# Recognizing The Warning Signs When Real Estate Agents Commit Fraud

As more REO properties go on the market, some real estate agents have resorted to unsavory tricks that hurt servicers.

**By Ronald Jasgur**

As a long-time Realtor, I have seen some pretty egregious transgressions in the moral code of selling a house. And believe it or not, it is happening right under our noses.

Distressed real estate has grown into a huge chunk of the marketplace, and fraud is running rampant throughout our industry. As real estate owned (REO) properties and short sales increase in volume, it becomes easier for real estate agents to commit fraud. Indeed, they are getting savvier, sneakier and more sophisticated at pulling the wool over servicers' eyes.

Fraud reigns supreme in the distressed market because there is no personal ownership of these assets. Servicers do all the right things - requesting broker price opinions (BPOs) and appraisals, practicing due diligence, maintaining a property and selling it for the price deemed fair - but every single step is done remotely, by computer. There is no smelling, feeling or policing of what's actually going on.

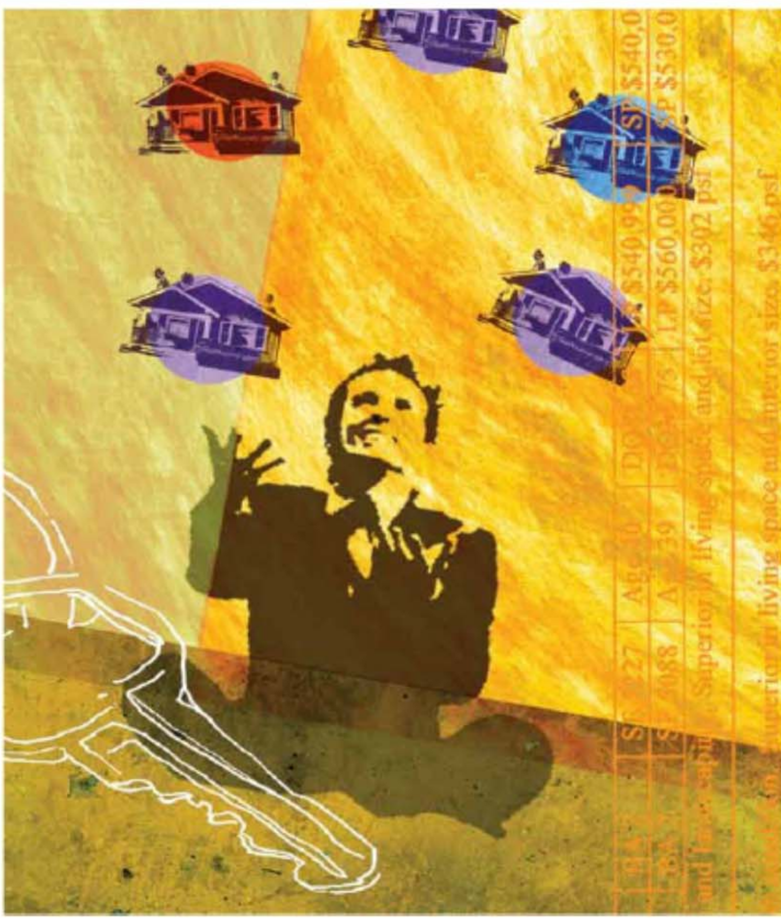
Relying on an agent hired to be your eyes and ears on the street requires a huge amount of trust and faith - and in this day and age, that trust is increasingly misplaced. It's the fox guarding the hen house.

Ask yourself: Do you have time to dig deeper, to lift up the hood and see what's happening inside? You would never hire someone to work in your office whose hand you didn't shake and whose references you didn't call. Why are you doing that on the street?

And if it were your house, where you raised kids and painted the walls, you would take every precaution to do it right, right? You wouldn't tolerate a sale price below what you could sell the property for. You would want to know the person representing your house, and you would watch every step of the process with eagle-sharp eyes.

Only in the past few years has the word "fraud" become associated with the distressed marketplace. With the explosion from dozens of REOs to hundreds of thousands, it is a challenge to move the glut of inventory quickly and efficiently through the process.

