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**Sue Your Realtor – Recover The Commission Paid To Them – End Their Career**

On June 18, 2008, the Arizona Department of Real Estate (“ADRE”) issued “Substantive Policy Statement 2008.06” (“SPS”), addressing the housing crisis. The SPS warned realtors that if they gave premiums, credits, rebates or kickbacks to a third party such as a lender or appraiser during the course of a real estate transaction, but failed to disclose such benefits to the buyer or seller of the property, then the realtor would be subject to disciplinary action.

The SPS was ADRE’s response to countless incidents where the realtors would act in concert with an appraiser and/or lender to artificially increase a property’s value. The appraiser would arbitrarily inflate its appraisal; the lender would increase the loan amount based on the appraisal; and the realtor would convince the buyer to purchase the property because of the home’s value and generous financing offered. As a result, the appraiser received more referrals to appraise properties; the lender made money from both its loan origination fees, and the bundling & selling of the loan to Wall Street; and the realtor made generous commissions. Conversely, the homeowner is now trapped in a home that is worth less than the mortgage; cannot sell the house; struggles to make mortgage payments; and may even be facing foreclosure.

While ADRE issued the SPS with more forward and preventative intent, the current real estate crisis has started an avalanche of litigation. The lenders’ troubles are well-publicized. The appraisers are under investigation and will be more closely regulated. Realtors are the last group to be held accountable. Survival for realtors in this economy means keeping his/her license, hoping to still have it when the real estate market recovers.

**As a homeowner, if you are upside down on your home, and your realtor referred you to a lender, appraiser, title company, etc. – you may have a case to recover, at minimum, the commissions paid to the realtor.** There are many excellent realtors practicing in Arizona. However, there is a “market correction” taking place where the ADRE will terminate the licenses of the disreputable realtors.

**Conversely, if you are a realtor that may have referred clients to appraiser or lender, I strongly encourage you to immediately consult with a real estate attorney. It is foreseeable that in the near future, you will be sued and have an ADRE complaint filed against you.** You cannot rely on the advice of your designated broker’s attorney, as many intend to use their employees as scapegoats for the purpose of either downsizing, or avoiding this possibility of becoming litigation targets, themselves.