Canada and cocaine into Canada from the U.S. To assist Kesling in hiding the origin of the money, Love had escrow agent and attorney Joel Manalang place the funds in his escrow account. Love created false documents indicating that the money was a gift to Kesling from his father. Love also created a letter from a local CPA firm claiming that Kesling was in the property management business and falsely indicated the firm had done his taxes for three years.

In a second transaction detailed in the plea agreement, Love assisted another accused drug dealer, Bernard R. Casey. Casey is an alleged drug dealer who worked under Joshua Macke. Macke replaced Kesling in the drug organization following Kesling's arrest. In August 2005, Casey wanted to invest some of his drug proceeds in property. Love had Manalang purchase a cashier's check for \$50,485.70 to use as the down payment on some water view lots in Tacoma, Washington. Love created false documents alleging Casey was employed as VP of Field Sales at Seattle Video Conference Center. Love's mother worked at the business and would falsely verify employment.

Finally in a third transaction, Love took several hundred thousand dollars in cash from Macke for future property investments. Love provided the cash to Manalang asking that it be placed in the escrow account. Fearing IRS scrutiny, Manalang did not deposit the cash. Love asked for \$50,000 from the cache, which he then spent for his own expenses, knowing it was the proceeds of drug trafficking.
Mortgage Fraud Blog, Seattle PI Aug30, 2007

4. Flipping

With cable television banking on the renovation and remodeling of houses as a hot topic, A & E's show "Flip this House" climbed to the top. But, in the past year the star of the show had his Georgia real estate license revoked in 2005 showed on the popular show in 2006 how he bought, refurbished, and resold homes for profits of \$77,000 and more. It was found that he was involved in a series of scams and hoaxes.

Purchasing a home, fixing it up, and reselling that house can result in a profit. A scheme is fraudulent when individuals, businesses or straw buyer purchase property among themselves each time inflating the value and obtaining higher mortgages ...often getting cash.

In some cases, an unsuspecting buyer purchases a property after one or many flips at an inflated price in excess of the true value of the property. The buyer without accurate market value knowledge is usually given false appraisals and documentation. They might purchase the property "by owner" thinking of the savings in real estate commissions while paying too much.

In some cases, the buyer is a "straw buyer." The straw buyer is a loan applicant who helps an actual buyer obtain a mortgage loan. when he wouldn't have been able to otherwise. The straw buyer is usually offered a payment in exchange for using his or her credit or qualifying information.

Sometimes individuals that purchase property in Washington State just to fix it up and sell it within less than a year have other issues that affect them from taxes to state statutes. If an individual purchases a house to fix up and flip without living in it within a year then they most likely fall under the new statutes that require them to obtain a contractors license, bond and insurance. This was enacted in 2007 to help protect consumers from those who do shoddy work and can rip off a unsuspecting buyer.

In once case in Kirkland, a property was resold many times over the course of a few months. Each transaction involved a higher sales price and the removal of equity. The last sale in less than a year was several hundred thousand dollars more than the original sale.

5. Straw Buyers

Is the buyer signing the purchase and sale agreement really signing his or her own name? If the buyer was intending to commit fraud, maybe using the identity and creditworthiness of another could cover the crime.

In some cases, the buyer is a straw buyer. The straw buyer is a loan applicant who helps another obtain a mortgage loan. The straw buyer is usually offered a payment in the thousands of dollars for the use of their name and credit information to make a “false purchase” of real estate. The straw buyer may or may not know that their name will be on the mortgage application. Straw buyers are also used to sign documents that contain false information including statements that they intend to live in the property when they have no intention of doing so. Often that is one of the conditions for a first mortgage loan. After the loan is closed in the name of the straw buyer, the mastermind behind the scheme usually assumes the loan or just quit claims the property. But, the straw buyer is still responsible for the mortgage. Most often in these cases, the sales price is inflated and the mastermind gets cash as closing paying off the straw buyer. The mastermind may never make a payment and run with the money obtained from the bank.

It is a criminal offense to obtain credit under false pretenses.

