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PERSON OF THE WEEK: A WORD FROM "YOU WALK AWAY" IN FROM THE ORB

BY JESSICA LILLIAN ON TUESDAY 02 SEPTEMBER 2008



Companies that offer "buyer protection plans" to help borrowers - the highly distressed and slightly distressed alike - walk away from their homes [have been criticized](#) as misleading, counterproductive and inappropriately supportive of the detrimental outcome that the mortgage industry generally seeks to avoid: foreclosure.

In the interest of clearing up misconceptions and perhaps gaining a more balanced perspective, MortgageOrb spoke with Jon Maddux, CEO of You Walk Away. This San Diego-based firm, according to its posted mission statement, aims to "empower homeowners who purchased their homes at the peak of the real estate market to take control of their financial future."

Q: One of the elements of your protection plan is a promise that the mortgage servicer will be unable to contact the borrower. Yet from the servicer perspective, borrower communication is considered highly important throughout the entire default/foreclosure process - particularly for workouts and loan modifications. How does your process ensure that a servicer can still work effectively with the borrower and do its job?

Maddux: To clarify, the reason for the stop-calling letter is to stop harassment and collection calls, which are counterproductive. If the lender is open to doing a loan workout or modification, they can send their intentions in writing.

Also, we provide the letter to the homeowner, and they are instructed to only send out the letter if they are receiving harassing phone calls. Typically, our customers who send out the letter have tried to do a loan workout with the lender and have not been approved for an affordable payment.

Here is a portion of our letter:

In accordance with the federal FDCPA, now that you have received this "stop-calling" letter, you may only contact me to inform me that you:

1. *are terminating further collection efforts,*
2. *invoking specified remedies which are ordinarily invoked by you or your company, or*
3. *intend to invoke a specified remedy.*

Q: What is the average profile of a borrower who turns to You Walk Away? You have mentioned that the majority are not investors or speculators. But are these people generally those who can make mortgage payments but seek to leave a losing investment? Or, are they those who genuinely can no longer afford payments?

Maddux: The average profile of our walk-away customer is a family who has tried unsuccessfully to save their home. Some are investors who can no longer afford to pay the negative cashflow.

Most are, in fact, homeowners who have rising adjustable rates and/or some other form of hardship.

We believe foreclosure should be the last resort and that if someone has no



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other options other than foreclosure, we believe that he or she should have an advocate and a team of people who know the law and how to help the homeowner mitigate losses during the foreclosure process.

We believe the homeowner should not be alone in the most difficult time in his or her life. The lender has hired a legal team to take back the defaulted home, so it can help if the homeowner understands his or her rights and how to use the law for protection.

Q: Based on your recent client research, approximately how many of those who have used You Walk Away are subprime borrowers? What about borrowers with adjustable-rate mortgages? Also, any notable regional trends?

Maddux: It is surprising that many of our customers are not subprime borrowers. We have many clients that had very good credit, but got a home with little or no money down, and now the home is worth much less than they paid.

Also, more than 50% of our customers have an adjustable-rate mortgage that is adjusting.

We are seeing more people in Michigan walk away because of layoffs and lack of employment. In Illinois, the flooding has kept people out of work and away from their homes.

In Florida, the cost of insurance is being hiked up due to hurricanes and unpredictable weather, causing people to not have enough money at the end of the month to pay their mortgage.

We are also seeing a lack of jobs in Ohio, causing people to exhaust any savings and walk away. Arizona also has had a rise in unemployment, causing homeowners to move and walk away.

Nationwide, families on a fixed income are finding themselves spending more on gas and food - leaving not enough to pay a previously affordable mortgage. A new trend that is spiking is that more couples are getting divorced and cannot afford to pay the mortgage on a single household income.

Q: The costs of foreclosure are well known, and Fannie Mae has even increased its post-foreclosure waiting period from four years to five years in an effort to reduce the incentive to enter foreclosure. What specific steps do you take to help borrowers ease the credit damage and get a mortgage again? What determines whether or not borrowers can have the foreclosure erased from their record?

Maddux: To clarify, Fannie Mae and other lending institutions allow for a borrower who has had a foreclosure in the past buy a home again after three years in the case of a true hardship.

To help ease the credit damage, we provide a borrower with helpful information in our "walk away protection kit" to understand how credit scoring works and what he or she can do to improve or preserve his or her credit.

Additionally, we refer our customers to a law firm that has been successful in the past at legally removing foreclosure from one's credit.

It is not guaranteed that the foreclosure will be removed. But in many cases, if a homeowner keeps the remainder of his or her credit intact, the foreclosure would become isolated and may only reduce his or her FICO score by approximately 100 points - or sometimes less.

Q: Have you seen an increase in lenders' pursuing deficiency judgments lately? Do you expect these to become more common as foreclosures



increase, or will the costs and time involved still prevent most lenders from going this route?

Maddux: Through our real estate attorney network, we have been informed that the lenders are rarely filing deficiency judgments.

Most likely, the action that they take is filing a 1099, and they are writing off the deficiency as a loss. We don't expect deficiency judgments to become more common. However, it is a changing market, and because the lenders in many states have the right to file these judgments, they could become more prevalent.

At the same time, because most of the homeowners in foreclosure are financially strained, the odds of a lender receiving money from a judgment are very low.

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