

BERENS, KOZUB & KLOBERDANZ, PLC
Attorneys at Law

7047 E. Greenway Parkway, Suite 140 · Scottsdale, Arizona 85254
Telephone (480) 624-2777 · Facsimile (480) 607-2215 · e-mail: wkozub@bkl-az.com

William A. Kozub, Esq.

June 9, 2008

Derek Jarr
Done Deal Solutions, LLC
1 (866) 601-5953

Re: Review of Business Model and Transaction Documents

Dear Derek:

I have reviewed your recent emails concerning the opposition you have been encountering with the structure of your business. It is clear from the emails I have reviewed that your business model, and specifically the use of a trust in the first leg of the real estate transactions, is causing concern to others in the real estate community. It is clear from the comments in the various emails I have reviewed that the criticisms arise from the fact that the use of trusts in real estate transactions over the past few years has often been a red flag of fraudulent behavior. Many of the criticisms also question whether you are in compliance with California's statutory scheme for purchasing home facing foreclosure, and whether you are providing proper disclosure.

Please allow this letter to do the following:

1. Explain to you the type of fraudulent real estate transactions that have been occurring over the past few years, and how trusts were involved in these fraudulent activities. It is my hope that this will allow you to better understand the origin of the opposition to your business model, as well as be able to explain to the sources of this opposition that your business model is different, is premised on full disclosure, and is simply not fraudulent.
2. Review your business model and transaction documents under the new requirements of the California State statutory scheme for pre-foreclosure purchases. Again, it is important that those who criticize your business model both understand that there exists a strict statutory scheme regulating your business practices and that you are in compliance with these legal requirements.
3. Provide an analysis of the disclosure duties that exist between the various parties in this transaction. Because you have a complex business model, I anticipate many people will become confused on the issue of when does a duty of disclosure arise, and to whom is the disclosure duty owed.

Addressing this first question, and as explained below in greater detail, your business plan uses a trust that is fully disclosed to the homeowner and the short sale lender. The trust structure is protective of the homeowner until closing and is not used as a vehicle to deprive the homeowner of control of the property until a closing actually occurs. Through the trustee, the homeowner can

terminate the transaction at any time prior to the close of escrow. There is simply nothing fraudulent in the use of the trust structure as disclosed in the transaction documents.

In addition, your documents are in compliance with California's statutory scheme for a distressed home purchaser. And as explained below, your business practices do not make you a distressed home consultant. The statutes for these two activities are explained in detail below for your confirmation of this fact.

Finally, concerning the third issue, while each transaction is different and will give rise to specific needs for disclosure that cannot be anticipated in advance, the transaction documents you are using do provide complete disclosure of the nature of the transaction, the structure of the transaction, and the risks to the homeowner. In addition, the documents make it clear to both the homeowner and the short sale lender that you are purchasing the property for the express purpose of reselling for a profit.

HISTORICAL PERSPECTIVE

Prior to the current downturn in the real estate market, and most notably during the recent period of large appreciation, the real estate industry was presented with the problem of homeowners who had sizable equity in their homes being victimized by scam artists who engaged in real estate transactions designed to steal homeowner's equity. Over the past few years, successful scam artists stole the equity homeowners had built up in their homes. These predatory transactions often were conducted by individuals who marketed themselves as "foreclosure rescuers". Such individuals often made the marketing pitch that they could "stop foreclosure with just one phone call," or "provide instant debt relief and cash". The practice of engaging in fraudulent real estate practices aimed at acquiring a homeowner's equity became known as "equity skimming."

There were many methods of performing an equity skimming transaction. Regrettably for your business practice, many of these equity skimming transactions involved the use of a trust as a component in the fraudulent transaction. The result of this is that many real estate professionals will immediately become suspicious of any transaction involving a trust. While the use of trust is neither fraudulent or not, it has become "guilty by association."

