A SHORT COURSE IN MORTGAGE FRAUD

Brent Barber says mortgage fraud is easy to commit and he ought to know. His scams lasted for five years and involved nearly 300 properties.

Posted by the Asbury Park Press on 03/4/07

BY NOELLE KNOX
USA TODAY

When Brent Barber tells you how easy it is to steal your house out from under you, or take your money and ruin your credit, even while he's sitting in prison, you'd better listen.

A one-time millionaire with a house on a golf course, Barber was sentenced in October to 12 years in prison for masterminding the largest mortgage fraud ever prosecuted in Missouri, and most other states too, the FBI says. He pleaded guilty to a five-year scam that involved nearly 300 properties in Kansas City, and victimized more than 80 people.

Nationally, mortgage fraud has spread in the past few years, with losses totaling around $1 billion last year, the FBI says. The real estate boom, along with looser lending standards, built an ideal breeding ground for smooth-talking con artists like Barber. Those hurt by fraud are not only lenders, but also the thousands of other homeowners who pay higher interest rates as a result, and the neighborhoods where foreclosures depress property values, invite crime and drain city resources.

Fraud cases are likely to continue rising this year and next, the Mortgage Asset Research Institute says. That's because fraud has become harder to hide in today's slower housing market, when lenders have more time to review applications and appraisals. And because fraudulent loans tend to fall into foreclosure after about three years, many bad loans from the real estate boom have yet to surface.

About 30 miles from where Barber used to live, he sits in a transfer detention center circled by fences topped with razor wire, waiting to be moved out of state. Barber, 42, who did not testify at his trial, spent more than two hours explaining to a reporter how to find victims, steal from homeowners and lenders, and hide the crimes. Then he offered advice on how to avoid being scammed.

"If I wanted to be a stinker, I could tear up any state I walked in," he boasts. "From right here in jail, I could do every one of the things I talked about" with USA Today.

You'd better believe him, says Linda Marshall, the assistant U.S. attorney who prosecuted Barber. "Unfortunately, I think that's very realistic, because so much can be done by computer, telephone and fax — things he has access to in prison. And if he didn't, with the help from someone on the outside, he could accomplish it."

Barber's crimes spotlight flaws in the mortgage lending and regulatory systems and show how easy it is to exploit the greed and trust in human nature.

The FBI had Barber on its radar screen for months, but the case was inactive. To investigators, Barber looked small-time because he used "straw" buyers to hide his deals, Marshall explains. He got caught after an angry ex-business-associate walked into an FBI office one day and started singing.

Barber and nine accomplices have been convicted or pleaded guilty, and a few others will soon be indicted, Marshall says. After Barber was convicted by a jury, he pleaded guilty to 104 other counts of money laundering, conspiracy and the interstate transfer of funds obtained by fraud. He was ordered to pay $11 million in restitution.

One of his most effective scams, documents show, looked like this:

Say a real estate investor came to you and told you banks wouldn't let him buy any more property because his credit was maxed out. But if he could buy a property in your name, he'd give you $1,500 to $2,500 for the trouble of signing the documents.

He'd pay all the costs and either find a tenant to cover the mortgage or pay it himself. And after a year, he'd sell the property and share the profits with you. Sound good? If you said yes, you'd be what criminals and the FBI call a straw buyer.

Barber or his accomplices often helped the straw buyers lie on loan applications to qualify for the mortgages, documents show. He also used fraudulently inflated appraisals to buy and sell the properties and pocketed the profit. In other cases, Barber would keep the rent but stop paying the mortgage. Many of these "straws" were stuck with empty, decaying properties and mortgages they couldn't afford.

Lenders suffered losses on 205 of the 283 properties in the case, according to court documents. Marshall says most of the straws lost their properties to foreclosure or signed them over to the lenders to avoid foreclosure, and several filed for bankruptcy protection.

Elderly people make attractive prey, Barber says. They tend to have low bills, high credit scores and all the documentation banks need.

"You say: "Look, you're not really going to owe money. It's going to be my house, or the tenants are going to be making payments. . . . The rent is $500, and the payment is $300. By signing here, you're going to get the difference," he explains.

One of Barber's straws, Elvin Barton, told the judge, "I'm 70 years old, and because of him I have to start all over. . . . Mr. Barber gained my trust through manipulation and used my good name and credit to add to his wealth. Mr. Barber never intended to live up to his promises, leaving me with six foreclosed homes. I could not make the payments."

Verify everything.

"You don't just verify the first thing and then believe (someone with a real estate deal) thereafter," Barber said.

