

Stealing the house itself

In hot real estate market, investigators see rise in foreclosure rescue scams

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Three months after her husband died in 2002, a grieving Debra Collins in Wantagh watched a stack of foreclosure notices grow ominously in her mailbox.

Collins, a secretary, owed \$199,000 on the four-bedroom brick house she and her late husband had shared for six years, until his death that July. Because the couple had refinanced the mortgage before the husband's death, there were 30 years remaining on it.

Each month, Collins, 45, tried to pay a \$1,100 mortgage bill out of her \$1,200 secretary's salary. And each month, she fell further and further behind. Too ashamed to ask her family for money, Collins faced losing her house.

After she learned the company that held the mortgage had filed for foreclosure, she found an apparent savior: Michael McEnroe, a Levittown mortgage broker. The story of their relationship, and the events that unfolded after they first met, is told in court papers describing how McEnroe promised to secure a new loan, more manageable payments, and best of all, enough extra money for Collins to remodel the home she was so close to losing.

'My whole world fell apart'

"He made it sound good, that he liked me, he felt sorry for me and wanted to be my friend," Collins said.

But what seemed like salvation to a woman desperate to hold on to her home soon evolved into something else entirely, according to Collins and the court papers. By December 2004, after signing mortgage documents with McEnroe, McEnroe had taken possession of the title to Collins'



home, along with \$25,000 in equity from the refinancing, according to a civil complaint filed by Collins in State Supreme Court in Nassau last week.

When she fell behind on her payments to McEnroe, she said, he had her evicted for failure to pay him rent on the house, leaving her broke and homeless, a widow reduced to sleeping in her Chevrolet Caprice.

"My whole world fell apart," Collins said.

McEnroe did not respond to repeated efforts by a reporter to interview him for this story. His attorney, Andrew Cooper of Garden City, declined to comment, saying he has not seen Collins' complaint.

Last June, McEnroe was accused by Nassau County prosecutors of bilking the mother of a 9/11 victim out of \$300,000 in settlement money. He was charged with multiple counts of grand larceny and is awaiting trial, records show.

Similar incidents have occurred across the country, spawning a multitude of lawsuits and criminal investigations, although to date, few arrests have been made. The Nassau and Suffolk County district attorneys' offices are investigating mortgage scam cases in both counties, officials said.

Experts say schemes like those alleged by Collins are referred to as a foreclosure-rescue scam, an equity-stripping scam or just plain deed theft. Long Island criminal investigators and national experts agree that in the last two years, stories like Collins' have become more common in hot real estate markets, victimizing hundreds in New York City and Long Island and thousands of others nationwide.

The nonprofit National Consumer Law Center called these types of alleged mortgage frauds "the blind spot 100,000 homes wide." In June, the center reported that foreclosure-rescue scams were epidemic in 17 states, calling them "a new wave of fraud and fast-dealing [that] is ripping the homes right out from under thousands upon thousands of Americans."

The process, experts say, begins with foreclosure.

When missed payments to the mortgage lender land a homeowner in foreclosure, this fact becomes a matter of public record. Foreclosure notices are available free for viewing at county clerks' offices and for small fees through real estate trade publications.

Pat Ammirati, general manager of Long Island Profiles, a real estate information service, said he publishes approximately 70 foreclosures per week for Nassau and Suffolk counties and these names and addresses are available to anyone who pays \$109 for a five-week subscription to his service.

"You advertise your illness," said Bill Friedman, a Hempstead attorney who represents Collins and several other victims of alleged deed theft. "You're at the doorstep of death and it's easy pickins."

Suspect solutions

Mortgage brokers then solicit these financially stricken homeowners through advertisements,

letters and phone calls in which they offer help. In Collins' case, she said she first learned of McEnroe through a newspaper ad offering help to homeowners in need of foreclosure rescue.

Offers like these present a perfect fix: The brokers say they will pay off the old mortgage and help obtain a new loan with lower monthly payments, and thus save the property from foreclosure. Sometimes, as in Collins' case, they offer extra money on top - an added incentive.

After speaking with McEnroe over the phone, Collins said he began calling her nearly every day, offering reassuring words of support, advice on how to proceed and updates on how he was proceeding on her new loan.

Experts say that, when the closing date arrives, mortgage brokers employ a variety of tricks to convince homeowners to sign quitclaim deeds, which legally relinquish title to a house.

In her suit, Collins said McEnroe told her to sign the quitclaim deed by explaining to her that, with her bad credit, the only way she could obtain the new mortgage was if McEnroe's name was on the house deed instead of hers. McEnroe told her that she could then rent the house from him until her credit improved enough to buy it back, Collins said.

Her lawyer also a defendant

The lawyer who represented Collins at the closing, Patrick Reilly of Massapequa Park, said he told Collins there were other ways to save her house. But he said he saw his role in the deal as simply helping Collins complete a transaction she said she needed to stay in her home. Collins' lawsuit named Reilly as a defendant, along with McEnroe.

"She presented to me as this is a deal she wanted to do; there was no question in my mind that she wanted to do it," Reilly said. "She said to me, 'I will lose the house if I don't do this' ... It was largely set up before I came to the table."