Some foreclosure rescuers would lend money to homeowners but structure the lending transaction as a sale with a lease-back agreement. Others use a bait-and-switch scheme in which the homeowner facing foreclosure unknowingly signs documents that actually surrender home ownership. Both of these schemes often began with the homeowner transferring their home into a trust and the immediate and simultaneous assignment of the beneficial interest in the trust from the homeowner to an associate of the foreclosure rescuer scam artist. From the moment the trust was created and the beneficial interest in the trust transferred, the homeowner lost control of their home. The homeowner gives ownership to a trust, often bearing the name of the homeowner, and transferring the beneficial interest in the trust. This lack of control would generally prevent the homeowner from seeking any other remedy to their default. (I will address it further below, but keep in mind that your documents allow the seller in your transactions to retain the beneficial interest in

the trust until closing, to retain the unilateral right to cancel the transaction at any time until the closing, and/or finally, to remove the home from the trust at any time prior to closing.)

Under this arrangement, the home would usually experience one of two fates. First, the home might not sell and the foreclosure rescue scam artist would not live up to promises made to cure the default. This would lead to the homeowner losing title, and thus losing all other opportunities to resolve their default prior to a foreclosure. Alternatively, the documents might provide for the sale of the property for less than the fair market value, the homeowner receives little or no money from the sale, and the foreclosure rescuers often forge documents to effectuate the transfer of ownership. The homeowner remains in the home as a renter with an option to repurchase it at a later date. The terms of the agreement are so onerous, however, that homeowners often default within a few months and are eventually evicted. The end result is that the homeowner loses both the home and all of its built-up equity.

Yet another form of foreclosure rescue scam was merely profit from the homeowner's financial crisis by charging an up-front fee to negotiate a deal with the lender by submitting a proposal to reduce the arrearage in mortgage payments, but the "negotiations" are so minimal that the homeowner could have easily done the same. These proposals usually raised the homeowner's monthly mortgage payment, yet the foreclosure rescuer often failed to verify whether the homeowner has sufficient income to make the payment. Homeowners who fall victim to this fraud were financially worse off for having paid a worthless fee, and still lose their homes. This particular form of fraud has led to the foreclosure consultant regulations discussed below but which do not apply to you.

While I could explain in greater detail how the various foreclosure rescue scams operate, I do not wish to make this letter a step by step instruction manual for how to commit real estate fraud. I believe it is merely important to note that each of the fraud schemes I have briefly described were often found to utilize a trust in an effort to obtain immediate and total control over the property. However, it is important to note that the use of a trust in a real estate transaction is not, in and of itself, inappropriate. It is merely a vehicle to accomplish a transaction. What is important is how the trust is used and whether the transaction in which it is used complies with the law. Regrettably, you will have to find a way to overcome the bias against trusts that has arisen as a result of the historical fraudulent conduct identified above. In my own experience I find that residential real estate agents are often limited in their comfort zone to the form documents used in their daily practice.

CALIFORNIA STATUTORY SCHEME

Many states have taken steps to address these foreclosure rescue scams and have enacted statutes regulating "foreclosure consultants" and purchasers of properties facing foreclosure (called "equity purchasers." Your transaction documents have been drafted to comply with these legal requirements. California contains within its statutory scheme a series of laws that regulate foreclosure consultants (California Civil Code Section 2945-2945.11) and equity purchasers (California Civil Code Section 1695-1695.17.

Under California law your business model does not make you a foreclosure consultant. However, your business activities do make you an equity purchaser as the term is used under California law (California Civil Code section 1695.1). As explained below, your documents are in compliance with the laws of California on this subject.

Your Business Model Is A Distressed Home Purchaser. The California law regulates the purchase of homes that are facing foreclosure or a “residence in foreclosure.”

California Civil Code section 1695.1(a) defines an equity purchaser to mean any person who acquires title to any residence in foreclosure. A “residence in foreclosure” and “residential real property in foreclosure” is defined by California Civil Code section 1695.1(b) and means any residential real property consisting of one- to four-family dwelling units, one of which the owner occupies as his or her principal place of residence, and against which there is an outstanding notice of default commencing a foreclosure action.

There are exceptions to the definition of an equity purchaser that you should be aware of. First, the concept of an equity purchaser does not apply if the person buying the residence is intending to use the residence as their personal residence. Cal.Civ.Code section 1695.1(a)(1). Second, the concept does not apply when the sale is “from a spouse, blood relative, or blood relative of a spouse.” Cal.Civ.Code section 1695.1(a)(6). Finally, it does not apply when the seller does not use any of the property as a principal place of residence. Cal.Civ.Code section 1695.1(b).

A contract in an equity purchase transaction is defined as “an offer or any contract, agreement, or arrangement, or any term thereof, between an equity purchaser and equity seller incident to the sale of a residence in foreclosure.” Cal.Civ.Code section 1695.1(e).