But there's a wrinkle: Because of this



vast inventory and the shenanigans at street level, buyers and agents are realizing there is no point in looking at certain agents' listings. Fannie Mae devotes an entire department to investigating claims by buyers and agents demanding to know why lower offers were accepted or why theirs were ignored. Only systems that collect every offer and ensure that each offer gets reviewed can restore some of the veracity this industry was built on.

How exactly do agents commit fraud? Here are some strategies that servicers need to recognize:

**Placing a sign in the yard before a property is officially available.** Sometimes, weeks or months before a property is listed, the agent drives that sign into the grass to see if he can attract someone for a good double-dip. He's not waiting for the bank's nod of approval; he's showing the house to anyone and telling prospective buyers their offer will get in at the top of the heap if he represents them. Who would know?

Recently, I helped my brother buy a new house, and we saw this firsthand. One property he wanted to see had a sign in the yard for three weeks before the agent listed it on the multiple listing service (MLS). When it hit the MLS, it was marked as not available. Truth is, it never was.

Why encourage buyers to contact you when you have no intention of faithfully showing them the possibility of buying a property? It's not only unethical; it's against the law.

**Discarding or withholding offers from other agents.** A listing agent shuffles offers from buyers he does not represent, or which are higher than his client's, underneath the pile, perhaps even forgetting to submit them to the bank. Today, the best offer may not be the one the bank gets to see. Sometimes it has nothing to do with double-dipping. It may simply be that the agent doesn't like the other agent, feels the transaction would be difficult, or has a secret prejudice against the buyer or buyer's agent and quietly says, "I don't want to deal with them."

**Receiving kickbacks on property maintenance or repairs.** Agents are making money hand over fist by hiring cousins, friends and partners - or themselves - to maintain properties. Often, they don't even complete the work - they just pocket the cash.

I can attest to this: When clients of ours came to town to see some of their distressed properties, we took them to houses they'd been paying to maintain, and the lawns were not landscaped - the grass reached as high as our knees. One house was in perfect condition, but when we arrived at the door, a neighbor barreled out of his abode to demand what we were doing there. We explained these were folks from the bank that owned the property, and only then did we learn that he had been mowing the lawn for a year.

Sometimes, a bid comes in from a limited liability company to purchase or maintain a distressed asset. Little does the bank know that it is really the listing agent hiding behind another company.

**Deliberately misleading the true value of a property.** An agent may highlight needed repairs that really don't exist, simply to suggest a property is worth less than it is. We see low BPOs all the time, or incorrect comps including wrong school districts, different footage or room info in the MLS, and other important information that determines a house's value.

When a property is listed wrong in the MLS, it can be a deliberate move on an agent's part to hide it from true buyers. For instance, agents may list a four-bedroom house as having three bedrooms. They can tell the bank they did not get any offers and submit the offer of a friend, and the asset manager never knows the real reason no offers came in.

**Stonewalling other agents or prospective buyers.** When a property does get through and people are interested, some agents simply don't respond. No information provided, no showings set. This begs for a "secret shopper" plan, where banks assign people to call as if they are buyers and see exactly how their assets are being handled.

**Misreporting sales prices to keep values low.** This especially happens when agents have a sister, cousin or friend who wants to buy the house cheap and then flop it. I can't fault the listing agents, sometimes. They rationalize that if the bank got its desired list price, who was hurt? But it would change the game if the bank knew an owner-occupant was willing to pay more to live there and bring up the value of the neighborhood.

Often, after a sale completes, agents list the sold price in the MLS as way lower than it actually was. All this does is keep prices depressed so the agent's friend or cousin can buy other properties in the neighborhood for less. It'll never pop up on anyone's radar.

The same fraudulent things happen in the short sale space, too, although not so much in the maintenance of properties. We see more MLS manipulation and other egregious omissions.

**Staging a property to make it seem more distressed.** An agent may take photographs for a BPO on a short sale and coach the seller by saying, "Leave the beds unmade, throw water on the walls so they look stained, put water in the basement, let's rip a gutter down, let's knock the mailbox over." It makes the property look more distressed than it actually is.