If people offer a real estate deal, Barber says, verify where they've lived for the past 10 years. Ask for and speak to their banking references. Check credit scores. Ask to see their tax returns. See if lawsuits have been filed against them.

After he was arrested Barber in 2004, several witnesses told police Barber had blank real estate deeds in the back of his gold Infiniti Q45 luxury car, Marshall says. Deed fraud is almost impossible to detect before the damage is done.

"The whole system of (real estate) recording is set up assuming the society is sheep and there are no wolves," Barber says.

He sketches a series of scenarios in which he could "steal" your home and borrow against it, and you wouldn't know until his lender tried to foreclose on your house.

Barber could, for example, find an older neighborhood where most residents are retired and their homes paid off. He could forge a homeowner's signature, he says, and deed the house to himself. He could buy a notary's stamp for about $35 at an office supply store, and file the fake deed at the county recorder's office for $21.

Then, with the title to the property in his name, Barber could take out a mortgage against it. "If you could buy one house that way," he says, "you could buy 20 a day."

In fact, no county recorder's office will verify the information on real estate documents, says Mark Monacelli, president of the Property Records Industry Association. The recorder's job is to ensure that documents are filled out properly, signed and notarized.

"The system has always been vulnerable," says Monacelli, who agrees that if anyone wanted to commit such fraud, it's not hard.

Recently, Monacelli's organization formed a group to find ways to help county recorders combat fraud. Los Angeles and Philadelphia now alert property owners by mail when key documents are filed against their property.

Foreclosure fraud

After his arrest, Barber was free on bail until May 2005, when prosecutors found out he and another partner had defrauded a man facing foreclosure on his home. So the judge jailed Barber until the trial.

Nationwide, foreclosures are inching up as people with shaky credit fall behind on payments. Nearly 5 percent of borrowers are behind on mortgages, and the figure is projected to climb as people with adjustable-rate loans see their payments exceed what they can afford.

This could be the next wave of fraud, Barber says. He says he could approach a homeowner who's falling behind on a mortgage and offer to assume the loan and rent out the house to cover the payments. Barber says he'd leave the loan in the name of the homeowner, who'd still be responsible for it. He could pocket the rent and hide past-due notices from the homeowner.

"It would take three months before the lender is even going to start foreclosing, and even when they start foreclosing, I can hold off that foreclosure for six months to a year. . . . So if I had one house and the rent is $600 a month, I'd have $7,200 on that house (in a year), and if I got 10 houses, I'd make $72,000," he says.

If you're behind on your mortgage, Barber suggests renting out your house and move to a cheaper apartment. If you're behind $3,000 in payments, ask the tenants for a deposit of that amount. Put a no-sublease clause in the contract. And verify the tenant's rental history. Sign up for a credit-score alert program that will notify you if there's a change in your credit file, such as an overdue payment.

Barber is sitting on a plastic chair in a 5-by-5-foot "meeting cell" with the real estate section of the local paper. He reads aloud the ads he thinks have potential for fraudulent mortgage applications, such as: "Real estate loans. Residential, commercial, cash-out, refis, all credit types accepted. 100 percent non-owner-occupied investment loans."

Barber blames lenders for approving loans with little or no proof of a borrower's finances, for making fraud easy to commit. These "stated loans" are also known in the industry as "liar loans." They were designed to help people who were self-employed or working on commissions, with incomes that vary from year to year.

But in high-cost areas like California, where homeowners often must stretch beyond traditional lending ratios to afford a home, about 75 percent of buyers have turned to loans that require low or no proof of income or assets, up from 34 percent in 2000, according to First American

LoanPerformance.

The mortgage industry knows that loans with little or no documentation speed the approval process, "But they are open invitations to fraudsters," according to a report by the Mortgage Asset Research Institute.

"When these loans were introduced, they made sense, given the relatively strict requirements borrowers had to meet before qualifying," says the April 2006 report. "However, competitive pressures have caused many lenders to loosen these requirements to a point that makes many risk managers squirm."

Document everything

"Everything (on a loan application) should be fully documented," Barber insists.

After two hours, Barber is still imagining new scams. His mind seems trained to see and exploit weaknesses in the real estate system. He suggests safeguards to stop fraud; then he thinks of ways around them.

With good behavior, Barber could be out of prison in nine years. And though he admitted his guilt in court, in his interview with USA Today he offers no regrets.

"I guess I had drive to want to earn a little money," he says. He pauses and sighs. "And I think my priorities were out of alignment."