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Mortgage Fraud: Avoiding Price Inflation Schemes

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Mortgage fraud schemes loom over the real estate industry like a dark cloud. REALTORS® and their clients should exercise extreme caution when dealing with real estate transactions involving artificial price inflation, undisclosed cash back to the buyer or third party, and other fraudulent schemes. This legal article addresses the legal and practical issues surrounding mortgage fraud as they affect REALTORS® and their clients.

Q 1. ***What, in a nutshell, is mortgage fraud?***

A Mortgage fraud generally involves material misrepresentations or omissions made to deceive a financial institution into funding, purchasing or insuring a mortgage loan.

Q 2. ***How does a mortgage fraud scheme work?***

A There are many mortgage fraud schemes, but they loosely fall within two major categories: “fraud for housing” and “fraud for profit.” A fraud for housing scheme typically involves fraudulent acts committed by a borrower, and perhaps coached by his or her mortgage broker and others, to obtain a mortgage loan for the borrower’s personal use or investment. The borrower typically intends to repay the loan, but commits fraudulent acts in an attempt to obtain a loan that the borrower would otherwise not qualify for. These fraudulent acts usually involve falsifying the borrower’s financial ability, such as lying about one’s employment on the loan application, providing false income records, or lying about the source of down payment. Fraud for housing accounts for about 20 percent of all mortgage fraud.

Fraud for profit, on the other hand, generally involves a concerted effort to abuse the system for financial gain. Common examples of “fraud for profit” include price inflation schemes, property flipping, inflated appraisals, straw buyers, and equity skimming. Fraud for profit accounts for about 80 percent of all mortgage fraud. For more information about mortgage fraud schemes, go to the Federal Bureau of Investigation's (FBI) website at **http://www.fbi.gov/page2/dec05/mortgagefraud121405.htm**.

Q 3. ***How does a price inflation scheme work?***

A Here's one basic scenario: A listing agent representing a seller receives an offer for substantially more than the listing price, with a request for the seller to give that amount over the listing price to the buyer or a third party. Sometimes the price is inflated $70,000 to $100,000 over the listing price when market conditions don't warrant it. The offer indicates that the buyer will obtain a mortgage loan to finance the transaction.

There are many variations to this basic scenario. There may be a request for the amount over the asking price to be refunded directly to the buyer or paid to a third party, such as to the buyer's broker as additional compensation, to a construction company to make improvements or repairs to the property, or to a company to establish an equity-sharing program. The request for refund could be a provision on the buyer's offer or on a separate addendum. The buyer or buyer's representatives may claim that the arrangement has been approved by the lender, that it will be properly documented, and that the funds will be paid through escrow.

Once the offer is accepted, a price inflation scheme may involve an appraiser who is willing to inflate the appraised value, a loan clerk who is willing to create bogus documents, a mortgage broker who is willing to coordinate the process, and other willing participants. The actual buyer, however, may or may not be aware of the fraudulent scheme or the full extent of the fraudulent scheme.

If a price inflation transaction closes escrow, the con artists usually abscond with the money. The property is likely to fall into default and foreclosure because the buyer was part of the mortgage fraud ring or the innocent buyer is unable to make the monthly payments. When the lender takes the property back in foreclosure, it's often worth much less than what the lender loaned out.

Q 4. ***How likely is it for me as a REALTOR® to encounter a mortgage fraud scheme?***

A Very likely. Unlike a legitimate buyer who usually wants to buy only one property, a mortgage fraud ring often does multiple transactions, sometimes using the inflated comps to support the other transactions. A mortgage fraud ring may churn out many offers to buy many properties at one time. Some mortgage fraud rings seem to prey on one neighborhood or community and then move on to the next.

The likelihood you encounter a mortgage fraud scheme is greater if the transaction involves a vulnerable seller or distressed property. Some fraud rings intentionally target sellers who may be vulnerable. Examples of listings that are highly susceptible to mortgage fraud include, but are not limited to, the following:

- Properties in a changing housing market;
- Properties that have been on the market for a long time;
- Properties with listing price reductions;
- Properties in foreclosure;
- Properties that are run-down;
- Properties that are vacant;
- Sellers desperate to sell (e.g. have moved out of the area);
- Sellers experiencing financial difficulty;
- Sellers who are elderly; or
- Sellers who do not speak English well.