Based upon these definitions, I believe you are an equity purchaser. However, based upon the definitions, I believe we have a defensible argument that the first leg of your transaction does not constitute an equity purchase. However, in light of the fact that you provide rescission rights greater than those mandated by the statute, I have drafted your documents to be in compliance with the equity purchase regulations.

California law requires that every equity purchase contract be written in letters of a size equal to 10-point bold type, in the same language principally used by the equity purchaser and equity seller to negotiate the sale of the residence in foreclosure and shall be fully completed and signed and dated by the equity seller and equity purchaser prior to the execution of any instrument of conveyance of the residence in foreclosure. Cal.Civ.Code section 1695.2 Because of the specific formatting requirements, I strongly encourage you to not provide any employee, student or seller with an electronic copy of the document that would allow the format, font size or bolding to be changed. Your documents currently meet these formatting requirements but it is possible someone else may modify your documents not knowing the importance of the various formatting issues.

In addition, please note that California Civil Code section 1695.3 contains extensive contract requirements, including the requirement that every contract shall contain the entire agreement of the

parties and shall include the following terms: (a) the name, business address, and the telephone number of the equity purchaser; (b) the address of the residence in foreclosure; (c) the total consideration to be given by the equity purchaser in connection with or incident to the sale; (d) a complete description of the terms of payment or other consideration including, but not limited to, any services of any nature which the equity purchaser represents he will perform for the equity seller before or after the sale; (e) the time at which possession is to be transferred to the equity purchaser; (f) the terms of any rental agreement; (g) a notice of cancellation as provided in California Civil Code section 1695.5; and (h) the following notice in at least 14-point boldface type, if the contract is printed or in capital letters if the contract is typed, and completed with the name of the equity purchaser, immediately above the statement required by California Civil Code section 1695.5:

NOTICE REQUIRED BY CALIFORNIA LAW

Until your right to cancel this contract has ended, _____
(Name) or anyone working for _____(Name) CANNOT ask you
to sign or have you sign any deed or any other document.

The contract shall contain in immediate proximity to the space reserved for the equity seller's signature a conspicuous statement in a size equal to at least 12-point bold type, if the contract is printed or in capital letters if the contract is typed, as follows:

"You may cancel this contract for the sale of your house without any penalty
or obligation at any time before: _____, 2008 (Date and time of day)
See the attached notice of cancellation form for an explanation of this right."

The equity purchaser must accurately enter the date and time of day on which the rescission right ends. Then, the contract must be accompanied by duplicate notices of cancellation in the following form.

"NOTICE OF CANCELLATION
_____(2008)
(Enter date contract signed)

You may cancel this contract for the sale of your house, without any
penalty or obligation, at any time before _____ 2008.
(Enter date and time of day)

Note: California law provides that this date must be no sooner than
midnight of the fifth business day following the day on which the
Seller signs, or until 8 a.m. on the day scheduled for the sale of the
property pursuant to a power of sale conferred in a deed of trust,
whichever occurs first.

To cancel this transaction, personally deliver a signed and dated copy of this cancellation notice, or send a telegram to: _____ (Name of Purchaser) at _____ (Street address of purchaser's place of business), this notice of cancellation or a telegram must be received by Purchaser NOT LATER THAN: _____ 2008. (Enter date and time of day)

I, the Seller, hereby cancel this transaction on today's date, _____ 2008.

You must provide the seller with a copy of the contract and the attached notice of cancellation at the time the contract is executed by all parties. The seller has five-business-day period during which the seller may cancel the contract and this time does not begin to run until all parties to the contract have executed the contract and the distressed home purchaser has complied with this section.

Derek, the right of rescission required by California law is as follows. The seller has the right to cancel any contract with you until midnight of the fifth business day following the day on which the seller signs a contract that complies with this law or until 8:00 a.m. on the day scheduled for the sale of the property, whichever occurs first. Your documents provide the homeowner a cancellation right that is significantly more protective of the homeowner than the rights offered by the California State statutory scheme. In you documents, the homeowner can cancel the transaction at any time prior to the close of escrow. Accordingly, you not only meet the California requirement, but you exceed it.

