

# Short Sale Flopping and Fraud



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# Short Sale Flopping and Fraud

This 3 clockhour class covers the definition of short sale transactions and how perpetrators are creating and profiting from fraudulent transactions using short sales. It is important for real estate agents to avoid any participation in a fraudulent transaction.

## Course Objectives

As a result of taking this class the agent shall be able to:

- Know what a short sale is and the potential homeowner liability
- Identify different types of short sale fraud
- Know that fraud is illegal and why
- Know that there are consequences for committing fraud
- Know what resources are available.

# Short Sale Flopping and Fraud

Section 1 1 hour	Learn definition of a short sale transaction Understand the liability a homeowner might have Be aware that as an agent you have limitations when advising clients
Section 2 1 hour	List the different types of short sale fraud <ul style="list-style-type: none"><li>• Flopping</li><li>• Undervaluing</li><li>• Buy back</li><li>• Phantom offers</li><li>• Loan modification</li><li>• Seller pocketing cash</li></ul>
Section 3 1 hour	Everybody's doing it excuse Why it is illegal Orange jumpsuits Washington State guide to Short sales Resources

# The Distressed Property Market

Mortgage fraud has gotten out of control in this country over the past 10 years. In June 2010, Operation Stolen Dreams was announced after the arrests of almost 500 people in a nationwide fraud take down through the coordinated efforts of a number of government agencies. In the 90 days since Operation Stolen Dreams was launched of those arrests more than 330 convictions were obtained and \$11 million in losses recovered. But, the FBI is currently pursuing more than 3,000 mortgage fraud cases which almost doubles the number from 2008.

In an environment of continually increasing distressed sales, CoreLogic sees heightened risk for fraud, especially among short sales. “CoreLogic research indicates that the mortgage industry is likely to originate \$325 million resulting from short sale fraud in 2012,” the firm states in its report. Ed Gerding, senior fraud strategist for CoreLogic, explains the \$325 million is “the dollar amount of loss that will be incurred” from short sale fraud. As an example, Gerding says that if a lender does a short sale for \$100,000 and a resale occurs shortly after the short sale for \$125,000, the \$25,000 would be the potential incurred loss by the lender.

In a press release from the FBI and the U.S. Attorney General, short sale fraud was highlighted. It is one of the emerging fraud trends. One thread in a large percentage of the mortgage fraud cases was the use of “straw buyers.”

Distressed property sales including REO’s and Short Sales are decreasing steadily. This decrease is also resulting in less fraud against the banks and mortgage holders.

According to CoreLogic in March 25, 2015 distressed sales (REO and short sales) accounted for 14 percent of total home sales nationally in January 2015, a 3.1 percentage point drop from January 2014. The January 2015 distressed sales share was the lowest for any month of January since 2008.

Within the distressed category, REO sales made up 9.9 percent of total home sales in January 2015 and short sales made up 4.1 percent. At its peak, the distressed sales share totaled 32.4 percent of all sales in January 2009, with REO sales making up 27.9 percent of that share.

Though short sales and REOs are declining over time, those people that used fraud to close on transactions are now being prosecuted. In addition, those that have not been caught still have to figure out a way to make money, so that other types of fraud are constantly being tried. If it smells like a fish... assume it is a fish and do your research!

# What is a Short Sale?

To start out, it is important to understand what constitutes a “short sale.” We headed into the new century with a booming economy, a real estate bubble, and easy to obtain money everywhere. But, the bubble burst and our economy crumbled over the past few years. Property values have tumbled, homeowners lost their jobs, and mortgage financing tightened up. This left homeowners stuck with high mortgages, the inability to pay and, because values plummeted, they cannot even sell the house.

So, without enough equity to sell the house, the homeowner has only a few options. One of those is to negotiate with the bank for a “short sale.”

A “short sale” is a real estate transaction where the proceeds of the sale will not generate sufficient funds to pay the debt (s) secured by the property and the seller is unable to pay the difference. Any creditor (s) with a security interest in the property must consent to receiving less or nothing than they are owed in return for releasing any lien on the property when sold.

So, basically, a homeowner borrowed money to purchase or refinance their house. The lender gets a lien that attaches to the property. The liens are commonly referred to as “mortgages,” though in our state they are Deeds of Trust with Promissory notes. Where mortgages must be foreclosed in a court proceeding, Deeds of Trust allow non judicial foreclosures.

When a homeowner sells a property the liens are paid before the deed passes to the new buyer.

If the homeowner owes more than the equity on the property it is often referred to as being “under water and/or upside down.” The homeowner might have to sell because of a relocation, the inability to make payments or because the amount of the loan far exceeds the value of the property. One option a homeowner has in this situation is to ask the lien holders (bank, mortgage company, private lender) to accept less than the original promissory notes.