Q 5. ***What law governs mortgage fraud?***

A Mortgage fraud is a federal crime generally encompassing anyone who willfully overvalues any land or property, or knowingly makes any false statement, for the purpose of influencing a federally-insured mortgage lender or other financial institution (see Question 6), upon loan application, purchase agreement, or other enumerated things. This law is fully set forth at section 1014 of Title 18 of the United States Code. Depending on the circumstances, a mortgage fraud scheme may also be a violation of other federal and state laws.

Q 6. ***What financial institutions are protected under the federal mortgage fraud law?***

A The financial institutions expressly protected under federal law include, but are not limited to, the following:

- An institution with accounts insured by the Federal Deposit Insurance Corporation (FDIC);
- A federal home loan bank;
- A federal credit union;
- An insured state-chartered credit union;
- A Federal Reserve bank;
- A branch of a foreign bank; and
- The Small Business Administration.

(18 U.S.C. § 1014.)

Q 7. ***What is the penalty for violating the mortgage fraud law?***

A A violation of the federal mortgage fraud law is punishable by up to 30 years imprisonment, plus a $1 million fine (18 U.S.C. § 1014). Moreover, anyone who participates in a mortgage fraud scheme is exposed to possible civil liability, and any real estate licensee who participates could also face license revocation or other disciplinary action taken by the Department of Real Estate (DRE) (see Question 8 below).

For example, on October 6, 2006, James Davis Bennett was sentenced to ten years in federal prison and ordered to pay $763,550 in restitution and fines for committing mortgage fraud. Mr. Bennett was a real estate broker who purchased various properties in distressed areas of Los Angeles and Long Beach in the names of his mother, wife, and stepson. At the same time, he recruited buyers for the properties by promising “no money down.” Mr. Bennett would sell a property to a recruited buyer by inflating the price by about $100,000 more than what he paid and making the transaction appear as if the buyers were placing a significant down payment, when in fact they were not.

Acting as the mortgage broker, Mr. Bennett prepared mortgage loan applications for the buyers that contained false employment, income, credit, and down payment information. He also prepared false appraisal reports. As a result of his scheme, lenders issued over $6 million in mortgage loans to unqualified buyers, many of whom went into foreclosure. Mr. Bennett was convicted of 11 counts of bank fraud, wire fraud, and operating a criminal enterprise. His real estate broker license has been revoked. Four other people have pleaded guilty in the case.

Q 8. ***Under what circumstances would a real estate licensee face disciplinary action in connection with a mortgage fraud scheme?***

A The Department of Real Estate (DRE) may revoke or suspend the license of a broker or salesperson based on, among other things, the following:

- Engaging in fraudulent conduct or dishonest dealing (Cal. Bus. & Prof. Code § 10177(i));
- Making any substantial misrepresentation (Cal. Bus. & Prof. Code § 10176(a));
- Performing licensed acts negligently or incompetently (Cal. Bus. & Prof. Code § 10177(g)); and
- As a broker, failing to exercise reasonable supervision over a salesperson (Cal. Bus. & Prof. Code § 10177(h)).

With respect to mortgage fraud schemes, the DRE may provide a limited safe harbor from disciplinary action for agents who:

ensure that the lenders who ultimately fund the loans are aware of the original listing price and of the fact that there is cash being rebated through escrow at the direction of the buyer. . . . When in doubt, disclose, disclose, disclose, and do it in writing.

See “Beware of Price Inflation Transactions” at page 3 of DRE’s Real Estate Bulletin (Fall 2006), available at **http://www.dre.ca.gov/pdf_docs/rebfall06.pdf**. Just to clarify, the DRE would look for written approval of the original listing price and cash rebate from the lender who ultimately funds the loan, not just the mortgage broker arranging the loan.

That safe harbor from disciplinary action, however, is unlikely to protect an agent who commits an overt act in furtherance of the fraudulent scheme, such as changing the listing price to the inflated price in the Multiple Listing Service (MLS) at the request of the buyer or buyer's representative. Moreover, an agent who escapes disciplinary action by the DRE may still be exposed to potential civil and criminal liability depending on the circumstances.

Q 9. ***Why would a transaction be considered mortgage fraud if the lender is aware of and has approved the price inflation arrangement?***

A Whether or not a lender is aware of or approves of a fraudulent scheme is simply not a relevant inquiry in determining whether someone has committed mortgage fraud. The law prohibiting mortgage fraud is very broad in scope. It criminalizes an overvaluation of property or other misrepresentation made to influence a federally-insured lender, regardless of whether the lender is aware of or approves the arrangement.