I do make the following cautionary note. California Civil Code section 1695.6(b) provides that until the time within which the equity seller may cancel the transaction has fully elapsed, the equity purchaser shall not do any of the following:

- (1) Accept from any equity seller an execution of, or induce any equity seller to execute, any instrument of conveyance of any interest in the residence in foreclosure.
- (2) Record with the county recorder any document, including, but not limited to, any instrument of conveyance, signed by the equity seller.
- (3) Transfer or encumber or purport to transfer or encumber any interest in the residence in foreclosure to any third party, provided no grant of any interest or encumbrance shall be defeated or affected as against a bona fide purchaser or encumbrancer for value and without notice of a violation of this chapter, and knowledge on the part of any such person or entity that the property was "residential real property in foreclosure" shall not constitute notice of a violation of this chapter. This section shall not be deemed to abrogate any duty of inquiry which exists as to rights or interests of persons in possession of the residential real property in foreclosure.

(4) Pay the equity seller any consideration.

I am concerned that subpart 2 above may mean that the property may not be transferred into the selling trust until five days have elapsed from the date of the signing of the contract. Because of the ambiguity on this issue, I advise that the transfer by the seller of the property into the seller's trust not occur until the sixth day following the execution of the contract by seller. However, nothing in this law prohibits the immediate creation of the trust.

The documents for your business plan comply with the requirements of California law. The criticisms that your documents do not meet the statutory requirements are simply groundless.

You are Not a Foreclosure Consultant. Derek, several of the emails I have reviewed criticize your business plan on the wrongfully assumption that you to be in violation of the statutory provisions governing foreclosure consultants. Please understand that the California statutory scheme is complex and it appears that many of the criticisms of your plan arise from this complexity and the apparent confusion between being a distressed property consultant and a distressed home purchaser. However, assuming you do not engage in any of the prohibited activities, your plan will not make you a foreclosure consultant.

The definition of a foreclosure consultant in California is found at California Civil Code section 2945.1. California law defines a foreclosure consultant as any person who makes any solicitation, representation, or offer to any owner to perform for compensation or who, for compensation, performs any service which the person in any manner represents will in any manner do any of the following:

- (1) Stop or postpone a foreclosure sale.
- (2) Obtain forbearance from any beneficiary, or mortgagee.
- (3) Assist the owner to exercise the right of reinstatement provided in the Section 2924c.
- (4) Obtain any extension of the period within which the owner may reinstate his or her obligation.
- (5) Obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a deed of trust or mortgage on a residence in foreclosure or contained that deed of trust or mortgage.
- (6) Assist the owner to obtain a loan or advance of funds.
- (7) Avoid or ameliorate the impairment of the owner's credit resulting from the recording of a notice of default or the conduct of a foreclosure sale.
- (8) Save the owner's residence from foreclosure.
- (9) Assist the owner in obtaining from the beneficiary, mortgagee, trustee under a power of sale, or counsel for the beneficiary, mortgagee, or trustee, the remaining proceeds from the foreclosure sale of the owner's residence.

As long as you avoid performing these services for compensation, you should not be found to be a foreclosure consultant. Your business activities, based upon the information provided to me, and as revealed by the business documents, do not make qualify your business as foreclosure consultant. Many of the emails I have reviewed raise the issue that you have failed to comply with the law on this subject. I believe the sentiments reflected in these emails are incorrect and arise from the fact that the law is new, many of the people reading them have not focused on the precise language of the rather complicated statute, and a general fear on the part of real estate professionals to venture outside there areas of comfort.

Because you are not a distressed home consultant, you do not need to comply with California Civil Code sections 2945 through 2956.11.

GENERAL DISCLOSURE CONCEPTS

Much of the criticism of your business models includes the allegation there is some type of failure to disclose in your business model. I have not been able to identify such a failure, and find that many of the emails that question your business practice simply do not accurately state the law of disclosure.

Seller's Duty to Disclose. It is true that Seller's of real property have an affirmative duty to disclose material facts to a buyer where:

1. Seller is in possession of material information concerning the transaction or the property being sold;
2. Disclosure is necessary to prevent a previous assertion from being a misrepresentation or from being fraudulent or material;
3. Disclosure would correct a mistake of the other party as to a basic assumption on which that party is making the contract and if nondisclosure amounts to a failure to act in good faith and in accordance with reasonable standards of fair dealing;
4. Disclosure would correct a mistake of the other party as to the contents or effect of a writing, evidencing or embodying an agreement in whole or in part;
5. The other person is entitled to know the fact because of a relationship of trust and confidence between them.