The first lender and any other lenders with debt secured by the property are NOT required to participate in a short sale.

So, let’s say that you want to buy a computer. You ask me to lend you \$700 with the condition that if I sell the computer I will pay you back the \$700. I find a buyer for the computer who will only pay \$500. A short sale is when I want to only pay you \$500 instead of \$700. I am asking you to take a loss of \$200. I want you to just write it off. That is a short sale.

But, sometimes homeowners have investments elsewhere, other properties, or money in the bank. The bank/lender wants to make sure that the homeowner actually has the inability to pay the loan. In addition, the bank requires that the homeowner not receive any proceeds from the sale including a sales commission, a negotiating fee or any amount of money diverted in the sale to the seller.

In a short sale real estate transaction, there are two separate agreements. The property is owned by the homeowners or sellers. The purchase and sale agreement details the sales contract. But, in order to sell the property and not pay off the entire debt, there has to be a separate agreement from the lender (s) to agree to accept a short sale less than the amount owed and release the lien.

One of the loudest complaints from real estate agents is that the banks/lenders are not communicating well on short sale transactions. If a lender agrees to sell all properties on the books at a loss this month that lender could very well go under. The lenders have to carefully decide how much debt to write off each month. In addition, they are overwhelmed with the number of transactions, staff is not fully trained, and there is so much fraud in the market.

## Homeowner Liability on a Short Sale

So when a homeowner completes a short sale the bank took a loss. It is a real loss because the money went to the previous seller to pay for the house. That loss affects the bank's bottom line. It is not just a line item on a spread sheet, but money that has been lost and affects the bank's ability to stay in business.

So the loss that the bank takes does not always disappear. In many cases, homeowner may have more than one lien or mortgage on the property from one or several lenders. The banks/ lenders have no obligation to accept less than the loan amount. They could decide to foreclose on the property and resell it at a later day. By choosing a short sale, the bank had to weight the loss against the costs to foreclose.

In a short sale, the bank/lender releases their lien or security interest on the property so it can pass to the new buyer free and clear. Title will transfer without any liens. Does the homeowner have any liability for the amount that the bank claimed as a loss?

Often the first lender will release the lien and the debt, but not always the case. What most homeowners don't realize is that if there is another lender, that second mortgage may only release the lien but NOT the DEBT. The debt could still follow the homeowner. That debt would be called a deficiency judgment.

Back to the example of the computer loan... The loan is tied to the computer. In order for it to sell, I agreed to release the lien on the computer.. but I didn't necessarily release the debt... the \$200 that I still am owed. Can I go after you later to try to get the \$200? That would be called a deficiency judgment. I could hire creditors to hound you for the \$200. Does that happen when sellers do not pay off liens totally? Sometimes, yes.

A homeowner may be liable for a deficiency judgment when they complete a short sale. The lender may release the lien but may require the homeowner to pay the debt in the future. Often the lender in first position will release the debt and take the loss. But, what most homeowners ... and real estate agents ... Don't realize is that the debt on the second mortgage may not be released. In the midst of signing all the closing documents, the sellers may not realize that the second lender will retain the ability to collect on the debt. This will be evidenced on the agreements signed at closing.

The homeseller may think all their worries have vanished at closing. It may be years before the second mortgage holder comes looking for the debt. The lender knows the seller has no money at closing. The lender may have up to 20 years to collect on that debt according to CNN.money.com It is like an unsecured debt like a credit card and follows the homeseller and his assets.

In many cases, the second mortgage lender does not want to hold and collect on the note, so the lender will sell the note at a discount to collections who will have the right to hound and follow the homeowner.

The homeowner who thought a short sale was their best option to avoid bankruptcy, may end up claiming bankruptcy to get out from under that deficiency judgment.

Real estate agents who are unaware that this is a possibility have told homeowners that they are relieved of any debt by closing with a short sale. But, in fact, the homeowners may start getting notices and blame the agents for relying on their information. So it is VERY important that real estate agents do not advise clients what their liabilities will be when they complete a short sale. The homeowners need to discuss their situation and make decisions with their attorney and financial advisor.

With the tumble in the economy and the real estate market, deficiency judgments were relatively rare but it is important that a homeowner consider the possibility and discuss with an authority.

# Real Estate Agent Limitations

A real estate agent discussing the options with a homeowner who is “under water” or “upside down” must understand that they have limitations as to their ability to consult about the situation. A real estate agent needs to understand that advice about a short sale could be considered the unauthorized practice of law.