Mortgage fraud must be distinguished from common law fraud. Common law fraud entails knowingly making a material misrepresentation to someone who actually and justifiably relies upon the misrepresentation to his or her detriment and suffers damages as a proximate result. In contrast, the law prohibiting mortgage fraud requires no actual reliance, no justifiable reliance, and no resulting damages. These three essential elements of common law fraud are simply not elements of mortgage fraud.

Here's a case in point. Two developers, a father and son team, usually recommended to their buyers to obtain financing from a certain bank. Initially, most of their buyers financed their purchase transactions using VA loans from that bank. A few years later, the bank changed its policy and only offered conventional loans with higher interest rates and down payment requirements. It was at the suggestion of the bank's president that the sellers began to inflate the sales price above what the buyers actually paid to cover the buyers' down payments. The bank appraisals invariably supported the stated price. Despite the bank president's knowledge and approval of the inflated contract prices, the sellers were nevertheless convicted of mortgage fraud. The court reasoned,

The words 'for the purpose of influencing' were included in the statute to define the quality of the required intent, not to immunize a party from criminal liability because an officer of the bank was involved in the fraudulent scheme. (*United Statesv. Niro*, 338 F.2d 439, 441 (1964).)

Another court explains the federal mortgage fraud law (18 U.S.C. § 1014) as follows:

While it is undoubtably true that 18 U.S.C.§ 1014 benefits various financial institutions, the law's ultimate beneficiary is the United States. False statements given to insured banks have the potential to mislead the auditors charged with maintaining the federal standards. The government's interest in maintaining the vitality of its insurance programs mandates that all material false statements violate Section 1014, even when the false statements are given with the knowledge, consent or duplicity of a bank officer. (*United Statesv. Bush*, 559 F.2d 72, 75 (1979).)

Q 10. ***Why would a transaction be considered mortgage fraud if the property appraises for the inflated price?***

A Whether the lender relies upon the inflated price as opposed to the appraised value is simply not a relevant inquiry in determining whether someone has committed mortgage fraud. Furthermore, in some reported cases, the appraiser's signature is a forgery or the appraiser is a participating member of the mortgage fraud ring. Indeed, in the *U.S. v. Niro* case mentioned above (see Question 9), the sellers were convicted of mortgage fraud despite the fact the bank appraisals invariably reflected the inflated price. See also Question 11 below.

Q 11. ***Why would a transaction be considered mortgage fraud if a highly motivated seller voluntarily agrees to sell the property at below the fair market value?***

A Whether or not the market will bear the inflated price is simply not a relevant inquiry in determining whether someone has committed mortgage fraud. Perhaps the right question to ask here is why would a buyer or buyer's representative request for the price to be inflated and have the surplus paid to the buyer or a third party? The likely answer is: To induce the lender to finance the transaction based on the inflated price, when in fact the true price is much lower. That makes it mortgage fraud.

Let's say that a seller wants to sell a property for $600,000, but agrees to set the contract price at $670,000 with $70,000 cash to be refunded to the buyer or a third party. Let's also assume that the market would bear a purchase price of $670,000. This could be deemed mortgage fraud because the seller represents the price to be $670,000, when in fact the actual price is only $600,000. Even though the market may bear a $670,000 price, the market value of this property is only $600,000 because that's the price at which the seller is selling and the buyer is buying. Moreover, even if the loan officer approves the arrangement, the law will not "immunize a party from criminal liability because an officer of the bank was involved in the fraudulent scheme." (*U.S. v. Niro*, 338 F.2d 439, 441 (1964).) "The law's ultimate beneficiary is the United States." (*U.S. v. Bush,* 559 F.2d 72, 75 (1979).)

Q 12. ***How could a seller or listing agent be implicated in mortgage fraud if it is actually the buyer and buyer's representatives who perpetrated the fraud?***

A The mortgage fraud law is very broad in scope. It prohibits anyone who willfully overvalues property or knowingly makes a false statement, not just the people who are instigating, perpetrating, or profiting from the fraudulent scheme. Moreover, depending on the extent of the involvement of the seller or listing agent, the law also prohibits a person from aiding, abetting or conspiring to commit a crime.