Why would a real estate agent do this? In a short sale, there is no allegiance to the bank; the bank is just a roadblock, so some agents are doing whatever they can to get the bank to agree to a lower price.

**Hiding offers or submitting the lowest offer.** Maybe an agent has five or six offers, and rather than submit the best offer, he will send the lowest to see if the bank will take it. If it does, the low offer usually comes from an investor who intends to flop it to the highest offer. If the agent is in on the game, he will make money on both ends. There is collusion all over the place, even with appraisers. Watch out.

**Submitting BPOs using only the lowest comparable sales.** We see appraisals coming in lower than they should - they do not mention that the house is on a lake, or they downplay a property's great qualities. Or, they overlook a higher sale of a private-owned property down the block, which would sway the value and help the market start to recover.

It is like the Wild West in today's distressed asset real estate market, and the sheriff hasn't rolled into town yet. But there are ways to resolve most of these problems. If banks were to utilize secret shopper or secret agent programs, and engage other agents to police the MLS, drive by properties and act as the honest eyes and ears for the bank, things would start to shift.

Fannie Mae created a Secret Shopper Program in March 2010 to provide insight into how its agents interact with prospective home buyers. In June 2010, the government-sponsored enterprise released initial findings that revealed just how poorly listing agents were performing:

- 60% of direct Fannie Mae brokers and 57% of outsourced listing agents did not respond to requests for information within 24 hours; 35% of the time, the agent/broker did not respond at all after multiple attempts to make contact.
- For those that did respond to an email, 36% of the outsourced agents and 50% of the direct brokers did not respond with the information requested.
- When asked for more information on Fannie Mae's HomePath Renovation Mortgage, 21% of the outsourced agents and 23% of Fannie Mae direct brokers could not provide information in a clear, competent manner.
- When contacted, 59% of outsourced agents and 71% of direct brokers did not ask the caller about his or her specific needs.

Yes, the results are eye opening, especially when you consider that Fannie Mae's expectations are not very high to begin with. But its program falls short in that the majority of agent interaction in real estate happens among agents, not between an agent and a potential customer.

How agents work with other agents should be of utmost importance when creating a scoring model. Important information to know includes the following:

- Does the MLS reflect the actual status of the property?
- Does the MLS reflect the actual characteristics of the property?
- How easy (or difficult) is it to schedule a showing appointment?
- How long does it take for the agent to respond to information requests from other agents?
- Is the lawn maintained or the snow plowed?

In order for a secret shopper program to work, it has to involve someone who has no skin in the game and isn't being compensated for selling the property, but who cares enough to give an objective opinion. For as many poor listing agents as there are today, there are even more agents who are passionate about making sure that every agent and buyer is treated equally, with respect and integrity. And there are plenty of great agents who deserve more business.

When everything is fair, when we can level the playing field, we can start to see the market begin its long-awaited recovery. It's not just about the banks and the agents; the silent majority of homeowners are in underwater homes, still faithfully paying their bills. They're waiting, and waiting, for the market to gasp to life again and begin a recovery that puts our society back into an upward trajectory.

Lenders need to use third-party field services companies, too, to take care of their properties. The major lenders are already doing it; it's the smaller ones that are still relying on the Good Old Boys network, where word is king and trust is blind.

The good news is that fraud and this apparent lack of responsiveness in the distressed sale space are beginning to get the attention they require. Outsourced asset managers and listing agents should take note: If you're doing a poor job, you'll lose business.

We've already seen our clients disapprove vendors and move inventories away from bad asset managers. We've seen listing agents with dozens of active listings lose them all at once without warning.

Distressed sales will be with us for a while. And yes, properties are moving. But it is one thing to say you are selling everything and that your agents are awesome; it's another thing entirely to back it up with facts and statistics that prove you're not only getting what you pay for, but that you're doing everything you can to ensure losses are fully mitigated for the investor and that you are willing to do whatever it takes to help turn this market around. SM

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