There are other options that any homeowner must consider. They can include continuing to pay the loan, renting the house, filing for bankruptcy, or loan modification. The homeowner may have liability for the deficiency and maybe be pursued by the lender. There may be multiple lenders who deal with deficiencies differently. There may be substantial tax consequences for a sale and any forgiven debt by the lender may be considered taxable income.

A homeowner should evaluate with an attorney and tax advisor the other options including bankruptcy and foreclosure and any future liability. A real estate agent is not licensed or trained to advise a homeowner as to what decision to make regarding their property.

In order to negotiate a short sale for a homeowner in Washington State a person must have a loan originator license, a real estate license or is an attorney in Washington State according to law under Department of Financial Institutions.

Real estate agents collecting fees for negotiating a short sale in addition to any real estate commissions are likely in violation of license laws. Real estate agents collecting multiple questionable fees on short sale transactions for their own properties to pull out equity are most likely in violation.

According to the publication on short sales from the Department of Licensing Dec 2010, it would be a violation of license law to:

- Mislead a lender
- Permit a party to make a false statement to a lender, or
- Misrepresent or conceal any offers from a lender.

A broker owes a duty to deal honestly and in good faith with all parties to a transaction. This duty cannot be waived. The brokers also may not knowingly commit, be a party to any misrepresentation, material fraud, trick, or scheme whereby any other person lawfully relied on the word, representation or conduct of the broker. A real estate agent must not violate the Laws under RCW 18.85.361, RCW 19.0201 or RCW 31.04.027.

A real estate agent should never, for any reason, advise a client to stop making the mortgage payments.

In addition, any person who provides, offers to provide, or arranges for other to negotiate, obtain, or arrange a short sale must also comply with rules the Federal Trade Commission adopted on Nov 19, 2010 regarding Mortgage Assistance Relief Services (MARS) including required disclosure, limitation on fees, and limitation on performance representations.

Any person that negotiates a short sale, loan modification or foreclosure rescue are banned from collecting fees until there is a written offer from the lender that is acceptable and consumers have the right to reject any offer from a lender without any charge. Many of these operations pretend to be affiliated with the government. The MARS rules go into effect including the advance fee ban on Jan 31, 2011.

<http://www.ftc.gov/opa/2010/11/mars.shtm>

# Types of Short Sale Fraud

The tumbling real estate market, the glut of homeowners in distress, and the limitations on the number of investigators has created a whole new world of fraud. The completely unregulated internet that is available to anyone and everyone gives white collar criminals free advertising. Add to that the “get rich quick” mentality that many people have and you have more creative ways to fraudulently take money from others.

**Flopping** In the short sale world, “flopping” is the most prevalent and growing type of fraud. It occurs when a short sale is negotiated with a lender and the property is resold immediately or very soon thereafter to another borrower with the first buyer walking away with a profit. It is often completed with straw buyers or investors. Sometimes, real estate agents involved create the transaction.

**Under valuing property** Homeowners and real estate agents are also know to market property at far less than the actual market value to generate multiple offers. They might prepare BPO’s at far less than the market value. The agent then could use those low offers to convince the lender to take a much lower offer.

**Short Sale Buy Back** In some cases homeowners sell to friend or family member for less than the value of the loan in a short to get the loan lowered. Maybe subsequently, the homeowner “buys” the house back.

**Phantom Offers** In an attempt to sometimes help a seller, an agent gets a straw buyer to make a fake offer to start the process of negotiating with a lender on a short sale.

**Loan modification** Some foreclose rescue and loan modification companies use short sales as one scheme to defraud homeowners. Often there is no short sale.

**Sellers taking cash** A seller who works with a lender in a short sale is prohibited from taking any of the proceeds of the sale.

In almost any type of fraud, including short sale fraud, there is a number of people working together as partners in crime. That can include the agents, the buyers, the homeowner, and the escrow.

# Flopping

Purchasing a property and quickly reselling it is commonly called “flipping.” A buyer may find a property that is undervalued or needs work, purchases the property and then resells it at a profit. It is not illegal to purchase a property and resell the same property whether fixed up or not at a profit.

In Washington State, a purchaser/owner (not just the builder) who is going to flip a property in a short period of time must have a contractor’s license and bond. Know the laws when dealing with flipping property!

“Flopping” is a twist on flipping. Flopping is when you flip a property in a short sale transaction sometimes on the same day or in a short time period. Flopping is when the flip occurs as the result of a short sale. The buyer on the second sale takes a profit that should have been disclosed and gone to the bank. The intent is to deceive the bank/lender of the market value and the direction of the actual proceeds. Flopping is illegal from many angles.



The intent of those attempting “flopping” is to make a profit on a distressed sale from the bank without disclosure.

