

8. "Save Your Home" offers, "Credit repair" & "Consumer Credit Counseling" are scams.

First off, the "save your home" and "debt elimination" offers are designed to take even more money out of your pocket, and despite their claims, (many of which are even illegal) none of them can make a dent with a predatory servicer. Most of them involve marketing offers to recruit others to learn how to make money promoting the schemes.

"Credit repair" doesn't actually do anything but put money in the pockets of the scam artists. Anything they could actually accomplish can be done by a determined and knowledgeable individual. "Consumer Credit Counseling" is nothing more than a collection arm of the lending industry and may even do more damage than good.

9. Get a printed accounting of your loan every year.

Some call these a "loan history," or "transaction history," but all of them have some kind of report they can produce upon written request. Even if they charge you a fee, these are valuable because they represent their view of an entire year's transactions, and if you have it in writing, they can't go back into their "system" and change things in the future.

10. Never reveal personal financial or health information.

Some predatory servicing situations could be prevented if people would not reveal to the servicer that they are having temporary financial or health problems. You are under no obligation whatsoever to tell them anything, let alone why the payment was late or if you're out of work or in bad health. (Again, you can avoid these traps by staying off the phone!)

Of course, when you miss a payment or you can't make the next one, you may think you should tell them why. You probably think they will be sympathetic. Yes, with a responsible servicer it could be a step toward working something out, but with the serious predators all it does is trigger or speed up the process.

The other thing it does is come back to haunt you in the future when and if you have to challenge their view of something in court. They will drag out their notes and explain to the judge how you told them you were having financial difficulty at the time, etc., etc. The negative labels will be brought out and applied at every opportunity.

If you can, take charge of the situation and get the payments in (see number 1.). If you can't make the payments or get caught up, see 11 and 12, below.

11. Don't be too proud to ask for help.

A lot of people are too embarrassed to seek help when they have financial problems even if they didn't bring them on themselves. Understand that when you're victimized by a loan servicing scam that you are probably not entirely to blame for the situation. Do some web research, but there are good web sites and then there are bad web sites. Be careful and be suspicious – don't post personal information or anything that could be used to identify you, but try and learn as much as you can from others who have experience.

In any event, you will probably need an attorney, and your local bar association has a referral service. Some cases may be considered for low or no-cost legal aid. But you will have to educate him or her; most simply can't believe these companies do these things.

12. Consider alternatives carefully.

Maybe your income isn't steady enough to own a home yet. Maybe you have "too much home." Maybe you could sell it before you lose your equity. Is keeping that particular home worth what might be happening to you and your family?

Don't make decisions about a high-cost forbearance agreement or especially bankruptcy without some sound legal advice. If you don't understand the financial ramifications, see number 11., above. When it comes to bankruptcy, realize there are law firms that just process the forms and don't take the time to discuss your situation or offer alternatives. Stay away if they won't provide you with reasonable explanations. And consider that while bankruptcy can delay a foreclosure, it may not do so permanently, especially if your financial condition doesn't improve. *Remember, predatory servicers have a lot of experience in dealing with bankruptcies!*



Do-it-Yourself Owl* Hunting

A guide to dealing with loan servicing scams – 2005 version

By MoosE

The owl is a wily bird that preys on unsuspecting and usually defenseless creatures.

The moose, on the other hand, is a large and fearless creature with a heretofore unheard of penchant for owl stew.



*For those new to the history of loan servicing scams, one of the worst of the predators, Fairbanks Capital (now Select Portfolio Servicing), used the image of an owl in its logo.

Disclaimer:

This is not something designed or prepared by, looked at, read, analyzed, reviewed, approved, blessed or otherwise even passed by an attorney, nor anyone even related to an attorney. Hell, I only know two on a first name basis.

This advice might be worth exactly what you paid for it: Nothing. It certainly isn't something you should consider as legal counsel!

First things first: Legal Agreements.

He who has the gold makes the rules.

The lenders had and still have the gold and their attorneys made up the rules and they still make the rules. And you're probably not going to see new rules that will have any affect on an agreement you've already signed.

So you have to realize you're going to be playing by their rules IF YOU SIGN ANYTHING. Therefore, you and/or someone you trust have to know the rules before you sign anything.

Most of us aren't attorneys and we aren't trained in legalese. There are even attorneys who don't deal with real estate and mortgage financing who won't see the potential problems in the "standard" agreements.