Experts say deeds are taken in different ways. One method is camouflaging the deed among stacks of papers to be unwittingly signed on the advice of an attorney. This was how Flatbush day care provider Gloria Johnson, 34, joined the hundreds of Brooklyn residents who have lost their homes to deed thieves.

Johnson alleges in a lawsuit filed in U.S. District Court in Brooklyn that the lawyer recommended by a mortgage company encouraged her to sign a stack of papers she thought was for a loan application. One of them, she discovered days later, was a quitclaim deed.

Another ploy is forgery. Last year, Debbie Betz, a 42-year-old retired truck driver in Selden, said she lost her foreclosed house to a Staten Island-based mortgage broker. She alleges in a lawsuit filed in State Supreme Court in Suffolk that the broker or an associate forged Betz's deed and made off with \$40,000 in proceeds from the second mortgage.

And some brokers use threats. In a civil suit filed this year in State Supreme Court in Nassau, a 76-year-old Hempstead home care attendant alleges that she signed her deed over to a foreclosure-rescue broker who she said threatened to "bash her head in" if she refused. The woman would not give her name for safety reasons.

Once the house's title is in another name, proceeds from the second mortgage - sometimes hundreds of thousands of dollars - can be diverted into the new owner's pockets.

"The bottom line is that you can make \$300,000 off of one deal. Why rob banks? All you need is to get someone who is financially unsophisticated to put their name on a deed. It's that simple," said Josh Zinner, an attorney who heads the foreclosure prevention project at the not-for-profit South Brooklyn Legal Services, which provides free legal help to low-income Brooklyn residents.

Asked for comment, officials at the Nassau and Suffolk district attorneys' offices say they have seen dozens of cases in the last year and say they are investigating several brokers. Neither office would be more specific or say whether arrests are expected.

"Is this the real estate scam of our time? Stripping equity and stealing houses? Absolutely," said Christopher Nicolino, deputy chief of the Suffolk DA's Economic Crime Bureau.

In New York City, nonprofit organizations serving low-income homeowners in trouble have seen a significant increase in recent months.

"We've seen a really dramatic increase in the last year, from getting one or two trickling in to a huge explosion," said Jessica Attie, an attorney at South Brooklyn Legal Services who says her office has handled more than 60 deed-theft cases this year alone, and turns away several each week.

Arriving at an accurate victim count is difficult because defrauded homeowners often don't know where to turn. The experts say that the cases' complex paper trail often makes short-staffed prosecutors reluctant to investigate.

"The times that I've heard of people going to the police, the police tell them, 'Go get a lawyer,'" Attie said. And because many victims can't afford lawyers, scammers often go unpunished, she said.

State housing experts say victims of foreclosure-rescue scams in New York State probably number in the thousands.

"With the hundreds and hundreds of cases, we're just seeing the tip of the iceberg," said Sarah Ludwig, co-director of the Neighborhood Economic Development Advocacy Project, a nonprofit fair-housing organization.

While officials in state Attorney General Eliot Spitzer's office declined in an interview to be specific about cases, they said they were investigating fraudulent foreclosure rescues across the state.

"We've received a number of complaints," said spokesman Brad Maione. "We are taking a look at this issue on a broad scale. It is spilling over into Nassau and Suffolk and the people who are being taken advantage of are the least able to protect themselves."

Tougher laws elsewhere

California, Georgia, Maryland, Minnesota and Missouri have all passed laws targeting foreclosure

scams, the common feature among them a right to cancel quitclaim transactions for a limited period of time after deeds have been transferred.

In June, the New York State Assembly passed an anti-deed-theft bill that includes a right to rescind transactions up to 10 days after closing and which makes it illegal to fail to put into writing any relevant aspect of the mortgage deal. It is awaiting passage in the Senate.

While there are a few large-scale scamming organizations, experts say that the fraud is often committed on a small scale by individual brokers who simply disappear afterward.

Whether criminal or civil, cases made against such deed thieves are difficult to win because verbal fraud leaves few legal fingerprints.

"The problem is proving the fraud," said Ilana Schwitzer, a Brooklyn attorney who has handled several foreclosure-rescue cases. "You have the burden of proof and when you have to get witnesses, it's very costly."

As for Debra Collins, her house has been sold twice since McEnroe took title to it and she has since moved in with her father in Seaford. She said she walks by her house every day, adding that she can neither tolerate the thought of, nor afford, a new home.

"If I get an apartment, that says I've lost," she said. "I should be back home."

Deed piracy

An emerging real-estate scam strips desperate homeowners of title to their houses and the equity in it. Here's an example of how it's done.

1. Homeowner falls behind in mortgage payments and the house goes into foreclosure. The foreclosure becomes a matter of public record.
2. Homeowner is approached by a scammer who identifies himself as a mortgage broker. Scammer offers to refinance the house, pay off the loan and rescue the house from foreclosure.
3. At the closing of the new loan, the scammer tricks the homeowner into signing a "quit claim" that transfers ownership to the scammer. That is done in a number of ways:
 - a. Scammer will falsely convince homeowners that they will reclaim title as their credit improves.
 - b. Quit claim can be stashed among a number of other papers to sign.
 - c. Scammer forges owner's signature on quit claim.
4. Once title is held in another name, the proceeds from the new mortgage are easily diverted to the scammer.
5. Scammer begins eviction proceedings against the duped homeowner.

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