Lets say you read on Craig’s list or Ebay about a real estate investment where you could make over \$20,000 in less than 90 days. The investment appears to be strong as it involves the purchase of a residential home. Your only contribution would be your credit. Ads might read “high investor returns secured with real estate.” What occurs in some situations is that a property is purchased with an inflated sales price and a false appraisal. The “straw buyer” is the “investor” who is also the borrower with limited documentation... in some cases without his knowledge. A large amount of money(more than triple what the investor is promised) is set aside at escrow for “repairs.” It is later released and \$20,000 is given to the investor “straw buyer” who is unaware of the mortgage that will eventually foreclose.

6. Affinity Fraud

A common means of committing a fraud is to target small groups with whom the perpetrator shares a common characteristic that engenders a degree of trust.

Affinity fraud refers to investment scams that prey upon members of identifiable groups, such as religious or ethnic communities, the elderly or professional groups. The fraudsters who promote affinity scams frequently are - or pretend to be - members of the group. They often enlist respected community or religious leaders from within the group to spread the word about the scheme, by convincing those people that a fraudulent investment is legitimate and worthwhile. Many times, those leaders become unwitting victims of the fraudster's ruse.

These scams exploit the trust and friendship that exist in groups of people who have something in common. Because of the tight-knit structure of many groups, it can be difficult for regulators or law enforcement officials to detect an affinity scam. Victims often fail to notify authorities or pursue their legal remedies, and instead try to work things out within the group. This is particularly true where the fraudsters have used respected community or religious leaders to convince others to join the investment.

According to the Securities and Exchange Commission numerous affinity scams take place throughout the country targeting various groups including senior citizens, church members, people of similar race or ethnic background.

The Securities and Exchange Commission announced in July 2006 that it filed an emergency enforcement action in New York to halt fraudulent conduct against Edward "Ted" Tackaberry ("Tackaberry"), Mark Palazzo ("Palazzo") alleging that from approximately 1996 to 2004, Tackaberry and Palazzo raised, in unregistered transactions, at least \$15 million from at least 275 investors, including many senior citizens, by issuing promissory notes in various real estate investment companies. Tackaberry and Palazzo owned and managed all of these real estate investment companies. The Complaint further alleges that the Defendants have been engaged in a fraudulent scheme, in which the Defendants have made numerous misrepresentations and omissions to investors concerning their investments and the real estate investment companies' financial condition,

7. Mom and Pop Fraud

Interfamily fraud is sometimes called “mom and pop” fraud. This may involve:

- Fraudulently obtained or forged power of attorney,
- Fraudulent credit or loan documents, or a
- Forged conveyance.

This is close to the Affinity Fraud schemes but the perpetrator is using the information from a relative or business partner to commit fraud.

One rumor has it that a man on Mercer Island with a large gambling problem and mounting debts, refinanced his mothers house using his late fathers credit information. He did it more than once pulling out all the equity and putting the house in foreclosure.

8. Foreclosure Rescue

There are so many foreclosure rescue scams in the marketplace today. The primary purpose is to take advantage of a homeowner who is in a desperate situation. The homeowner cannot list the property to sell because there is little to no equity. In many cases, by the time the property is facing foreclosure, the homeowner owes far more than the value of the property.

So then why or how can an investor make money on foreclosures? Some investors find properties that have perceived equity and purchase them. But, the scams usually involve misleading the homeowner and never actually purchasing the property.

Here is a typical example of a seller that is behind on mortgage payments and facing foreclosure. Elizabeth has fallen on to hard times. She got divorced from Michael 3 years ago. She was awarded the house and equity as part of the settlement. But, she cannot make enough money to make the payments. She can't qualify to refinance the house so the equity she has built up is unavailable to her. She ends up in default and the property is heading into foreclosure.

The knock on Elizabeth's door is from Tom, who is a foreclosure rescue “expert” who wants to save her house for her. Tom shows empathy and wants to help her get the house back and he has an easy solution. She signs a quit claim giving her interest in the house to him. He “buys” the house and gets the foreclosure stopped. She also signs a lease agreement with an extremely high payment and pays Tom rent for the house with an agreement that at the end of a period of time she will repurchase the house at an agreed upon (outrageous) price back from Tom.

9. Mortgage Elimination

It sounds like such a great idea. Imagine that you might own a property with a quarter million dollar mortgage and you find out that it is “legal” to eliminate that mortgage for a fee.

