

Betting the house

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Kevin and Jean Petterson of Rutherford fell behind on their mortgage payments in mid-2005 after Kevin, a truck driver, broke his ankle and was unable to work for several months.



PETER MONSEES / THE RECORD

Homeowners are learning that foreclosure rescue schemes can backfire badly.

In 2006, facing foreclosure, the couple got a letter from a Scotch Plains company, Elite Financial Solutions, that offered to help "stop the foreclosure process!" It promised "No gimmicks or tricks."

But Kevin Petterson, 41, says the company left his family worse off than before -- in deeper debt and in danger of losing their small Cape Cod.

"I'm going to have to go Chapter 7 [bankruptcy]," Petterson said.

The Pettersons' story spotlights a new player in the housing bust -- foreclosure "rescue" companies, which find distressed homeowners through public records. Some of these companies have been accused of "equity stripping" -- taking whatever equity these desperate people have in their homes.

"Homes are literally being stolen from their owners all over the country," said a June 2005 report called "Dreams Foreclosed" by the National Consumer Law Center.

The number of foreclosures is on the rise nationwide and in North Jersey. RealtyTrac, which follows foreclosures, said last week that 1.5 percent of homeowners in New Jersey and 1.9 percent nationwide are in some stage of foreclosure, which starts with missed mortgage payments.

Legislation has been introduced in Trenton to regulate foreclosure rescue companies, which now operate with little or no state oversight.

In a recent interview, Stev French, president and CEO of Elite Financial Solutions, denied any wrongdoing and said Elite Financial should not be lumped in with unscrupulous companies that strip away clients' home equity. French said he clearly outlined all the options Petterson had, including filing for bankruptcy, selling the house or trying to work out a payment plan with the lender. But the Pettersons chose to sell their home to a person working with Elite, then rent it with the hope of buying it back in the future, French said.

"We were not trying to do anything illegal with him," French said. "I am not a predator." He said Petterson was to blame for his problems because he didn't make the payments he promised. "The gentleman doesn't take care of business, and now it's everybody's fault but his," French said.

Consumer advocates and bankruptcy lawyers say the number of companies offering questionable services to distressed homeowners is on the rise in New Jersey. Phyllis Salowe-Kaye, head of New Jersey Citizen Action, said the group has been receiving more complaints about them since last fall.

Fernando Semiao, a Century 21 real estate broker in Lyndhurst, calls these firms "barracuda companies."

"They're swimming around here like crazy right now," he said. "They make all sorts of crazy deals with people and they take their homes."

Even when they don't engage in fraud, these companies often waste homeowners' time and energy, which could be spent on more productive steps such as working out a payment plan with the lender, selling the house or consulting a bankruptcy attorney, consumer advocates say.

Variable schemes

There are variations on the foreclosure rescue plans. In one of the most common, homeowners agree to sell (or even just hand over) the home, thinking they'll remain in the house as renters and be able to buy back the property in a year or two. The rescuer will recruit and pay someone to take title to the house and refinance the mortgage in his or her own name.

"Homeowners are sometimes told that surrendering title is necessary so that someone with a better credit rating can secure new financing to prevent the loss of the home," according to "Dreams Foreclosed."

But the homeowners' financial situation rarely improves to the point that they can afford to buy the home back. They often end up losing the house, the report said.

The Pettersons say Elite Financial told them that if they sold their home to an investor named Shannon Garretson of Scotch Plains, they could avoid foreclosure. Elite recruited Garretson for the deal with a promise of a \$10,000 payment, French said. The plan was for Garretson to refinance the mortgage and Elite Financial to use that money, in part, to clean up the couple's debts, according to both Elite and the Pettersons. Then the Pettersons might be able to get back on their feet financially and buy back their home within two years.

So in a deed dated April 28, 2006, the Pettersons sold their home to Shannon Garretson for \$525,000. The Pettersons say they thought it was only a paper transaction and that they would be able to retain ownership. Most of the sale price went to pay off the Pettersons' mortgage of \$412,000.

The deal included the \$10,000 payment to Garretson, a \$15,000 consulting fee for Elite and more than \$15,000 to the mortgage broker, according to the closing documents.

The Pettersons got \$59,258, which was held in an escrow account controlled by Elite attorney L. Mifflin Hayes. And they got the option to buy the house back in two years for \$525,000.

Garretson took out a \$525,000 mortgage from New Century Mortgage Corp. of Pearl River, N.Y., on a house that today is worth less than \$400,000, according to an estimate Petterson got from a local real estate agent. Petterson said he has never seen the appraisal that valued the house at \$525,000 and doesn't think it was ever worth that much, even at the height of the recent housing boom.

The Pettersons continued to live in the house and were told to make monthly rent payments of \$4,895 -- an amount equal to the new mortgage payment. Half was supposed to come out of the escrow account and half from their earnings.

But they soon stopped making payments -- partly because they couldn't afford them and partly because they came to believe that they had been misled.

The new mortgage company took the payments out of the escrow account, which ran out in mid-2007. When the escrow account ran dry, the mortgage payments ended, and the house is now in the foreclosure process again. There is a good chance the Pettersons, who have not made any payments for close to two years, will be forced to move.

And now, letters from other foreclosure rescue companies are arriving at the house, addressed to Garretson.

The Pettersons complained to the state Department of Banking and Insurance, which told them that the matter was a contractual dispute and not regulated by the department. Elite is not licensed by the department, and there is no requirement that foreclosure consultants be licensed.

Firm defends record

French defended his company, saying he has helped many distressed homeowners. He put The Record in touch with a client, Minerva Concepcion of Camden, who said he recently helped her refinance her mortgage

and put her home in her son's name after she ran into financial trouble. Concepcion said French charged her about \$5,000 for his services.

"At that time, I was very stressed out," Concepcion said. "It worked out better for me to work with him."

According to the state Treasury Department, Elite Financial Solutions' state registration as a business entity has been revoked because it has not filed annual reports, as required, for more than two consecutive years. French said he did not know that had happened and that his accountant would check into it.

Legislation introduced in Trenton would regulate foreclosure consultants by requiring them to obtain a bond. Among other measures, the legislation would give homeowners 10 days to back out of a contract and limit the fees that can be charged by a foreclosure consultant.

"The issue is making sure it's a level playing field and making sure people are treated fairly," said Assemblyman Gary Schaer, D-Passaic, one of the bill's sponsors.

Ronald LeVine, a Hackensack bankruptcy lawyer, says state action is overdue.

"The state has abdicated its responsibility," LeVine said. "You have a lot of people committing fraud, and there's no enforcement."

In the meantime, he said, homeowners who can't pay their mortgages should be extremely skeptical of unsolicited letters and calls offering to help.

"If you're in financial trouble, nobody is going to walk in there and save your house, except yourself," LeVine said. "Any stranger who approaches you is doing it for their own economic interests."

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