Aside from criminal law, the seller and listing agent may expose themselves to potential civil liability for their involvement in a mortgage fraud scheme. When a lender suffers a loss from a fraud scheme, the lender may not be able to recover against the actual perpetrators of the fraud, because they have usually absconded with the money, they cannot be tracked down, they are out of business, or they have no assets that the lenders can collect on. Given that situation, the lender may, depending on the circumstances, look to recover for its loss against people other than the actual perpetrators.

Q 13. ***What is the difference between a seller paying cash to the buyer or a third party in a mortgage fraud scheme and a seller paying for the buyer's closing costs?***

A It is generally permissible for a seller to pay for the buyer's closing costs in a manner that comports with the lender's underwriting guidelines. For one, the lender generally limits the seller's payment of closing costs to approximately 2% to 4% of the purchase price. Second, the seller directly pays that amount for actual closing costs incurred by the buyer. In contrast, the amount a seller typically pays in a mortgage fraud scheme is substantially more than 2% to 4% of the purchase price. That amount is also unlikely to be a direct payment for any costs actually incurred by the buyer. However, for any particular situation, the real estate agent and client should consult with an attorney.

Q 14. ***What is the difference between a seller paying the buyer or a third party in a mortgage fraud scheme and a seller giving the buyer a credit for repairs?***

A The most likely distinction between a legitimate credit for repairs and an illegitimate mortgage fraud scheme is that the purchase price in a legitimate transaction has already been agreed upon (and will not change) at the time the seller agrees to give the buyer a credit at close of escrow in lieu of making certain repairs. In contrast, an illegal mortgage fraud scheme is more likely to involve an initial price inflation coupled with a request for a credit for repairs before the parties ever enter into an agreement. Furthermore, unlike a legitimate credit for repairs, the credit requested in a mortgage fraud scheme is usually, but not necessarily, a substantial amount of money. Also, unlike a legitimate credit for repairs, the credit in a mortgage fraud scheme is usually unrelated to any inspection of the property conducted by the buyer or items in the property requiring repair. As a matter of precaution, however, a seller who agrees to give a legitimate credit for repairs and the listing agent should require and obtain the lender's written approval of the credit for repairs. For any particular situation, the seller and listing agent should seek the advice of an attorney.

Q 15. ***As a buyer's agent, what should I do if the buyer wants me to write up an offer that may be mortgage fraud, but I'm not sure?***

A Mortgage fraud is often easy to detect because greed compels the mortgage fraud ring to substantially inflate the purchase price. For closer calls, however, it may be in your own best interest to investigate the matter and verify whatever information you have or should have, before you proceed with the transaction.

Here are examples of the types of questions you may want to ask yourself. If the buyer is an individual you've never met face-to-face, is there a viable and verifiable explanation for that? If the buyer is a company, is it a valid legal entity with a legitimate business and business address? If a mortgage broker, contractor, or other professional is involved, are they properly licensed and working for legitimate businesses? If you have a pre-approval letter, is it from a legitimate lender who will ultimately fund the loan (not just the mortgage broker) and can you independently verify the pre-approval with the lender? Most importantly for DRE purposes, can you obtain a written approval of the original listing price and cash rebate from the lender who ultimately funds the loan?

For further assistance on investigating potentially fraudulent schemes, various organizations, private investigation companies, and other entities provide fraud prevention tips and fraud prevention products and services. You should also consult with an attorney about your particular situation.

Q 16. ***As a buyer's agent, what should I do if the buyer wants me to write up an offer that I am reasonably certain involves mortgage fraud?***

A You should immediately inform your broker or manager of the situation. Your brokerage should generally refuse to write an offer than you know involves mortgage fraud. Although ultimately it's up to a court to decide, you could be held civilly and criminal liable for your involvement as a buyer's agent in a mortgage fraud scheme. Furthermore, you also risk license revocation or other disciplinary action taken by the DRE for engaging in any acts in furtherance of the fraudulent scheme, such as writing up the buyer's offer and submitting it to the seller, regardless of whether the lender approves of the original listing price and cash rebate.

Q 17. ***As a listing agent, what should I do if I receive an offer that may be part of a mortgage fraud scheme, but I'm not certain?***

A Again, mortgage fraud is often easy to detect because greed compels the mortgage fraud ring to substantially inflate the purchase price. For closer calls, however, it may be in your own best interest to investigate into the matter and verify whatever information you have or should have.

