

Realtor Risk Management and Consumer Protection Forum

Submitted by: Bruce Engles, C.A.R. Director.

The mission statement of this forum is “ *To provide a forum to identify trends and issues that may be, or are, putting REATORS and/or their clients at risk, to educate REALTORS, and to provide information to other C.A.R. Committees as appropriate.*”

We had a special Mortgage Fraud Panel moderated by Attorney John Giardinelli of the Giardinelli Law Group. The Panel members included DRE commissioner Jeff Davi, Jim Larsh and Investigator for the Riverside County District Attorney’s office, Jim Keith a Realtor member from the Ventura County Coastal AoR and Gene Wunderlich a Realtor member from the Joint Fraud Task Force of the IVAR and Southwest Riverside County AoR.

The panel members updated the Forum on what action the DRE, Riverside District Attorney and the Ventura County District Attorney’s offices were doing to combat and prosecute Mortgage Fraud. The panel went over several cases in both Riverside and Venture Counties where people have been prosecuted and sent to prison for mortgage fraud. DRE Commissioner Davi mentioned that there had been several stories recently in the Inland Empire newspapers about both Mortgage Brokers and Real Estate Agents who have been sent to prison because of Mortgage Fraud.

The Contra Costa region reported that the local city Code Enforcement officers were driving around collecting flyers from in front of homes for sale and if the flyer mentioned any new additions or remodeling the Code Enforcement officers were checking to see if those improvements were done with the correct permits.

Other regions reported problems with out of area Appraisers not being familiar with the area in which the property to be appraised was located resulting in low appraisals.

Gov Hutchinson from CAR Legal gave a brief summary of the new laws effecting Realtors and suggested that we all go to the CAR web site and view all the new Q & As that are available there.

He also cautioned agents that are involved in Short Sale Transactions to be careful that if anyone pays any money to a 2nd lien holder “outside of Escrow or out to their commission” so that the 2nd lien holder agrees to a Short Sale, to be sure to inform the 1st lien holder of that fact. If anyone pays money to a 2nd lien holder without the 1st lien holder being informed they could be guilty of Federal Loan Fraud. Which may carry a very severe penalty? He further suggested that any notification to the 1st lien holder be done in writing and kept in your file.

Other areas of concern during a Short Sale transaction are when the 1st lien holder does not give a Full and Complete Release of liability to the mortgagee when the lender agrees to accept a short sale. This limited release could allow the lender to go after the mortgagee for any balance owed the lender at some future date. Agents should be sure to refer their Short Sale clients to an Attorney or Accountant before deciding to accept the lenders terms during a Short Sale. And to

make sure agents get acknowledgement from the seller in writing that the agent has recommended that the client see an Attorney or Account before agreeing to accept any Short Sale agreement from their lender.