What I've Learned from Criminal Complaints

The Common Failures of Appraisers, Agents, Lenders and, Escrow

I'm a real estate appraiser, like many others. I'm also an expert witness tasked with helping courts understand the lending and appraisal business. While one side or the other may hire me as the expert witness, I'm required to be an unbiased third party, there to help the **court** (the trier of fact) understand the issues. Many of you may know me because you've attended my class ***How To Identify And Prevent Real Estate And Mortgage Fraud.*** I've also provided special versions of the class to prosecutors, law enforcement and, Homeland Security. I feel fortunate, to be asked to assist the prosecution, as often as the defense, in fraud cases against lenders, AMCs, appraisers, agents and, borrowers.

In reviewing many of these loan files, appraisals, cases, complaints and, indictments I've discovered a pattern that I'd like to share with you. I'm hoping that by understanding the patterns, you can avoid becoming involved, or as indictments often state a co-conspirator.

Commonality - APPRAISERS

The entity ordering appraisals look for and use appraisers who:

- Supply simple, minimalist reports that, for the most part, overlook problems with the property. (External or functional obsolescence, bad roof, unfinished rooms, etc.)
- Never describe the property as being anything less than average condition (C4).
- Fail to provide support for their adjustments.
- Downplay the superiority of the comparables. (Fail to mention a view or superior cond.)
- Are capable of delivering appraisals at a phenomenal rate (2-3 per day, in complex areas).
- Do not ask for or demand a complete copy of the purchase and sale agreement.
- Fail to properly question or adjust for concessions given by the seller to the buyer ($400,000 cash back to the buyer in one file I'm reviewing).
- Charge less than $450 for typical 1004 appraisals.
- Rarely ever increase their fee even if upon inspecting the property they determine that it's very complex and may take a week+ to appraise. (They don't want to upset their client)

- For the most part, the appraised value is exactly what the client/AMC/lender needs.
- Fail to appraise the property under the federally required definition of Market Value.
- Make changes to the appraisal, whatever, whenever, the lender/client asks, even if the request is illegal.

In other words, unethical or bad lenders/AMCs/mortgage brokers are looking for compliant easy-to-push- around wimpy appraisers. They often comment on how good these appraisers are. Of course good to them is if the appraisal hits value and they can obtain loan approval. They rarely care if the appraisal was created properly or is accurate – well, at least until the auditors show up or the buy-back demands hit.

Commonality - LOAN ORIGINATORS

In the criminal cases I've reviewed so far this year, the mortgage brokers/loan originators usually:

- Use the same two appraisal companies for every bad/bogus loan
- They help borrowers hide facts concerning the down payment, occupancy and, income
- Rotate among the same 2-3 lenders for EVERY dirty, bogus, information packed loan. They absolutely knew that the borrower and appraisal were bad. They seek out lenders most likely to accept bogus loan packages. And once they find the compliant lender, they flood that lender with hundreds, of bad loan packages
- Use the same escrow company. The escrow company is usually known for **not** asking too many questions or filing SARs reports

Once indicated or sued, **always** claim:

- That's how I was taught
- That's not illegal - we've done it this way for years
- I'm not responsible for the lies of the borrower
- I'm not responsible for the bad appraisal. The appraisers licensed, not me, so go after him.
- They did it, not me.

Commonality - LENDERS

It's interesting who the crooks use. Usually it's a lender that has these traits:

- Upper management does not understand the appraisal process and then hire a weak chief appraiser (or fail to listen to a good chief appraiser when they have one).
- Does not provide adequate reviews of the appraisals.
- Has non-certified people critiquing appraisals and making unusual demands on appraisers.
- Has not adequately trained their staff to recognize fraud in the appraisal and loan file.
- Fails to properly audit and test their AMC and appraisers.

- If a bad appraisal is discovered, they fail to turn the bad appraiser in to the state board. (Welcome to WAMU)
- Pays appraisers at the bottom end of the fee range.
- Does not file sufficient SARs (Suspicious Activity Report).

The lenders become known for being easy to work with and they send their Account Executives out to the mortgage brokers to brag about the fact. (Use the Seattletimes.com and search for Westsound Bank)

Commonality - ESCROW

Escrow agents sit in the middle of the storm and have a massive amount of information and documents crossing their desk. Bad mortgage brokers, lenders, agents and, deals are often thrown out of good escrow companies. As a result they often end up with shady escrow companies. Here are their common failures:

- Poorly trained staff
- Staff that job hop, moving between companies on a yearly, or less, basis
- Have not been properly trained to identify real estate and mortgage fraud
- Have been told that if they see a fraudulent transaction, they are to keep their mouth shut and just close the deal
- Fail to properly file a SARs
- Fail to send **all** documents to the lender for final approval
- Prepare **two** sets of HUD-1s. One set is the actual closing documents the other is sent to the lender for approval. Misrepresentation at a basic level.
- Allow large transfers of money **from** the seller **to** the buyer or non-related third-party
- Allow the seller to provide the buyer with the down-payment, sometimes right there at the closing table
- Poor accounting and reconciliation

Commonality - AGENTS

Agents often write up earnest money agreements that include all sorts of strange addenda. Common traits of the agents that are involved in fraudulent sales:

- Poorly trained
- Have not taken classes on how to identify and prevent real estate and mortgage fraud.
- Have taken classes by the get-rich-quick-gurus who talk about ways the buyer can receive cash back at the closing table. (Most are illegal by the way)
- Create addendums that allow for money to be transferred from the seller to the buyer to pay for Down-payment assistance, repairs or excessive closing costs.
- Allow a car or other personal property to be transferred from the seller to the buyer.

- For some darn reason, the agent fails to provide these unusual addendums to the loan originator, bank or appraiser.
- Hide or fail to mention negative facts about the neighborhood or property that's being sold.
- After being fired from a good real estate brokerage, they go to work for body shop real estate companies. The body-shop companies load up on as many agents as they can stuff into their offices and management rarely provides adequate.....if any oversight of their agents or transactions.
- Often the body-shop real estate company has been subject to multiple disciplinary actions by the state.
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I could go on for another page or two on each of the parties.... and don't get me started on the seller, buyer and borrowers part in these frauds. I cover these and other issues when I provide anti-fraud and SARs training. My hope is to keep you safe from bad behavior..... so that people like me don't have to read your loan file or appraisal looking for problems.

The major lessons learned?

Bad behavior moves to where people fail to look close. If you are ignorant of fraud, look away or, allow bad behavior to exist, the more likely it is that the ignorant, crooks and, schemers **will find you**.

The more you train, become aware of misrepresentation, scams and regulations, the less likely you are to be sued or indicted.