The first buyer is often a straw buyer. A straw buyer in real estate is a person or company who purchases a property on behalf of another. It becomes illegal when the straw buyer is part of a transaction that involves fraud.

A fake or straw buyer can be a person who intends to profit from the transaction. Straw buyers are often:

- An LLC or other legal entity
- Have a fake identity
- Use a stolen identity
- A buyer who cannot purchase

Sometimes the purchase and sale agreement will state that the first buyer is buying the property with cash. Often the first buyer does not have the ability to actually purchase the property, be able to get a loan, or have the cash to purchase. Therefore, there isn’t a loan transaction to follow. The first buyer doesn’t do anything except fill out documents to purchase. But, there are times that the first buyer does have the funds to close, but more often than not, they don’t.

The purchase and sale agreement for the first buyer often has a clause that makes it easy to walk from the transaction. The first buyer might not find a second buyer for the property to make a large enough profit, for example. But, the contract usually has some easy “out” clause so that the first buyer does not lose any down payment or earnest money.

In order for a flop to occur, escrow has to be involved because often the first buyer does not actually "buy" the property. Most title companies who own escrow will not get insure or close these types of transactions. In order for the scheme to close the escrow has to know that there is a profit to be made between the first and the second buyer. And, it is obvious if the first buyer is not actually transferring funds. In many cases the first buyer is just there on paper. The second buyer is the one that transfers money to escrow. Then, escrow pays the bank in the short sale, but only forwards the amount that the bank agreed to in the short sale. The extra amount or "profit" is usually divided between the perpetrators.

Often flopping transactions will close simultaneously. Escrow will prepare the documents all to close on the same day. There are cases including one discussed below where closing on the second transaction took place over 60 days after the first buyer closing.

The real estate agents that put the deal together often receive additional commissions that would have not otherwise been paid. The real estate agents might be involved in the transactions as one of the buyers.

## **Undervaluing property to Flip/Flop at a Profit**

In order for the bank to agree to the lower value in a short sale, the bank has to have documentation that the property is only worth the lower amount. This could be because they purchased a BPO. Sometimes agents assigned to do BPO are part of the scheme. The bank/lender might be provided with a BPO that falsely gives a very undervalued market value. But, also, the second buyer must also have a value to close on the transaction which could be a false appraisal.

Another aspect of the scheme is convincing the lender that the market is more depressed than a BPO might show. The listing agent might market the property for less than the projected market value. In some cases, the listing agent might list the property for one amount and market the property for a much lower amount. The listing agent or the first buyer will advertise the property on sites such as Craig's List or Zillow for an amount much less than market value. Then a number of prospective buyers will see that it is a "heck of a buy!" So buyers rush to make offers. The listing agent then has a pile of offers way under the real value of the property. The listing agent will contact the bank saying that the BPO or appraisal (whatever valuation is being used) is not accurate for the local market. But, they don't tell the lenders that it was listed on the internet for much less than the market value encouraging the low offers.

Agents that market property for a different price than what was agreed to on a listing agreement are violation MLS rules and License Laws under RCW 18.85 and RCW 18.86. The agent would be misrepresenting the price of the property to prospective buyers, not acting in good faith, participating in a scheme to defraud a lender and various other laws.

The second buyer getting a purchase mortgage must have an appraisal to substantiate the value so the second buyer can get a loan to purchase. The appraiser does not know about the first offer, of course, as it has probably not recorded. The appraiser would have to appraise the property for much more than the sales price from the first buyer.

The tactic to undervalue a property has been used to convince a bank to sell property to a buyer who could be a friend or investor friend of the real estate agent at a very low price who may or may not flip it.

Sometimes the scheme is to undervalue property convincing lender that it is better to sell at short sale than at foreclosure.

## Short Sale Buy Back

A homeowner who continually makes the payments might find himself under water. The mortgage loan on the property far exceeds the market value by, lets say over 50%. The homeowner sees properties selling in the same development for half the price. But the homeowner does not want to move. So, after a discussion with someone like a family member or parent, the homeowner lists the property for sale. The family member writes an offer presenting it as a short sale. The sale is accepted. The homeowner remains in the property and then at a future date refinances. They lowered their mortgage substantially. But, though it seems on the surface as a good loophole, it is illegal. The homeowner had to put false information on the documents signed at closing.

## Phantom Offers

Sometimes an agent who lists a property that will be a short sale knows that the delays that happen trying to communicate with the bank. So they enlist a straw buyer who makes a “phantom offer.” The property is kept on the market and the phantom offer is negotiated. When the bank agrees to the short sale with the straw buyer, the agent gets another buyer to purchase the property or reduces the price. An agent violates many laws and rules in these types of fraudulent situations.