One of the strangest arguments, though persuasive to potential victims, is that lenders don't really “lend” money. Although it's a convoluted argument, the bottom line is that lenders borrow money from other lenders, and when the lending chain is followed all the way to its source, it turns out to be the federal government, which prints money on ink and paper, meaning that the money has no real value. Since that's the case, it was really the victim who generated the money the first place. If the victim buys that argument, it means their mortgage note is meaningless and no money is actually owed.

Conspiracy enthusiasts love that sort of talk, especially if it's back up by hints that agencies such as the FBI don't want us to know about the true lending process, because they're afraid that when the American public finds out, the banking industry will no longer be able to cheat innocent homebuyers out of their hard-earned cash.

This is most often promoted by a loan officer who eventually will help the homeowner refinance the property with enough false documentation that the lender underwriting the loan does not know about the mortgage that was “eliminated.” The mortgage was not “eliminated” but hidden in paperwork.

They usually prey on those homeowners that are behind on their payments and facing foreclosure. Those people are often more desperate and willing to go for a scheme in the hopes it will save their home. They meet at seminars in hotels and in living rooms, have ads in the newspapers and have websites. For a fee which can be from \$2500 and more, the homeowner is provided with forms. Some of these forms can include a quit claim, change of trustee, change of address, and power of attorney. It can end there with the mortgage eliminator disappearing. Or the process starts either by the homeowner or the mortgage eliminator. Basically they have a deed of reconveyance or other paperwork filed that makes it appear that the mortgage is no longer there. The homeowner refinances the house (which in fact still has a mortgage) using fraudulent documents. Cash from the refinance pays off the mortgage eliminator.

Everything seems fine--until the county clerk and original lender discover the scam and confront the homeowner, who is soon caught up in a huge legal and financial bind, as well as facing possible fraud and conspiracy charges and jail time.

10. Lease to Own Fixer

There are signs on every telephone throughout the city. "Rent to Own Fixer" in bold letters makes it sound too good to be true! The word "fixer" has long been one of the hottest words in real estate advertising. They beg you to lease purchase with an option homes that are fixers. You are encouraged that the money spent on the property will increase the value and equity over time. A percentage of every lease/rent payment will go directly to the down payment.

Here is a general example of the type of scam that the lease purchase buyer is unaware of happening.

The owner of a home is Samantha with two small children. She is divorced and lost her job. There is no way to continue making the mortgage payments. Bob comes knocking at her door with a plan to get her out from under the weight of the house.

"Samantha," he says. "I will relieve you of this debt. There will be no more calls from creditors. I will even give you enough cash, today, to move to California to live with your sister. All I need from you is a few documents signed and the keys to the house. Can you be ready to move by next week? Here are the documents: A change of address so I can get the paperwork from the bank; a power of attorney so I can sign for you; a quit claim signing to get yourself out of the mortgage; a change of trustee in case I want to pull another scam." Samantha moves away leaving Bob with her signature on everything. He puts out signs and ads on the internet for a fixer with a lease.

So Ron calls the number and meets with who he thinks is the 'owner' of the home, Bob. It is a standard split level home room the 1950's that is "tired." He figures this would be a fantastic buy. So he jumps. He can't qualify for a loan today for the house. But, in 2 years he thinks he can build his credit, build up equity, and watch rates go down. So he signs the rent to own lease option with high payments as some of the money will go to the down payment over the next 2 years. He also puts \$5000 down which will go directly to the sales price in the two years. He moves in and immediately replaces the carpet, replaces the worn deck, and works hard on the landscaping. He starts making the payments to Bob. Bob has received 6 months of high payments to a post office box along with the initial \$5000. He knows when it is going into foreclosure as he has changed the address. Six months later Ron gets a knock on his door that he's being evicted.

Seldom to the buyers/renters check out the ownership history of the property. They don't get preliminary title reports. The person they pay the rent to does not show on the ownership records.

Consequences of Fraud

There are victims to every fraudulent transaction. The victims often end up being the lenders/underwriters that were “sold” a loan with hidden underlying motivations to profit from misrepresentation. In some cases, there is an unsuspecting buyer that is not aware of the fraud who eventually becomes a victim.

But, in the long run, every one of us will pay for the losses to the victims and the illegal funds taken from transactions. The losses to the banks will eventually trickle down to all of us.

