

## Open House: Web site offers arrangement to real estate agents

by Jim\_Woodard

Considering the sluggish home sale market, it's not surprising that some real estate brokers are seeking other ways to supplement their sagging income. Some are turning to selling and originating mortgages.

Some mortgage firms are quick to harness this large manpower pool and potential sales force. Below is a spam e-mail message, in part, I received the other day, targeting Realtors. The e-mail list compiler apparently thought I was a Realtor, which I am not.

"Hi, Good news. eMyLoan.com is paying Realtors/agents to originate loans. They allow the Realtor to drastically undercut the mortgage broker's rate thus saving the Realtor's customers in closing costs and interest rates. You don't need to be told this will also double your revenue stream. You can originate in all 50 states. No licensing needed."

I wondered about the legality and ethics of such an arrangement, so I contacted the National Association of Realtors.

"As to whether the proposal is legal, that's a RESPA (Real Estate Settlement Procedures Act) question," an association attorney said. "Any payment for the referral of settlement service business is going to be illegal under Section 8 of that Act, unless it falls within one of the exceptions described in the Act. The most common ones referred to in the mortgage origination situation are the employer-employee exception and the reasonable value of goods or services actually provided exception.

"Regarding its ethics, it should be noted that Article 7 of our NAR Code of Ethics states: 'In a transaction, Realtors shall not accept compensation from more than one party, even if permitted by law, without disclosure to all parties and the informed consent of the Realtor's client or clients.'"

The attorney also noted that the Department of Housing and Urban Development (HUD) has issued guidelines related to mortgage companies paying a third party a fee for loan origination work without violating the RESPA Act. It made it clear that the mere taking of a loan application is not sufficient work to justify a fee being paid.

I also contacted eMyLoan. Here is their response, in part:

"Having Realtors originating loans is nothing new," eMyLoan's Tim Noonan said. "As long as the Realtor

has the customer sign an affiliated business disclosure agreement, most states have no issues with this concept. We have been around for a couple of years and just recently started calling on Realtors. The response has been good. We are hopeful that we will be able to sign up 50 to 100 realty organizations within the next year."

Personally, if I were selling or purchasing a home, I would want to work with a Realtor who works full time in the professional marketing of real estate - not one who dabbles in other industries to create extra profit. By the same token, when shopping for a mortgage, I would want to deal with a full-time mortgage profession.

Fortunately, most Realtors are still serious full timers.

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Q: When will the sluggish housing market bottom out?

A: The National Association for Business Economics reported that "residential investment remains a dominant force dampening growth in 2007."

Almost half of those surveyed expect the bottom in housing will not be reached until the fourth quarter of this year. A third of the survey respondents think problems in the subprime market are delaying or deepening the housing correction.

Despite dire predictions by some economists, sales of new single-family homes are on the increase. In April (the most recent month where data is available at this writing), new home sales were up by 16.2 percent over the previous month, according to a report from the U.S. Commerce Department.

"Builders are pulling out all stops to work down heavy inventories in the face of weak demand that's been exacerbated by the subprime-related tightening of mortgage credit conditions," said Brian Catalde, president of the National Association of Home Builders.

"Our surveys show that the majority of builders are cutting prices and offering substantial non-price sales incentives, and their efforts are bearing fruit. We're also seeing buyers gravitating toward lower-priced homes to counter their affordability problems."

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Q: How is the nonresidential building industry faring in today's market?

A: Another segment of the real estate market that's still thriving is nonresidential construction, especially in the West and Midwest, according to a report from the American Institute of Architects. With about a nine- to 12-month lag time between architectural billings and construction spending, current data indicates a favorable market for nonresidential construction at least through this year.

The planning and construction of rental apartment buildings also looks very promising in coming months, due to growing demand for rental units.

"We've seen the national vacancy rate for rental apartment developments drop more than 2 percent between the first quarter of last year and the first quarter of this year," said David Seider, chief economist for the National Association of Home Builders. "Despite some competition from unsold condo units that have come onto the market as rentals in recent months, demand is still outpacing supply for rental apartments."

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