Here are some of the types of questions you may want to pose to yourself. Is the buyer an actual person? Are the buyer's agent, buyer's broker, and mortgage broker all properly licensed and working for legitimate businesses? Can you independently verify with the lender ultimately funding the loan that the loan has been pre-approved? Most importantly for DRE purposes, can you obtain a written approval of the original listing price and cash rebate from the lender who ultimately funds the loan? In any event, you should consult with an attorney about your particular situation. Regardless of what your investigation uncovers or what you decide your involvement in the transaction will be, you must present the offer to the seller as set forth in Question 18 below.

Q 18. ***As a listing agent, what should I do if I'm reasonably certain that an offer I receive is part of a mortgage fraud scheme?***

A As a listing agent, you must make arrangements to present the offer to the seller as soon as possible under paragraph 9.4 of the California Model MLS Rules. You must also submit offers objectively and as quickly as possible under Standard of Practice 1-6 of the Code of Ethics and Standards of Practice of the NATIONAL ASSOCIATION OF REALTORS®. You may consider providing the seller with a copy of this Legal Article to help inform the seller about mortgage fraud (see, in particular, Question 19). In many cases, sellers will not accept offers involving mortgage fraud. The seller may instruct you to communicate the rejection of offer to the buyer's agent, but the seller is not legally obligated to do so. The seller may elect to report the mortgage fraud scheme to the proper authorities (see Question 22). If, however, the seller accepts the offer, your options as the listing agent are discussed in Question 20 below.

Q 19. ***As a listing agent, what should I do if I am reasonably certain an offer I received involves mortgage fraud, but the seller wants to accept the offer anyway?***

A Ultimately it is the seller's decision to accept or not accept an offer involved in a mortgage fraud scheme. Here are some reasons why it would be ill-advised for a seller to accept an offer involving mortgage fraud.

- **The seller's risk of scrutiny and liability are very real:** The landscape surrounding mortgage fraud is rapidly changing. Mortgage fraud was reported as a billion dollar industry in 2005. Because it is such a growing concern, mortgage fraud is now taking center stage for lenders, government enforcement authorities, real estate professionals, and society at large. It's also gaining tremendous media attention. Lenders are unlikely to do nothing in response to losing millions of dollars. They are compiling databases and registries of defrauders, reporting suspicious mortgage fraud activities to the authorities, and utilizing other fraud prevention techniques to protect themselves. They are also bringing civil lawsuits to recover their actual losses. This heightened scrutiny increases the chances that a seller involved in a mortgage fraud scheme will be brought into an investigation or ultimately be held civilly or criminally responsible for his or her involvement.

- **The defrauders target distressed sellers:** A distressed seller under pressure to sell may be tempted to agree to a mortgage fraud scheme. Yet it's precisely that vulnerable status that the mortgage fraud ring is hoping to cash in on. The repugnance and outrage that a distressed seller may feel realizing that con artists are intentionally preying on the seller's woes may be enough for a seller to refuse involvement.

- **The transaction may never close escrow anyway:** Because the buyer or buyer's representatives are attempting to perpetrate a fraud, there is a significant likelihood this transaction will never close escrow anyway. Through the loan process, many things may arise to foil the scheme. The appraisal may not come in at the inflated price. The lender may discover the fraudulent scheme and refuse to fund the loan. A participant in the fraudulent scheme may decide to back out. If things don't work out for the mortgage fraud ring, those involved are likely to simply move on to their next transaction never to be heard from again. A seller under such pressure to sell that he or she is willing to take on the risk of entering into a fraudulent scheme should carefully consider what his or her options will be, and how much more pressure there will be, later in the transaction, let's say, in about four to six weeks, when the transaction starts to fall apart.

- **The seller's involvement in the fraud may eventually escalate:** A seller may initially agree to a price inflation scheme believing his or her own participation will be so limited that the risk of personal liability is remote. This initial assessment is often fueled by various statements made by the buyer or buyer's representative, such as assurances that the transaction is legitimate, that the funds will be paid through escrow, that the terms of the arrangement will be fully disclosed to and approved by the lender, and that the seller will not be asked to sign any questionable documents. But con artists are, of course, liars. They commonly wait to spring the more questionable and sinister parts of their scheme onto sellers towards the final stages of the escrow process when sellers are more apt to agree. Towards the final days of escrow, a seller may have packed up everything, moved out, or need the sales proceeds to buy another property. It may be at that late stage when the defrauders begin to ask the seller to transfer the funds outside of escrow, sign questionable documents, or do other things in furtherance of the fraudulent scheme.