Real Estate Broker's Fiduciary Duty to Client. As a general matter, a real estate broker's liability to a buyer or seller is framed by the question, "Does the broker have a fiduciary relationship with the party"? If the broker is acting as the agent for a party, the broker owes that party a fiduciary obligation comprised of the duty of utmost good faith, integrity, honesty and loyalty, as well as the

duty of due care and diligence.

More specifically, with some limitation, the law generally provides that a real estate broker must exercise reasonable care and diligence to effect a sale or purchase to the best advantage of the broker's principal. A real estate broker bears a duty to make a full, fair, and timely disclosure to the principal of all facts within the broker's knowledge which may fairly be deemed to be material to the transaction or to affect the principal's rights and interests. A broker is under a duty to disclose to his client information which he possesses pertaining to the transaction in question.

In addition, Restatement (Second) of Agency ' 381, at 182 (1958), provides as follows:

"Unless otherwise agreed, an agent is subject to a duty to use reasonable efforts to give his principal information which is relevant to affairs entrusted to him and which, as the agent has notice, the principal would desire to have and which can be communicated without violating a superior duty to a third person."

Disclosure Duties Outside a Fiduciary Duty or Contractual Duty. A seller has disclosure duties outside that of the buyer/seller relationship that arise from the following legal theories. In addition, even if a real estate broker has no fiduciary relationship with a particular party, the broker may have a duty of disclosure based upon one or more of the following legal theories and laws. In short, even when a seller or a broker have no special relationship such as a fiduciary relationship with a particular party, the seller or broker's liability arguably may be based upon one or more of the following legal theories and laws.

1. Intentional misrepresentation. A seller or broker may be liable to other parties in a transaction for making an intentional misrepresentation. The requirements for an intentional misrepresentation or fraud claim should be the same as the traditional requirements for such claims. Generally, a party must establish that the party's misrepresentation was intentionally made and material, and the party receiving the misrepresentation justifiably relied on the statement, suffering damages proximately caused by such misrepresentation. Generally, a party will also be liable for intentionally failing to disclose a material fact known to the party or for concealing the discovery of such a known fact.

2. Negligent misrepresentation. A seller or broker may be held liable for negligent misrepresentation to another for making a material misrepresentation to the other if the seller or broker knows or reasonably should know that the statement is false, and the other party justifiably relies upon the false statement.

3. Material facts. Generally, the seller or broker is only required to disclose "material" facts to another party. A fact is "material" if it is one to which a reasonable person would attach importance in determining his or her choice of action in the transaction. A misrepresentation is material where it would be likely to affect the conduct of a reasonable man with reference to . . . the transaction in question. @ Obviously, the broker's duty of disclosure to a non-client must be

viewed in light of the broker's fiduciary duty to the broker's client.

4. **Expressions of value.** Generally, absent a special duty imposed by law such as a fiduciary relationship, a misrepresentation must be one of a past or existing fact, rather than a statement of opinion such as value. Mere representations as to value are generally considered expressions of opinion and will not support a claim for fraud. This is significant in the arena of short sale transactions as the actual value of the property is often a matter of guess and estimation. Similarly, vague or indefinite statements are generally not actionable.

DISCLOSURE QUESTIONS ARISING FROM YOUR BUSINESS MODEL

Based upon these general principal so disclosure law, and applying them to the emails I have reviewed criticizing your business model, it appears that the issues of disclosure can be broken into the following questions:

Homeowner's Duties:

1. Duty of Homeowner to Disclose to Homeowner's Short Selling Lender.
2. Duty of Homeowner to Disclose to DDI.
3. Duty of Homeowner to Disclose to End Buyer.
4. Duty of Homeowner to Disclose to End Buyer's Lender.
5. Homeowner's Broker's Duty to Disclose.

DDI's Duties:

6. Duty of DDI to Disclose to the Short Sell Lender.
7. Duty of DDI to Disclose to the Homeowner
8. Duty of DDI to Disclose to End Buyer.
9. Duty of DDI to Disclose to End Buyer.