Of course, sub-prime lenders and servicers like, EMC, Litton, Ocwen, SPS (f.k.a. Fairbanks), etc., know you don't understand legal agreements, so they also know how to work around the edges of them and sometimes punch huge holes through them in their favor.

They also know how to do things to take advantage of the terms and conditions so that you will eventually pay them far more than you had ever thought you would have to. Again, because they made the rules, they know how to play the game both within and outside the rules.

So, for those who have not yet had the fun of being preyed upon by one of these kinds of lenders or servicing companies, NEVER, EVER sign a document that you don't completely understand or that your attorney hasn't gone over in detail and made you aware of the risks involved.

It's still mind boggling that someone will sit down and sign away their financial future without spending a couple hundred dollars to have an aggressive, client advocate attorney give them advice. And no, I'm not trying to advertise for attorneys - but just in case you're wondering, most of the future victims of these scams will have no one to turn to for help when the trap gets sprung.

There are two other things that will happen if you bring an attorney into the picture at the front end: First - the broker or lender will be more cautious. Second, it will put some breathing time into the process - you won't be rushed into getting the deal done and they'll have less opportunity to push you into something you may regret later.

And later, you'll be spending tens of thousands in attorney fees to put up an effective fight against a company with basically unlimited financial resources. What happens to most people who decide to fight isn't pretty. It certainly can't be called "justice," and less than 2% ever actually get in front of a judge, let alone a jury. The most likely outcome is a settlement that silences the borrower/victim and doesn't punish the perpetrators enough to change their behavior.

So avoidance is the best course. For those of you who are already being preyed on or concerned you might be in the future, there are things Ol' Moose recommends.

1. Put away at least 2-3-months of house payments,

If you have or are thinking about getting a mortgage, especially a sub-prime loan, DON'T unless you have at least two months of house payments stashed away and the discipline to not spend it on anything. Call it the "buying time" fund. You can make better decisions about things if you have a couple of months house payment cushion.

Stuff happens. Be prepared. Anyone burned by these schemes should have learned that it would be easier to meet their demands and then sue to recover than it might be to fail to pay and then be shown to be in default when they come after you in a foreclosure.

2. Get off the damn phone - do everything in writing.

All joking aside - there is absolutely no advantage to you in talking to a loan servicer on the phone. Zero. Nada. Some of them even use sophisticated analytical tools to help them predict whether or not you'll default or pay based on what you say. The fact is, conversations you have with them have NO LEGAL STANDING, so wear yourself from the phone and get used to writing letters. Time consuming, tedious, irritating and especially slow, yes. But if you want a legally defined course of events, writing is what counts. That's why attorneys charge for letters!

If the loan servicer fails to respond to you and you have evidence (see 3.), it can be a significant part of the legal grounds to put a halt to their foreclosure schemes. This will provide an attorney with what they need to take effective action. Without it, they're really wasting their time and your money.

Change your phone number, make it unlisted and don't give it to anyone. Don't print it on your checks. If they have your number and you can't change it, learn to live behind an answering machine - they do!

If you just can't resist falling into this trap, make sure you record the calls (be sure to check your state laws on recording telephone conversations).

3. Use USPS return-receipt mail for EVERYTHING.

This sounds expensive and it is time consuming, but when the problems start piling up, and you have hard evidence of when you sent payments, at least you won't be looked at as just another deadbeat. Plus, it puts them on notice that you're paying attention.

4. Don't use their web site for anything.

There is nothing, nothing, nothing, repeat nothing secure about websites, nor should anyone think they won't be keeping track of your visits. Anything they know about you can and will be used against you when problems arise.

5. Don't use pay-by-phone or "quick-pay" services.

First, it costs you more money and they profit from it. Secondly, it helps them show a pattern of you letting things go until the last minute.

6. Get organized and never throw anything away.

Yes, I know, years and years of this stuff will eventually fill several boxes, but one of the unwritten laws is that "he who has more paper" wins. Make copies of your important documents and keep them somewhere other than your home. Don't assume they're all that much better at digging up hardcopy evidence - they'll have computer records saying they mailed something to you on the 9th, and sure enough, it will be postmarked the 23rd (or won't have a postmark at all).

7. Don't wait for a coupon or monthly statement!

Unless your loan documents require them, the servicer is probably under no legal obligation to send you a statement. Waiting until you get something from them is just asking for trouble. If you don't have a coupon, write your own, showing your name, the property and the loan number (BUT NOT YOUR PHONE!) and put the payment with it (see 3., above) and of course, always put your loan number on your check!.