## **Loan Modification Scams**

Loan modification negotiation became such a lucrative and fraudulent business. Negotiators would easily advertise and find homeowners and charge them an upfront fee to negotiate with their bank for a loan modification. But, in many cases they just kept the fees which could range from \$1000 to up to \$20,000. They had no obligation to actually work on a loan modification.

In Washington State the laws changed so that anyone that is negotiating for a homeowner for a loan modification must be licensed under the Department of Financial Institutions or be an attorney.

The Federal government passed the Mortgage Assistance Relief Services (MARS) act that goes into effect in January 2011 that prohibits a person negotiating a loan modification or a short sale from collecting any upfront fees. In addition, the homeowner has the right to reject any offer from a bank made with a negotiator.

Some people even use loan modification as a trick to get a seller to enter into a short sale. The seller is duped into signing papers that they didn't realize were papers for a short sale.

## **Pocketing Cash from Short Sale**

A seller cannot legally direct any proceeds their way from the closing of a short sale. That can mean "ANY" proceeds and can include commissions, referrals, or maintenance. Some real estate agents try to get another agent or lender to share the commission under the table after the sale. Some agents have asked their designated broker to withhold money from the sale and commissions to be paid at a later date or through another transaction. This violates license law as well as the documents the bank requires at closing.

# The “Everybody is doing it” Excuse

There is no question that these types of transactions are almost commonplace in our market. It is hard to believe that they continue even though they are filled with different types of fraud. There are real estate agents written up in newspaper articles found on the internet for the huge profits that they have earned. Lenders are creating ways to get investors involved to profit from a distressed sale. Websites will walk you through the process. Seminars talk about quick ways to get rich from short sales.

You might recognize some of these transactions when you see words on the listing that say "sale subject to seller acquiring title" or "sale subject to investor approval."

Make no mistake... these transactions are fraudulent no matter how you twist or turn them. No matter what a seminar professes or a website reads, any attempt to defraud a bank, to divert proceeds from a short sale, to work with a straw buyer, to have a phantom offer, or to turn your head could land you in a courtroom.

The "everybody's doing it" excuse does not, in any way, make it legal or ethical to participate in a flopping or other fraudulent transaction.

As the real estate market and economy not only recover... but become increasingly active, those people that found a hole and maybe made money or attempted to make money using fraudulent transactions are at the job again. Just as real estate agents get up every day and go look for work, so do those people who commit fraud. The story changes.. the game is still the same.

# Why is Flopping Illegal?

These flopping transactions are ILLEGAL on many levels.

Here are some examples of ways those in the transactions might be violating laws. Remember, the banks are federal institutions. There are federal laws that govern banks, appraisers, lenders and closing agents. The appraisers, real estate agents, lenders and escrow agents all have Washington State licensing laws. At escrow the buyers and sellers sign documents where they affirm their true identity. There are laws that require disclosures on all levels.

1. The intent of the perpetrators is to make a profit off a short sale with money that should have gone to the bank.
2. The straw buyer with a purchase agreement may not have disclosed their in-ability to complete the transaction.
3. The lender was provided with an undervalued BPO by an agent
4. An appraiser inflated the value of the property for a second sale.
5. The appraiser does not include information on the previous sale on the appraisal.
6. The escrow company completed a simultaneous closing.
7. The lender for the second buyer is not aware of the actual market /sales value
8. The listing agent marketed the property for much less than the market value to generate offers
9. The listing agent or the first buyer marketed the property on sites like Craigslist and Zillow without the owners knowledge.
10. The listing agent may have marketed the property for less than the listing price on the internet
11. Multiple offers that are generated are not presented to the seller.
12. The seller is not aware that the property is being used in an illegal scheme to defraud their bank
13. The straw buyer uses fake documents and identity
14. The real estate agent hid behind an LLC to participate in the fraud
15. The listing agent collected offers much less than the market value to convince bank to lower price

With real estate agents wearing orange jumpsuits it's time to take notice.

# Orange Jumpsuits Becoming Fashionable

Real estate agents, lenders, escrow and investors are now getting caught up in these flopping schemes. As a result they are not only being investigated but in some cases, convicted or plead guilty.

The consequences for defrauding a federal institution could be up to 30 years in prison and millions of dollars in fines. Here are a few cases that have been closed. Unless you want to see how you look in orange, it might behoove you to avoid these flopping transactions. The property values in the Seattle area are so much greater than what you might see in these types of cases. So, remember, it is not the amount of money but the fraud that is being investigated.