Those that commit fraud will eventually pay for the ill gotten gains. There are state and federal laws that are used to prosecute those that are investigated. Fines, restitution, loss of licenses, and jail time are all consequences.

Federal and State Laws

Legislation has created federal and state laws to prevent and to regulate the mortgage, appraisal and real estate industry.

Real Estate Laws

Real estate agents work under Washington License Laws. RCW 18.85.

The real estate agent shall not be found guilty of:

18.85.230 (2) Making, printing, publishing, distributing, or causing, authorizing, or knowingly permitting the making, printing, publication or distribution of false statements, descriptions, or promises of such character as to reasonably induce any person to act thereon, if the statements, descriptions, or promises purport to be made or to be performed by either the licensee or his or her principal and the licensee then knew of, or by the exercise of reasonable care and inquiry, could have known, of the falsity of the statements, descriptions or promises;

18.85.230 (3) Knowingly committing, or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relies upon the word, representation or conduct of the licensee:

18.85.230 (23) Any conduct in a real estate transaction which demonstrates bad faith, dishonesty, untrustworthiness, or incompetency.

In addition, real estate agents work under the Law of Agency RCW 18.86

Mortgage Brokers Practices Act

Lenders fall under the Mortgage Brokers Practices Act.

It is a violation for a loan officer, loan originator, mortgage broker to
19.146

(2) Engage in any unfair or deceptive practice toward any person

(9) Make any payment directly or indirectly to any appraiser of a property for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property.

Appraiser Laws and Rules

Appraisers work under RCW 18.120 and rules under WAC 308.

All appraisers

WAC 308 The standard of practice governing real estate appraisal activities will be the 2005 edition of the Uniform standards of Professional Appraisal Practice of the Appraisal Foundation.

FNMA instructions to the appraiser "Provide an accurate description of the property (as it exists the day of inspection) and adequately supported estimate of value.

Definition of market value: The most probably price which a property should bring in a competitive and open market, assuming the price is not affected by undue stimulus....payment is made in terms of cash, ...unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

According to the Department of Licensing:

"Any appraisal report that misrepresents known facts, is considered to be misleading and fraudulent, a direct violation of State and Federal Laws and will be subject to appropriate penalties.

If an appraisal report, containing misleading fact, is transferred across State lines via Fax, email or directly uploaded into a clients we based system or server or any other system utilizing interstate telephone lines, then it can be considered to be Wire Fraud. "

Escrow Registration Act

In Washington State escrow officers and companies must be licensed to close real estate transactions.

According to RCW 18.44.021: It shall be unlawful for any person to engage in business as an escrow agent by performing escrows or any of the functions of an escrow agent as described in RCW 18.44.011(4) within this state or with respect to transactions that involve personal property or real property located in this state unless such person possesses a valid license issued by the director pursuant to this chapter.

It is a violation of the Escrow Registration Act to:

- (1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person.
- (2) Directly or indirectly engage in any unfair or deceptive practice toward any person.
- (#) Directly or indirectly obtain property by fraud or misrepresentation
-)4) Knowingly make, publish, or disseminate any false, deceptive or misleading information in the conduct of the business of escrow, or relative to the business of escrow or relative to any person engaged therein.

Federal Laws

The FBI has consolidated all mortgage fraud programs within the Financial Institution Fraud Unit.

Federal Mail and Wire Fraud

All instances of mortgage fraud fall under Federal Mail and Wire Fraud Statutes making it illegal to devise or intend to devise any "scheme or artifice" to defraud anyone and to place in the mail (or a private carrier), cause to be deposited in the mail, take or receive from the mail, or cause to transmit by wire, radio, or television, or knowingly cause to be delivered any material for the purpose of carryout the scheme or artifice to defraud. A violation is punishable by fine or up to 20 years imprisonment. Additionally, if the violation affects a federally chartered or federally insured institution, a violation is punishable by up to a \$1 million fine and up to 30 years imprisonment.

These are applicable for all instances of fraud including real estate agents to participate in conveying false documentation to mortgage companies. A real estate agent was convicted.

Transporting Stolen Goods

The federal statute that prevents the transfer of stolen goods applies to many and maybe all, instances of mortgage fraud.