End Buyer's Duties:

10. End Buyer's Duties to Disclose to End Buyer's Lender.
11. End Buyer's Duties to Disclose to DDI.
12. End Buyer's Duties to Disclose to Homeowner and Homeowner's Short Selling Lender.

Duty of Homeowner to Disclose to Homeowner's Short Selling Lender. A common question in the emails that I have reviewed concerns the disclosures made by the homeowner to the short sale lender concerning the nature of the transaction, and specifically, the fact that you may be selling the property soon after acquisition at a higher price. The fact that you are buying the property as an investment is expressly and clearly stated in the contract, and the contract is provided to the lender as part of this transaction. The Purchase Contract between the homeowner and you expressly states on the first page of the contract, in bold language, the following:

Seller acknowledges that Buyer is an investor and is purchasing the property with the intent of making a profit on its resale in a subsequent transaction.

In addition, the contract states the following, in bold language, on page 3:

Seller acknowledges that Seller will not pay a fee to Purchaser for the negotiation of a short sale transaction. Purchaser's only profit will come from the subsequent resale of the Property.

I do not know how to put this any more direct than this. The criticisms concerning an alleged lack of disclosure to the lender that you are an investor and will make a profit on the resale of the property are simply unfounded and without any merit. A lender simply cannot approve a short sale transaction without seeing the short sale contract, and the contract is clear on this issue. Significantly, this important disclosure is contained on the first page of the contract and not buried in boiler plate in the back of the document.

It should be noted that you, as the short sale buyer, do not have a duty to disclose any information to the lender as you have no relationship with the lender. However, a similar criticism to the one stated above is found in the emails. This is the assertion that the short selling lender will not go forward with the transaction without knowing what your ultimate transaction sales price, and thus profit, will be. Again, this is a criticism without merit. First, you have no legal duty to make this disclosure. In addition, at the time the short sale contract is submitted by the seller to the lender the ultimate resale price (and thus your profit) is not known by you, and is normally never known by the seller.

I caution you that there are times a duty to disclose to the lender on your part may arise. A seller's lender may condition their approval of a short sale on the disclosure of certain information. As discussed above, under these circumstances, a duty to disclose information to the short sale lender may come into existence. However, I have never seen this occur in a short sale transaction I have worked in and find this more of a theoretical possibility than an expected reality. Put simply, my experience is that lenders are agreeing to short sales based on the numbers in the short sale and the lender's weighing the pros and cons of the proposed transactions versus the cost of carrying the property.

One last point is the existence of the use of the trust in this transaction. These facts are disclosed in detail to the short sale lender. The purchase contract provides in numerous locations that a trust is being used and that the transaction is conditioned on the use of the trust. The contract expressly discloses at paragraph 7(B):

Purchaser and Seller acknowledge that this transaction is contingent upon Seller's creation of a trust naming the Seller as the initial beneficiary and in the form approved by Purchaser prior to the Close of Escrow (as defined below) (the "Seller's Trust"). Purchaser may cancel this Purchase Agreement by written notice to Seller if Purchaser does not, in Purchaser's sole discretion, approve of the form and content of the Seller's Trust.

The contract expressly discloses at paragraph 7(C):

After the formation of the Seller's Trust, and prior to the Close of Escrow, Seller will transfer title of the Property into the Seller's Trust by a General Warranty Deed in the form provided by the title company.

The contract expressly discloses at paragraph 7(D):

Close of Escrow shall occur on Seller(s) assigning Seller's beneficial interest in the Seller's Trust to Purchaser or Purchaser's assignee, and Purchaser's acceptance of same (the "Close of Escrow"). Upon delivery of the assignment of beneficial interest in the Seller's Trust, Seller shall relinquish and waive all right to the Seller's Trust and the trust property as defined in the Trust Agreement.

The contract expressly discloses at paragraph 7(E):

Seller acknowledges that the terms of the Seller's Trust are a material inducement to Purchaser proceeding to Close of Escrow, and that any changes in the form or terms of the Seller's Trust may defeat the Purchaser's purpose in this transaction. Accordingly, Purchaser may cancel this Contract by written notice to Seller if, following Purchaser's approval of the form and content of the Seller's Trust, there are any changes or modifications to the Seller's Trust.

Finally, the contract expressly discloses at paragraph 7(F):

Seller acknowledges that the trustee of the Seller's Trust will communicate directly with Seller's lender(s) and negotiate the short sale transaction. Seller agrees to cooperate with the Trustee of the Seller's Trust in accomplishing these negotiations.