## **Real Estate Agents plead guilty in Flopping Scheme**

Two real estate agents Anna McElaney and Sergio Natera were indicted by the US Attorney in Connecticut for conspiracy to commit bank fraud. Both pled guilty in the fall of 2010. It involved four properties in short sale mortgage fraud. The agents evidently created straw buyer transactions when negotiating with lenders on short sales. The closings took place but on each transaction, the real estate agents had second buyers that closed soon after for a much higher price. The banks were not aware of the second transactions nor did the banks receive any of the proceeds.

McElaney was a listing agent for a property and received an offer to purchase the property for \$132,500. However, McElaney presented to the bank an offer to purchase for \$102,375 for a short sale transaction. The offer was from an LLC that Natera controlled. The bank agreed to the short sale for the property and released its mortgage on the property.

Natera sold the property 8 weeks later for \$132,500 to the original buyer. Natera and McElaney split the difference, over \$30,000, between the two sales prices. Natera and McElaney did plead guilty to a Federal Mortgage fraud charge. The real estate agents are waiting for sentencing. They face a maximum term of 30 years and up to a \$1 million fine on each count.

## **Four indicted in NY for Short Sale Foreclosure Rescue**

In May 2009 four people were charged with a mortgage fraud scheme. They targeted homeowners who were behind on payments with radio ads as a foreclosure specialist. They convince the homeowner to sell or transfer the homes to their foreclosure rescue company, They get the lender to agree to a short sale. They then resold the properties to a third party straw buyer at a higher price within a short time. Then they pocket the difference which was more than \$150,000.

## **Caught in Sting Operation in Georgia**

Brent Merriell, 37, of Atlanta, Georgia, pleaded guilty on March 23, 2010, to making false statements to the FDIC and aggravated identity theft in connection with "short sales" to stolen identities.

Beginning in October 2009, when he was facing foreclosure on 14 different properties, Merriell asked the FDIC to forgive \$2.2 million in Omni loan payoffs where he and his straw borrowers were facing foreclosure. He wanted the bank to allow him to “short sale” two properties each to seven new purchasers at reduced amounts.

In this case, Merriell attempted to arrange short sales in the names of people whose identities had been stolen and he submitted forged and counterfeited sales contracts and loan commitment letters to the FDIC in support of the sales.

Merriell was caught in a “sting” operation by the Special Inspector General for the trouble Asset Relief Program (SIGTARP) and was detained without bond. He was arrested before he could complete these sales and ruin the credit of the persons whose identities he stole. He was sentenced to over 3 years in prison and 5 years supervised release.

<http://atlanta.fbi.gov/dojpressrel/pressrel09/at122109.htm>

### **Short Sale Kid Rakes in Riches in Short Sales**

Nathan Jurewicz is only 28 years old closing transactions by the dozens in the Tampa Florida area during 2008-2009. The St. Petersburg Times wrote an article about his system. According to the paper, his YouTube sales pitch purports to show real estate professionals how to “make rump roast from road kill in the foreclosure-wrecked housing market” His programs are all based on “flopping.”

The newspaper writes “ Jurewicz has devised a special purchase option contract that lets him simultaneously bid on a short sale house with the bank while marketing it to other buyers. A team of Realtors and negotiators does the dirty work of juggling buyers and banks for him. He's outsourced the workload so much, he claims not to know the addresses of many of the homes he's buying and selling. But is the bank aware that Jurewicz will buy a house for, say, \$150,000 and immediately sell it for \$175,000?” That is classic and illegal “flopping.”

He sells his program for up to \$1000 on his website shortsalesriches.com. He used to be an agent with Keller Williams but he has flown off the records there and at the Department of Licensing in Florida. Is website is still on the internet selling his program. It is not against the law to teach someone how to commit fraud. It is against the law to be a participant. He’s partnered with an attorney and is selling classes, webinars and programs. It could be a matter of time before they face investigators.

## **Hellickson hits National Media Circuit before License is Yanked**

After being featured on CNBC and FOX business news along with a video ad of Glen Beck promoting his business, Michael Hellickson is fighting the Washington State Department of Licensing who have been investigating his real estate dealings for over a year. He hasn't been hiding. His business is based on distressed homeowners and short sales. He would have sellers sign blank addendums, reduce the price without sellers knowledge and collect offers on properties far less than the list price. He advertised properties for less than the listed price. The NWMLS leveled fines totally over \$30,000 on his firm which I am guessing is the highest amount in their near history.

