

Taking Stock: This trust deed not that trustworthy

by *Malcolm_Berko*

Dear Mr. Berko: I'm about to invest \$350,000 in a trust deed that will pay 18 percent. The company representing this investment is purchasing a privately owned state-chartered bank in Nevada as well as a financial advisory management company. I've seen the signed contracts for the purchase and sale of these investments and when they are finalized I will also be entitled to 1.5 percent equity participation as well as the continuing 18 percent on my trust deed. I've spoken to other investors with this firm and both have enjoyed excellent returns on their past investments. In fact, one of them will also be investing \$350,000 with me on this same trust deed. This money represents a little more than half my entire savings, which includes the proceeds from my late husband's life insurance policy. My daughter thinks it's a wonderful opportunity and is very impressed with the advisers who represent this company. I've signed confidentiality agreements plus an intent to purchase, however, I'm having second thoughts and thought it best to first seek your advice.

X.X.

Boca Raton, Fla.

Dear X.X.: Of the many reasons for my moderate success as an investment professional is that I'm as cynical as Diogenes and as skeptical as Antisthenes. Assuming you are a highly intelligent and knowledgeable investor (because you read my column) I'm comfortable suggesting that this 27-year-old, self-acclaimed prodigy is: (1) a clever liar, (2) a smooth con artist, (3) a colorful rogue, (4) evil incarnate, (5) a sociopath and (6) a danger to lovely retirees like yourself.

This area of Florida (Miami to Fort Lauderdale to Boca Raton to Palm Beach) is a fertile and bounteous purlieu, teeming with financial imposters, pretenders, charlatans and dissemblers. There's a section in Boca Raton dubbed "Maggot Mile" where these folks rent office space, practice their skills and train new-hires in the art of deception, seduction and prestidigitation. You, my fair lady, would have opened Pandora's box if you had taken that final step.

For those who care to know: A trust deed, unlike a grant deed, a quitclaim deed or a warranty deed, is not used to transfer property. It's really another version of a mortgage used in Western states like California or

Nevada. The trust deed transfers title to named assets to a "trustee" who holds the assets as security until the loan is paid off.

Now when we spoke on the phone, I promised I would not mention the name of your financial adviser, the firm employing him and that the "X.X." initials cannot identify you. I did speak with your adviser. And I'll say this: He's clever enough to complete a New York Times crossword puzzle blindfolded and smooth enough to charm rust off a bumper. This fellow could have a great future in politics.

Anyhow, the private Nevada bank doesn't have an office anywhere in the state of Nevada and the legislature has yet to grant it a charter. "However we expect a charter by this fall and we have an option on a 0.75-acre parcel in Reno where we will open the flagship office," your adviser told me. I'm told that the to-be-acquired financial advisory management company has 1.5 employees but will ramp up to a multi-employee bucket shop if a bank charter is granted. This financial advisory management company will solicit depositors for the bank.

This is a clever scheme - not illegal, but it certainly has a high chance of failure. Oh, by the way, did you know that your adviser is entitled to a 12 percent commission on your \$350,000 investment? Do you know that 26 other folks have invested (some over \$1 million) in this trust deed? And do you know that the firm employing your financial adviser is a defendant in various suits, claiming fraud, deception, embezzlement and other naughty nouns?

I've advised you to visit an attorney (I've given you a name) who will write a letter to the adviser telling him that you will not proceed with this investment. Direct all future calls from the adviser to this attorney. I would like to reveal the name of this firm its officers and directors as well as the identity of your adviser, but I don't think, in this instance, they have violated any laws. And while I believe they may be crooked as a shillelagh ... believing so does not make it so. Be careful out there!

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