



Reverse Mortgage Fraud & Borrower Competency Issues

Joel A. Schiffman
Weiner Brodsky Sidman Kider PC
schiffman@wbsk.com

**WEINER
BRODSKY
SIDMAN
KIDER PC**

Product History

- **1989 – Home Equity Conversion Mortgage (HECM) created by HUD**
- **1995 – Home Keeper reverse mortgage created by Fannie Mae**
- **1997 – National Reverse Mortgage Lenders Association launched**
- **1999 – First proprietary jumbo reverse mortgage created by Financial Freedom Senior Funding Corporation**
- **2007 – First Fixed Rate HECM created by EverBank Reverse Mortgage**

Reverse Mortgages on the Rise

- **Federally insured Home Equity Conversion Mortgages (HECMs) account for roughly 90% of all reverse mortgages**
- **After 20 years - only 345,762 HECM loans originated by the end of fiscal year 2007**
- **31%, or 107,367 loans were insured in 2007 alone**
- **66% of all HECM loans were insured in the most recent 3 years (FY 2005-2007)**
- **Population of seniors expected to reach 71 million in 2030**
- **Estimated 20% Compounded Annual Growth Rate through 2015**

Seniors Targeted for Fraud

- **NSAA Study found senior investment fraud comprised 44% of all investor complaints.**
- **NSAA reports senior investment fraud comprised 31% of all enforcement actions.**
- **AARP Survey found 1 in 5 persons over 50 report having been the victim of fraud.**
- **FTC reports that consumers over 50 reported more than \$152 million lost to fraud**

Targeting the Elderly

- **Why are seniors targeted for fraud?**
 - **Over 80% of seniors own their home with no debt**
 - **Seniors have more than \$4 trillion in home equity**
 - **These numbers will only increase as the first of nearly 80 million baby boomers begin retiring**

Targeting the Elderly

- **Why are seniors targeted for fraud?**
 - **Cognitive impairment – a natural part of aging**
 - **Generally raised in a more polite/trusting time**
 - **Social Isolation**
 - **Dependency**
 - **Less likely to report fraud**
 - **Can make poor witnesses**

Cognitive Impairment & Competency

- **Cognitive impairment doesn't imply lack of competency**
- **No single competency standard**
- **No simple objective measures of competency**
- **Must rely upon the assistance of a physician**

Assessing Competency - Factors To Consider

- **Orientation**
- **Level of function**
- **Knowledge**
- **Calculating Ability**
- **Judgment**

Fraudulent Schemes Directed at Borrowers

- **Bundling – the purchase of other financial or insurance products with proceeds of a reverse mortgage**
- **Home improvement contractors**
- **Estate planners charging for HECM advice**

Strategies for Overcoming Fraudulent Schemes

- **Encourage & facilitate involvement of trusted advisors**
- **Provide senior-oriented educational materials**
- **Require counseling**
- **When appropriate – request physician letter**

Joel Schiffman
Weiner Brodsky Sidman Kider PC
4695 MacArthur Court
11th Floor
Newport Beach, California
(949)798-5570
(949) 798-5571 (fax)
schiffman@wsbk.com