The Department of Licensing in their 44 page investigators report details over 10 clients. The first one .. and this is just the first case "shows the Hellickson's pattern and practice" of:

1. Misrepresenting that Hellickson would purchase the home if it did not sell within 30 days
2. Telling the homeowners to stop making their mortgage payments so Hellickson could do a short sale.
3. Listings the home at artificially reduced prices in order to generate multiple low-ball offers
4. Listing the home at prices not authorized by the homeowner
5. Misrepresenting the contents of the listings agreement by having the homeowners sign blank addenda and filling in unacceptable list price authorization... to drop the price weekly by \$25,000
6. Failing to provide copies of the executed listing agreement
7. Negligent, dilatory communication with homeowners, potential buyers and lenders
8. Stating that the seller required the buyer to obtain specific approval from certain, specified lenders.

In addition, he claimed to be "Top Washington, Oregon and Hawaii real estate agents" but he isn't licensed in Oregon and Hawaii. He claimed to be a lender who could provide mortgage loans but didn't have a license as a loan originator.

The Department of Licensing yanked his license, but with the help of his attorney he is back at work for now. They claimed a lack of "due process."  
So we are waiting for the next round.

# Washington State Guide for Short Sales

The Washington State Department of Licensing along with the Washington State Department of Financial Institutions published a document that is a guide for real estate agents and consumers regarding short sale transactions.

The guide can be found at <http://www.dol.wa.gov/business/realestate/renews.html>

They are also available from the Washington REALTORS and the NWMLS. It is important that all agents and consumers considering a short sale read these documents.

## Regulation of Lenders and Agents

Washington State has passed the Mortgage Broker Practices Act. It is the law that governs mortgage lenders in this state. Lenders must take a test, take continuing education and be fingerprinted. Real estate agents can also be lenders but they must meet the requirements and have full disclosure with prospective borrowers. Department of Financial Institutions [www.dfi.wa.gov](http://www.dfi.wa.gov)

Real Estate agents are regulated by the Department of Licensing [www.dol.wa.gov](http://www.dol.wa.gov). A real estate agent could be violating license law if found to be misrepresenting information on a transaction.

Because these cases revolved a federal institution, the bank, the FBI investigates on a federal level.

### Resources

Project Northwest Justice Project NWJustice.org (206) 464-1519

[www.WAHomeowners.com](http://www.WAHomeowners.com)

Non Profit community to avoid foreclosure (877) 894-4663

Don't borrow Trouble Hotline [www.ci.seattle.wa.us/housing/predatorylending](http://www.ci.seattle.wa.us/housing/predatorylending)

Community Home Ownership Center (206) 587-5641

Mortgage Default Counseling Services

Fremont Public Association (206) 694-6766

The Urban League of Seattle (206) 461-3792

The Center for Responsible Lending has brochures <http://www.responsiblelending.org/>

Legal assistance

King County Neighborhood Legal Clinics (206) 624-9365

Department of Financial Institutions (800) 372-8303 [www.dfi.wa.gov](http://www.dfi.wa.gov)

U.S. Housing and Urban Development (800) 877-8339 <http://portal.hud.gov/portal/page/portal/HUD>



# Short Sale Flopping and Fraud Quiz

Use the answer sheet at the end of the quiz! Thanks

1. In June 2010 a multi governmental agency task force announced the arrests of almost 500 people called \_\_\_\_\_
2. A short sale occurs when the total amount paid does not cover the \_\_\_\_\_ on the property.
3. A lender **IS / IS NOT** required to agree to a short sale when there is a purchaser.
4. In Washington State what we commonly refer to as "mortgages" are actually deeds of trust secured by \_\_\_\_\_
5. When a homeowner owes more than what they have in equity in the property it is commonly called \_\_\_\_\_ or \_\_\_\_\_
6. When a homeowner asks lien holder to accept less than the promissory note it is called a \_\_\_\_\_
7. A requirement of the lender in a short sale is that the homeowner not receive any \_\_\_\_\_ from the sale.
8. There is a separate agreement apart from the purchase and sale agreement where the \_\_\_\_\_ agrees to the short sale and terms.
9. The lender on a second mortgage on the property may release the lien for a short sale but not the \_\_\_\_\_
10. The debt that occurs when the entire balance of the loan is not paid is called a \_\_\_\_\_
11. If a lender pursues a deficiency judgment, it becomes unsecured debt and follows the \_\_\_\_\_ and his assets.
12. Sometimes notes from deficiency judgments are sold at a discount to \_\_\_\_\_
13. Real estate agents should advise clients to discuss their situation with their attorney and \_\_\_\_\_
14. Real estate agents advice about a short sale could be considered the \_\_\_\_\_
15. Unless you are an agent in a short sale transaction, negotiating a short sale with a lender in Washington state requires a \_\_\_\_\_
  - a. A real estate agent in Washington state has a duty to deal honestly and in good faith with \_\_\_ a) only the client they represent or b) All parties
16. The FTC adopted the MARS act which stands for: \_\_\_\_\_
17. Any person that negotiates a loan modification is banned from collecting upfront \_\_\_\_\_
18. Any person that negotiates a short sale cannot collect fees until there is a written offer \_\_\_\_\_
19. A homeowner has the right to \_\_\_\_\_ any offer from a lender without any charge from a loan modification negotiator.
20. When a person flips a sale during or as a result of a short sale it is commonly referred to as \_\_\_\_\_
21. Some investors are buying short sales and attempting to "flip" before closing which is considered \_\_\_\_\_.
22. In Washington State, a buyer purchasing a fixer to sell in a short time is required to have a \_\_\_\_\_
23. A straw buyer could have a \_\_\_\_\_ identity.
24. A straw buyer is illegal if the transaction involves \_\_\_\_\_
25. Often in order to complete a flopping transaction the first and second buyer close \_\_\_\_\_
26. A short sale to avoid foreclosure could be considered a \_\_\_\_\_ conveyance.
27. The tactic to \_\_\_\_\_ property might be used to convince a bank to sell to a buyer at less than market value.
28. Agents that market properties for less than the listing agreement price are violating \_\_\_\_\_ and \_\_\_\_\_.
29. If the mortgage loan exceeds the market value a good strategy would be for the homeowner to sell to parents and buy back **YES / NO**
30. When an agent takes a listing on a short sale, to speed up the process he sometimes creates a \_\_\_\_\_ offer which is illegal.
31. A loan modification negotiator cannot charge fees to be collected \_\_\_\_\_.
32. A person acting as a negotiator for a loan modification must be licensed as a \_\_\_\_\_ in Washington State.
33. The MARS act is a Washington State law **True / False**