- **The lender is not the only victim:** Sellers may attempt to justify their own involvement in a price inflation scheme by telling themselves that lenders are responsible for the loans they make. Even though we don't often sympathize with a large financial institution's loss or concerns, a price inflation scheme has many other victims. For example, the buyer may be an innocent party to the fraudulent scheme who may end up owing the lender the cash the defrauders ran off with. Innocent buyers are typically first-time buyers, immigrants, and the elderly. Furthermore, a real estate agent who refuses to get involved in a mortgage fraud scheme may lose business to dishonest agents. An appraiser whose name is forged on a bogus appraisal report may have his reputation unjustly ruined and his or her approved status with a lender taken away. Other real estate service providers may also be victimized. Once the property is taken back in foreclosure, consumers may lose out. A lender is likely to pass the loss from fraud onto new borrowers by increasing the cost of obtaining loans. Foreclosures also affect other homes in the neighborhood. A property that falls into default and foreclosure may also fall into disrepair and become an eye-sore in the community. Once the property is vacant, it becomes a beacon to unsavory people to vandalize it or move in. A foreclosure also adversely affects the value of a neighbor's property. A study in Philadelphia showed that for every foreclosure, the value of other homes within a block will fall by 1% within a year.

Q 20. ***As a listing agent, what should I do if the seller accepts an offer that involves mortgage fraud?***

A You must immediately discuss this situation with your broker or manager. You and your broker generally have two options. The first option is to terminate your agency relationship with the seller. Terminating your agency relationship would relieve you from engaging in any acts in furtherance of the mortgage fraud scheme. It would be very difficult for you to be the seller's agent anyway when the two of you have such a fundamental difference of opinion regarding an offer involving mortgage fraud. Inform the seller in writing that accepting the offer may have significant legal consequences and that you recommend for the seller to immediately seek the advice of an attorney. You should also terminate the agency relationship in writing to document what has happened. Even if you terminate your agency relationship when the seller accepts an offer involving mortgage fraud, it is possible that your brokerage may have a viable claim for commission because "without the broker's consent, the Property is withdrawn from sale, conveyed, leased, rented, otherwise transferred, or made unmarketable by a voluntary act of Seller during the Listing Period . . ." under paragraph 4A(3) of the C.A.R. Residential Listing Agreement.

Your second option is to assume the risk of continuing your role as the listing agent in the transaction. Inform the seller in writing that accepting the offer may have significant legal consequences and that you recommend for the seller to immediately seek the advice of an attorney and instruct you accordingly. Make sure that you have written approval of the original listing price and cash back arrangement from the lender who ultimately funds the loan. Also make sure you do not engage in any overt act in furtherance of the fraudulent scheme, such as changing the listing price to the inflated price in the Multiple Listing Service (MLS) at the request of the buyer or buyer's representative. Failing to obtain the lender's approval in writing or performing any overt acts may subject you to license revocation or other disciplinary action taken by the DRE. Aside from disciplinary action, it's not clear whether you can be held criminal or civilly liable as the listing agent in a mortgage fraud scheme. On one hand, the law prohibiting mortgage fraud is very broad in scope, but on the other hand, your complete lack of participation in furtherance of the fraudulent scheme may exculpate you.

Ultimately, choosing the proper course of action is a business judgment that you and your broker must make based on your own assessment of the risks and benefits. You should consult with an attorney about your particular situation.

Q 21. ***Is there a checklist of things to watch out for to avoid a mortgage fraud scheme?***

A There are many resources available that provide information about mortgage fraud and fraud prevention tips. Most signs of mortgage fraud are matters of common sense. Some of the red flags to watch out for include, but are not limited to, the following:

The Offer and Contract Negotiations

- Receiving an offer for substantially more than the listing price with a request for the seller to give that amount over the listing price to the buyer or a third party.
- Receiving the request for cash to be paid to the buyer or third party on a separate addendum rather than on the offer itself.
- Observing that the buyer is paying a minimal amount of down payment and closing costs to consummate the transaction.
- Observing that the buyer or buyer's representatives refuse to allow the seller to review the buyer's loan application, credit report, and income (even with the social security number, bank account numbers, and other sensitive information lined out).
- Observing that the buyer or buyer's representatives are insistent on using a certain lender, appraiser, escrow, or title insurance company.
- Observing that the buyer or buyer's representatives refuse to agree to have the buyer obtain pre-approval from a lender of seller's choice.
- Observing that the buyer or buyer's representatives refuse to provide proof of the buyer's down payment and closing costs.
- Observing substantially increased commissions or bonuses to be paid to real estate agents or appraisers.

