

## How to Avoid the Bandits of the South Florida Real Estate Investing Community

An uncommon occurrence that lately seems to be happening all too often to newbie and experienced investors is when a buyer changes the terms of the contract at or just before the closing. I know you are thinking that you have a contract so that can't happen, but let's look at exactly how these guys are getting away with it.

These guys are wholesalers who do a good volume of deals by targeting newbie investors and using their deals to sell to other newbie or seasoned investors. Their profit spreads are generally very small, hence they have to look at tons of deals and they throw a lot of contracts into the mix – most fall through, but some “stick”.

They focus on giving small deposits, the smaller the better and they intimidate the sellers by their experience and the fact that the seller doesn't have anyone else who is taking the deal. We have had a number of transactions with them and getting a \$3,000 - \$5,000 deposit is akin to ripping their toes off with a pair of pliers. It generally takes days and all the promises of “We'll be there in a couple of hours” seldom happen.

They even got so desperate on one deal as to beg us to give them a lower price because “We want to rehab the property and live in it”. They flipped it within minutes for a \$10,000 spread. So much for their living in the property – oh well, anyone can change their mind.

Unfortunately, the newbies haven't had time to create a sellers list so they are at the mercy of getting the deal done ASAP and taking out a profit – any profit by this time.

So now these “pros” have a contract from the seller and they have a buyer or buyers for the deal – often another unsuspecting newbie. The terms are set and everyone proceeds to closing. Often they agree to terms that allow the seller to think he is actually in control and that he got what he wants. But the deal hasn't closed yet.

At or before the closing, the Bandits start with backing down on the contract terms – specifically who pays for what part of the closing costs. This may not seem like a lot of money for title insurance or attorney's fees, but a few thousand here and there adds up pretty quick. These changes are sometimes much more than their original profit on the deal.

The Bandits are especially effective when they are suing their closing agent who “mistakenly” sends out a HUD-1 Closing Statement with incorrect information – usually supplied by the Bandits and not what is on the Contract. The only changes on the HUD should be agreed to in writing, but the Bandits clearly

control the closing agent. I mentioned this before, you don't have to be an attorney to be a closing agent and issue title insurance, and being an attorney doesn't guarantee anything except he passed the BAR Exam.

Common sense would tell you that all the seller had to do was hold the line on his contract terms and he would get the terms of the contract. Remember what a "motivated seller" is? That's someone (homeowner or investor in this case) who has to sell or something grievous will happen. With the homeowner he may lose the property or have two mortgages, etc. but with the investor he will lose the deal.

About this time in this conversation, some readers are thinking "The seller is an amateur and doesn't deserve the deal". Well, everyone needs to start at the beginning and the Bandits know it and target newbies and seasoned investors alike. In a flat or rising market this tactic of bait and switch couldn't happen as there are too many buyers. In these markets, buyers are rare prizes.

One other caveat is that the deal is often just an OK deal, not smoking hot where everyone is making money. That's because the newbie overpays for the property just to get a deal – especially true with REOs. So now the newbie has a deal but only one buyer, no money to close and carry it, and is desperate to make money so he can say "I told you so" to the naysayers around him. This is the "perfect storm" of desperation for the sellers.

So what will eventually happen is either the seller will blink and give in to the Bandit's demands and close, or the Bandit will finally blink and curse and swear at the investor and talk about "integrity, our small community, and not doing deals in the future". Unfortunately, newbies don't know any better and cave in and close for less of a profit than they expected.

How can you avoid this? The simple thing would be for me to tell you who the Bandits are and that would end it for you. But it would just start it for me so that's not going to happen.

Here is what I suggest to help keep you out of trouble with these and other Bandits:

1. You choose your closing agent and make the buyer pay for the title insurance anyway. You'll hear flack that "It's illegal" or "It can't be done", both of which are untrue. It is "usual and customary" for the party who pays for the title work to choose the agent. As a prime example of where this sometimes happens, look carefully at your next REO Contract or Addendum where the seller (Asset Manager) chooses and the Buyer pays! If you want the deal you have to agree, so the choice is yours.

2. Get a “reasonable deposit” of the greater of \$3,000 - \$5,000 or 10% of the purchase price. If the buyer doesn’t have the money and he can’t resell the deal, you’ll not close anyway.
3. Have a clause in your Contract that insures you’ll get the deposit immediately if the buyer doesn’t close “on or before” the agreed to closing date. Run the actual language by your closing agent beforehand so you know he will disburse the deposit to you “instantly” if the buyer doesn’t close. Have him write the clause so he is ready for it, or find another closing agent if he won’t agree.
4. Don’t worry about your reputation in the investing community if you haven’t done anything wrong. Guys with terrible reputations are still in the business after 10+ years and preying on new investors.
5. Learn from the experience but don’t let it happen again, take action to correct your weaknesses immediately.

In summary, we still do business with the Bandits because we know what we are dealing with and are ready for the “stuff” they will try and pull on us. It’s just like playing a game with a cheater but knowing how to play because he is cheating. For the readers on the “moral high road” you might be asking “Are the Bandits doing anything wrong?” after all, it’s good business practice to work the best deal possible. Is it good business if it happens to someone else or unethical, immoral and illegal if it happens to you?

On the same note, many wholesalers pull the same deal on REO properties by getting them under contract and then working to get a price reduction. Sometimes it works, often it doesn’t and the investor doesn’t close – and doesn’t lose his deposit either. This deposit issue is for another whole Weekly Insight, but it is good business practice in this case since the lenders are our advisories. It is your decision as to how you conduct your business, just don’t complain if some else does the same thing to you!