34. When a seller agrees to a short sale with a bank the seller cannot be paid any of the \_\_\_\_\_ of the sale.
35. In our real estate market it is ok to participate in Flopping because everybody is doing it. **True / False**
36. List 5 reasons why flopping is illegal
- A
  - B
  - C
  - D
  - E
- 37.
- 38.
- 39.
- 40.
- 41.
- 42.
43. Orange jumpsuits are becoming fashionable because \_\_\_\_\_
44. If convicted of fraud with a federal banking institution the consequences could be \_\_\_\_\_ in prison.
45. On the case of McElaney and Natera, how much money did they split on one of the charges \$ \_\_\_\_\_
46. Have you seen or asked to be a part of a flopping transaction? \_\_\_\_\_

*As a part of this class you are to click on a link and go to learn more!*

The Short Sale Guides from Dept Licensing <http://www.dol.wa.gov/business/realestate/renews.html>

The Center for Responsible Lending website. <http://www.responsiblelending.org/>

Dept of Housing and Urban Development Videos! <http://portal.hud.gov/portal/page/portal/HUD>

*Use the Answer sheet below for your answers to the quiz!*

*Thanks*



*Short Sale Flopping and Fraud  
Answer Sheet*

1		24	
2		25	
3		26	
4		27	
5		28	
6		29	
7		30	
8		31	
9		32	
10		33	
11		34	
12		35	
13		36	
14		37	
15		38	
16		39	
17		40	
18		41	
19		42	
20		43	
21		44	
22		45	
23		46	

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I attest that I have read the materials and have answered the questions.

**Date Course Started** \_\_\_\_\_ **Date Course Completed** \_\_\_\_\_  
**Print Name** \_\_\_\_\_ **Company** \_\_\_\_\_ **Signature** \_\_\_\_\_

PROFESSIONAL Direction, 13148 Holmes Pt Dr NE, Kirkland WA 98034 clockhours@gmail.com



## Mandatory Evaluation

Did you read the material in the booklet on this date? YES / NO  
 Did you complete the quiz and attach answer sheet? YES / NO  
 Did you enclose Tuition (\$30 for 3 hrs) or use Credit card YES / NO  
 Did you fill out and sign this form? YES / NO

Paid by Check or Visa/MC # \_\_\_\_\_ exp \_\_/\_\_/\_\_\_\_ print clearly Credit card payment link avail on website.

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

A "clock hour" is 50 minutes. This 3 hour class should take about 2 hrs 30 min. How long did it take you to complete the course? \_\_

	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

What are 3 things that you learned from the course?

1. \_\_\_\_\_ 2. \_\_\_\_\_ 3. \_\_\_\_\_

### Short Sale Flopping and Fraud

Print Name CLEARLY	Signature	Company
Address	City Zip Code	Phone
Twitter name @	Email	
License Renewal Date		Date class taken

*Thanks for taking this class! I really appreciate the agents that take clockhours from my school! I am always working on my classes and writing new ones! Thanks, Natalie*

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