Other federal statutes

There are numerous other statutes

18 USC 1014 makes illegal the making of “any false statement or report, or willfully overvalue(ing) any land, property or security, for the purpose of influencing in any way the action of the United States federal agencies and the Section 20 of Financial Institutions in connection with a mortgage loan.

18 USC 1028 which prohibits the presentation or use of a falsified identification document or other identifying information that appears to have been issued by the United States.

18 USC 1956-57 which prohibits money laundering.

Red Flags for Fraud

- Inflated sales price on a property. The listing is for \$300,000 and the seller gets that amount at closing, but the buyer writes the sale for a higher amount with cash to be distributed at closing.
- Inflated appraisals on property.
- False financial statements by the borrower including income (even stated income) and source of down payment are misrepresentation.
- Statements that the property will be owner occupied when that is not the intention are misleading to the lender.
- Contract and loan conditions that provide for purported future improvements to be made to the property.
- False and inflated estimates from contractors for improvements.
- High fees paid to the mortgage broker or the real estate agent.
- Last minute amendments to the contracts changing sales price, terms or financing.
- Questionable identification.
- And/or assigns on a purchase and sale agreement.. unknown buyer... possible straw buyer.
- Lease purchase agreements... not all are part of a scheme.. but beware... most renters/buyers never check the ownership of the property.
- The property has sold or refinanced more than once in the past year which signifies "flipping."
- The money for the down payment is not documented.
- The seller and the buyer make side deals not on the contracts.
- The loan officer puts false information on the loan application.
- The real estate agent does not fill out the entire purchase and sale agreement ... changing the terms just before closing.
- Large funds go to the buyer or lender or agent after closing that are not considered typical fees or commissions.
- Unusually high dollar amounts held in escrow after closing.
- There is a scheme of some sort that is not all on the table with the result for someone to make a lot of money. That should be a first clue.
- If it looks like a fish, smells like a fish, feels like a fish...guess that it is a fish.

Resources and Links

Department of Licensing
www.dol.wa.gov

Department of Financial Institutions
www.dfi.wa.gov
Overview of the Current Residential Market, Scott Jarvis, Director Dept. of
Financial Institutions, Sept. 25,2007

www.MortgageFraudBlog.com

StopMortgageFraud.com
Mortgage Bankers Association
Good warning signs of predatory lending.

Mortgage Fraud: Strengthening Federal and State Mortgage Fraud Prevention
Efforts, Mortgage Bankers Association Fall 2007

Financial Crimes Report to the Public 2006, FBI
www.fbi.gov

Mortgage Fraud, New Partnership to Combat Problem, March 2007
<http://www.fbi.gov/page2/march07/mortgage030907.htm>

Securities and Exchange Commission
<http://www.sec.gov/investor/pubs/affinity.htm>

White Collar Crime Quiz

Circle the correct answer.

	Question	
1	Mortgage fraud is on the increase in our country	T / F
2	Ignorance will always save you in our court systems	T / F
3	The "Everybody is doing it" excuse makes fraud legal.	T / F
4	With white collar crime, there is often only paperwork at creates the crime	T / F
5	White collar crime is characterized as deceit, concealment, and violation of trust.	T / F
6	Fraud can be punishable by up to 30 years in prison.	T / F
7	There are no victims when it comes to mortgage fraud.	T / F
8	Currently the FBI has over 1,000 fraud investigations in progress	T / F
9	The total expected losses from the current FBI cases will total over \$1 million	T / F
10	Predatory lending and Mortgage fraud are different names for same thing.	T / F
11	Predatory lending practices can be fraudulent.	T / F
12	Inflating the sales price is legal as long as it is disclosed to the lender.	T / F
13	The property is collateral for the mortgage loan.	T / F
14	FNMA guidelines allow the seller to pay a percentage of the buyers loan fees.	T / F
15	Appraisers use the sale price to decide the appraised value.	T / F
16	If the price is inflated to cover buyers loan costs the appraiser must consider that when determining the market value.	T / F
17	There is no legal way to inflate a sale price so the buyer would receive cash at closing.	T / F
18	A "ghost second" deed of trust is also known as a "silent second."	T / F
19	Instead of a check for a down payment, the buyer comes to closing with an addendum that the seller will loan the down payment in a second mortgage. The bank does not have to know about the second mortgage.	T / F
20	When purchasing property the bank does not need to know the true source of the down payment funds.	T / F
21	A straw buyer helps the actual buyer obtain a mortgage loan when the actual buyer would not have been able to do so.	T / F
22	A new statute in this state requires a homeowner who fixes a house that she never resides in and sells in less than a year get a contractor license.	T / F
23	A property that sells over and over within a short time frame is probably being "flipped" with inflated sales prices.	T / F
24	A "straw buyer" can make money by letting another buyer use their credit information to qualify for a mortgage.	T / F

Page one of two pages of quiz.