The Buyer and Buyer's Representatives

- Observing that the buyer and buyer's agent seem disinterested in the property, e.g. they do not inspect the property or hire a professional inspector.
- Observing that the buyer plays an unusually passive role in the transaction.
- Observing that the buyer is not an individual person, e.g. buyer is an out-

of-state holding company.

- Observing that the buyer's signature is different on the offer, good faith deposit check, and other documents.
- Observing that the buyer's good faith deposit check is not from the buyer's own account.
- Finding out that a buyer is using someone else's income and credit to qualify for the loan.
- Dealing with unfamiliar or out-of-the-area real estate agents, mortgage brokers, and other service providers.
- Observing that the real estate agent, mortgage broker, or other service provider do not have a business address (e.g. only a post office box) or business phone (e.g. only a cell phone).
- Discovering that a real estate agent, mortgage broker, appraiser, escrow company, title insurance company, contractor, or other real estate service provider involved in a transaction is not properly licensed or certified.
- Discovering that a real estate service provider involved in the transaction lacks proper registration with the Secretary of State as a corporation or the county recorder's office as a fictitious business name (or DBA).
- Finding a participant's name on a list of known or suspected mortgage defrauders.
- Finding a participant not in good standing with the Better Business Bureau.
- Receiving inconsistent statements from the buyer, mortgage broker, appraiser, and lender.

The Escrow Process

- Being unable to obtain written approval of the original listing price, price inflation, and cash disbursement from the lender ultimately funding the loan;
- Being unable to independently verify loan approval from the lender ultimately funding the loan;
- Asking for written approval of the original listing price and cash disbursement from the lender ultimately funding the loan, but getting a letter from the mortgage broker instead.
- Asking but not being told who the buyer's lender is.
- Finding out that the appraisal is inflated.
- Observing false loan applications and other documents, or even just very sloppy paperwork.
- Observing any fees substantially higher than customary amounts.
- Being asked to pay funds outside of escrow to the buyer or a third party.
- Being asked to sign paperwork that does not reflect the terms of the actual agreement.
- Being rushed through or pressured to sign documents without review.
- Being asked to sign blank documents or a power of attorney.
- Not receiving copies of documents you sign.
- Observing that the buyer or buyer's representatives use various delay tactics, such as promising that something will occur, but it does not occur, or not returning phone calls.

Q 22. ***Where do I report suspected mortgage fraud activity?***

A The following is a list of government enforcement agencies and other organizations for reporting mortgage fraud activities. Some of these agencies and organizations are also excellent resources for obtaining more information about mortgage fraud.

Attorney General's Office
California Department of Justice
Attn. Public Inquiry Unit
P. O. Box 944255
Sacramento, California 94244-2550
916-322-3360 Phone
800-952-5225 Phone (*California only*)
http://ag.ca.gov/consumers/mailform.htm (Consumer complaints)

California Department of Real Estate
P. O. Box 187000
Sacrament, California 95818-7000
916-227-00864
http://www.dre.ca.gov/filecomplnts.htm (Consumer complaints)

CaliforniaOffice of Real Estate Appraisers
Attn. Enforcement Unit
1101 Q Street, Suite 4100
Sacramento, California 95814
916-552-9000 Phone
http://www.orea.ca.gov/html/enforcement.shtml (Consumer complaints)

Federal Bureau of Investigation (FBI) Headquarters
J. Edgar Hoover Building
935 Pennsylvania Avenue, NW
Washington, D.C. 20535-0001
202-324-3000 Phone
Or contact your local FBI Field Division
https://tips.fbi.gov/ (FBI tips and public leads)

Department of Housing and Urban Development (HUD) Headquarters
HUD Office of Inspector General Hotline, GFI
451 7th Street, SW
Washington, D.C. 20410
800-347-3735 Phone
Or contact your local HUD field office
http://www.hud.gov/offices/oig/hotline/ (OIG hotline)

Better Business Bureau
The Council of Better Business Bureaus
4200 Wilson Boulevard, Suite 800

Arlington, VA 22203-1838
Contact your local bureau
http://www.bbb.org/

Q 23. *Where can I get more information?*

A In addition to the governmental agencies and organizations set forth in Question 22 above, there are many other references and resources available on mortgage fraud.

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