

From: "Jeffery S. Watson" <j.....@suite224.net>
Date: Sep 4, 2014 3:51 PM
Subject: Re: Fwd: RE: [JVupdate Chatter] Re: Wholesaling - Illegal in Ohio?

Please share this as you see fit on the various JV threads and posts:

Wholesaling and the Ohio Division of Real Estate

Since early summer, there has been a great deal of noise being made in a number of forums and spheres of influence regarding the legality of wholesaling. I have seen information marketers try to profit from that by trying to sell their "Ohio-specific course". I have seen attorneys outside of Ohio write legal-oriented columns and opinions citing one or two Ohio cases they have read, and I have had two clients with national real estate interests engage me as part of a larger effort to better understand what the State of Ohio Division of Real Estate was saying when they released their bulletin mid-summer.

Using these client resources, I was able to obtain a face-to-face appointment with the top enforcement investigator, as well as the top in-house counsel for the Ohio Division of Real Estate. There is no way I can reveal who the clients are or the full essence of what was talked about absent written consent from my clients. Nevertheless, I can share with you the following.

Wholesaling, if done properly, is legal in the State of Ohio. Furthermore, the Ohio Revised Code has some very specific rules that apply, any of which are routinely flaunted by most of the people I see out there doing wholesaling.

Bottom line recommendations:

1. Always act as a principal. That means you are the buyer, the seller, or the person with a written, executed assignment of the purchase and sales agreement.
2. If you own the house, you can market the house. If you don't own the house, you cannot advertise or market the house. The rules in Ohio are very clear. Real estate can only be advertised for sale with the knowledge and consent of the owner of the real estate by either the owner or a licensed agent. If you have a contract to buy a house, you can market that contract, or assign or sell that contract. Please understand that there is a difference between marketing and selling a contract versus marketing and selling a house.
3. Trying to get paid for referring someone else to buy a house from a wholesaler is illegal.
4. Advertising that you have a house for sale that you do not actually own is illegal.
5. Making an offer on a house that is contingent upon your finding someone to buy it from you is illegal.
6. Contracts to buy real estate that are short and simple are preferred. Contracts to buy or sell real estate that contain a number of loopholes, contingencies, options or other escape hatches are heavily frowned upon.
7. We know the Ohio Division of Real Estate pays close attention to the big-name info-marketers and gurus that come through Ohio to teach real estate investing. During our very informative meeting, they let out the fact that at one seminar in Columbus, Ohio, they had three different investigators sitting in the room in different locations. They know who the players are and have opinions about all of them.

The last recommendation I would share with everybody and anybody is that a fundamental component of being a successful real estate wholesaler is understanding not only the laws governing the conduct of real estate agents, but the laws that govern your conduct as an unlicensed individual. Take an afternoon to sit down and read your state's laws.

After you read your state's laws, engage an attorney licensed in the states in which you are doing business and have them review your transactional paperwork. Are you compliant? Just because you think it is easy to understand or good language doesn't mean it passes compliance.

If you or one of your students gets a letter from the Division of Real Estate that has the words "cease and desist" in it, take it seriously. Don't ignore it or abandon your student. Use it as an opportunity for constructive engagement and improvement of your teaching and practices.

If there are any of the readers of this email who desire to set up an appointment to consult with me regarding wholesale real estate transactions in Ohio, you may contact my office to schedule an appointment.

Jeff

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