Name _____ Signature _____ Date _____

You must include 50 question quiz AND the mandatory evaluation completely filled out.

25	Affinity fraud describes buyers that like one particular type of property.	T / F
26	Scams that exploit trust and respect of members of one group are called "blue fraud."	T / F
27	Interfamily fraud can happen with a forged power of attorney.	T / F
28	Foreclosure rescue schemes prey on those that are not able to make the mortgage payments and don't want to lose the house.	T / F
29	It is legal to hire a company to eliminate your mortgage without paying it off.	T / F
30	Homeowners facing foreclosure are prey for mortgage elimination schemes.	T / F
31	Tenants often do not verify ownership when signing lease option agreements.	T / F
31	Washington State laws exclusively regulate fraudulent transactions.	T / F
32	An orange jumpsuit might be the career apparel for those convicted of fraud.	T / F
33	It is a violation of license law for a real estate agent to knowingly commit or be a party to any material fraud.	T / F
34	There are no laws governing loan originators in Washington State.	T / F
35	If a false appraisal report is sent over telephone lines it could be Federal Wire Fraud.	T / F
36	An appraiser is required to take into consideration any creative financing when determining market value.	T / F
37	A lender can influence an appraiser with a cash bonus to raise the market value.	T / F
38	Real estate agents can be committing fraud by participating in conveying false documentation for a transaction.	T / F
39	In Washington State the business of escrow must be licensed.	T / F
40	It is fraudulent to give false information on a loan application.	T / F
41	It is a red flag if there is no documented source for the down payment.	T / F
42	Stated income loans do not require that the borrower be honest.	T / F
43	Signing that the property is owner occupied when that is not the intention is considered a red flag for fraud.	T / F
44	"And/or assigns" can sometimes be a signal that there is a straw buyer.	T / F
45	Unusually high dollar amounts held in escrow after closing can signal fraud.	T / F
46	The appraisal on the property is considerably higher than the list price.	T / F
47	Questionable identification of the buyers could be a red flag.	T / F
48	Last minute amendments and changes to terms could be a red flag.	T / F
49	If a lender, agent, escrow or appraiser gets caught in a fraudulent transaction jail time may be the ultimate punishment.	T / F
50	If it smells like a fish, looks like a fish, feels like a fish... guess it is a fish.	T / F

Page two of two pages of quiz

Name _____ Signature _____ Date _____

You must include 50 question quiz AND the mandatory evaluation completely filled out.

White Collar Crime Mandatory Evaluation

Did you read the material in the booklet on this date? YES / NO
 Did you complete the quiz for the course? YES / NO
 Did you enclose a check for \$30 for 3 clockhours with this paperwork? YES / NO
 Did you fill out and sign this form? YES / NO
 Did you attach the 50 question quiz? YES / NO

Why did you choose to take this course? Topic? Time? Cost? Ease? Other?

A "clock hour" according to the state is 50 minutes.. So this 3 hour class should take in the area of 2.5 hours. How long did it take you to complete the course? _____

Comments?

	No			Yes	
Will the material you learned improve your performance?	1	2	3	4	5
Were the course materials easy to follow?	1	2	3	4	5
Were the course materials relevant to your profession?	1	2	3	4	5
Were your objectives met by attending the class?	1	2	3	4	5

Was the course material interesting?

What are 3 things that you learned from the course?

- 1.
- 2.
- 3.

Would you take another correspondence course from Professional Direction? Yes/ No Why?

Print Name _____ Signature _____

Company _____ Address _____

City _____ WA Zip _____ phone _____

Email _____

Date Completed _____ Renewal Date _____

Thanks for taking this class!

Natalie Danielson



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