As with the issue of your future profit from the resale of the property, every aspect of the creation, use and mechanic's of the trust structure is disclosed in writing in the purchase contract.

Duty of Homeowner to Disclose to DDI. The homeowner has a duty, as explained in the general disclosure section above, to disclose to you all material facts. There is nothing unique in your transaction with the homeowner that alters the traditional disclosure duties that already exist between the buyer and seller.

Duty of Homeowner to Disclose to End Buyer. The homeowner engaging the short sale transaction has no duty to disclose any information to your ultimate buyer as there is no relationship or legally recognized duty to do so.

Duty of Homeowner to Disclose to End Buyer's Lender. Again, the homeowner engaging in the short sale transaction has no duty to disclose any information to your ultimate buyer's lender as there is no relationship or legally recognized duty to do so.

Homeowner's Broker's Duty to Disclose. As explained above, a broker may have a duty of disclosure based on the specific information they learn. But disclosure concerning your future profit and the existence and use of the trust has already been made.

Duty of DDI to Disclose to the Short Sale Lender. The questions have been raised about your duty to disclose the nature of the transaction to the short sale lender as were raised with the duty of the homeowner. And as explained above in the section entitled "Duty of Homeowner to Disclose to Homeowner's Short Selling Lender", no duty exists by you to make any disclosure. Despite this lack of legal duty, the contract you use fully explains the nature of the transaction, the role the trust plays in the transaction, and the fact that you are buying the property with the intent to resell it for a yet unknown profit.

Duty of DDI to Disclose to the Homeowner. Extensive duties of disclosure exist between you and the homeowner. Those duties identified under California's statutory law are addressed above.

In addition to the statutory disclosures, you have a duty to disclose material information to the seller. The most important disclosure is that you are an investor and are seeking to sell the property for a profit in a subsequent transaction. As explained above, this fact is disclosed in clear detail in the purchase contract.

The use of the trust and the manner in which the closing is to occur is also a material item that must be disclosed, and as discussed above, is disclosed in clear detail.

Duty of DDI to Disclose to End Buyer. You will have certain duties of disclosure with respect to the end buyer. While you do not have to disclose the price at which you purchased the property, you will need to make the disclosures that are customary to a residential sales transaction in the California State.

End Buyer's Duties to Disclose to End Buyer's Lender. The end buyer will have the normal and customary disclosures required of a borrower to a lender. However, many have asked if the end buyer must disclose the details of your purchase from the homeowner. As the end buyer does not have access to this information, such a disclosure duty does not exist.

End Buyer's Duties to Disclose to DDI. The end buyer generally has a duty to disclose to you any material information that will make the end buyer unable to perform. Your business model

is irrelevant to the duties of disclosure owed by an end buyer to you.

End Buyer's Duties to Disclose to Homeowner and Homeowner's Short Selling Lender.

The end buyer has no duty to disclose to either the selling homeowner or the selling homeowner's short sale lender.

CONCLUSION

First, your business plan uses a trust that is fully disclosed to the homeowner and the short sale lender. The trust structure is protective of the homeowner until closing and is not used as a vehicle to deprive the homeowner of control of the property until a closing actually occurs. Through the trustee, the homeowner can terminate the transaction at any time prior to the close of escrow. There is simply nothing fraudulent in the use of the trust structure as disclosed in the transaction documents.

Second, your documents are in full compliance with the requirements of the California State statutory scheme for pre-foreclosure purchases. Again, it is important that those who criticize your business model both understand that there exists a strict statutory scheme regulating your business practices and that you are in compliance with these legal requirements. It is equally important for people to understand that you are a pre-foreclosure purchaser of property, not a foreclosure consultant, or "distressed property consultant" and that this means different provisions of California state law apply.

Finally, while each transaction is different and may give rise to specific needs for disclosure, the transaction documents you are using provide complete disclosure of the nature of the transaction, the structure of the transaction, the risks to the homeowner. In addition, the documents make it clear to both the homeowner and the short sale lender that you are purchasing the property for the express purpose of reselling for a profit.

Very truly yours,

BERENS, KOZUB & KLOBERDANZ, PLC

William A. Kozub, Esq.

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Enclosures