



# The **Ten** Biggest Mistakes of **Distressed Borrowers**



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# The **Ten** Biggest Mistakes of **Distressed Borrowers**

## 1. DO NOTHING.

With 50% of borrowers making no attempt to communicate with their lenders, many borrowers are faced with the possibility of serious deficiency judgments that may total hundreds of thousands of dollars. Upon the forced sale of the property, the Lender will seek the difference in the amount owed versus what is recouped from the sale of the property (also known as the deficiency).

## 2. CONTACT THE BANK ON THEIR OWN WITHOUT FIRST SEEKING COUNSEL.

Many Lenders have persuaded borrowers to represent themselves when facing foreclosure. Unless you are extremely well versed in the terms and guidelines associated with the Mortgage industry, there is a great danger in contacting the Lender on your own. There are many programs available to borrowers facing foreclosure and the Lender does not have the best interests of the borrower at heart when attempting to collect a debt. Remember, the Lender's first priority is collecting payments, not to gain a full understanding of your financial hardship.



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## 3. SPEND DOWN RETIREMENT AND OTHER SAVINGS TO SAVE THE HOME.

This is a very common mistake made by upstanding borrower's who have never been late on payments and would do anything to save their home. Although it is commendable that the borrower is not shirking their responsibilities, the future effects of spending down all savings can have a serious impact on the borrower and the borrower's family. With many foreclosure defense attorneys offering a complimentary consultation, the borrower should seek guidance as soon as it becomes necessary to spend down savings to support the Mortgage payment.

## 4. WAIT TOO LONG TO SEEK HELP.

Foreclosure Defense results are often best achieved with borrowers who seek help as soon as there is a problem paying the Mortgage. People are natural procrastinators, but this works against those borrowers who want to save their homes. Many foreclosure defense attorneys will not work with a borrower who attempts to retain an attorney at the eleventh hour. For example, it is more difficult to help a borrower facing a sale date in two days versus a borrower who comes to the office after only missing their first payment. If you committed a crime, would you wait until the day of the trial to retain an attorney?



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## 5. ALLOWING THE FORECLOSURE TO OVERWHELM THE BORROWER

There are many resources available to guide distressed borrowers. Borrowers who panic and do not take advantage of these resources are subjecting themselves to a devastating financial future. Although it is easier said than done, remember to remain calm and seek the advice of a qualified foreclosure defense attorney. Many attorneys offer a complimentary consultation, so be sure to take them up on the offer. Even if you don't retain the services of the attorney, you will be armed with the knowledge needed to confront your Mortgage problem.

## 6. NOT SEEKING THE ADVICE OF COUNSEL DURING A SHORT SALE

Many struggling homeowners are excellent candidates for a short sale. The problem is that many short sales come with consequences that can affect you and your family's financial future. Realtors and Title Companies are not licensed to negotiate your short sale or explain the consequences. It is critical that you speak to a qualified real estate attorney. Your lawyer's obligation is to protect your rights and interests not those of the lender. He/She will make sure you understand your rights and obligations and can explain the benefits and consequences of different approaches to your situation.



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## 7. SEEK BANKRUPTCY AS A FIRST OPTION TO SAVE THE HOME

Although bankruptcy is a valuable tool when faced with an immediate sale of the property, this procedure will rarely, if ever, save the home from foreclosure. Many times, bankruptcy should be used as a last resort and only in combination with other large debts (i.e. immense credit card debt). Borrowers who are facing foreclosure and have other large debts are encouraged to seek the advice of a foreclosure defense attorney and a bankruptcy attorney.

## 7. IGNORE PAPERWORK SENT TO THE BORROWER

Upon missing payments, most Lenders will send various documents to the borrower for a response. When the borrower feels confused or angry, these documents will be discarded. In an effort to help yourself and your foreclosure defense attorney, it is best to save all correspondence received from your Lender. Although some documents may seem to have little significance, your attorney may have a different opinion. The best course of action is to keep thorough records and provide your attorney with copies of all correspondence received from your Lender.



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## 9. HIRE NON-ATTORNEYS FOR GUIDANCE

Many borrowers are lured into foreclosure rescue scams by offers of help from non-attorney based companies. Do not fall for guarantees, promises and 100% money-back refunds to stop foreclosure. Many of these companies are unregulated by the government and do not always consider the best interests of the borrower. Many of these companies collect a fee and do nothing to mitigate the potential loss to the borrower.

## 10. HIRE OUT-OF-STATE COUNSEL

Many borrowers are inundated with advertisements and offers of help from out-of-state companies or law firms (many in California). The main problem associated with these companies or firms is that they are not regulated by the Florida Bar. Additionally, it is difficult to determine who is working on the file and what steps are being taken to prevent the foreclosure. Borrowers who hire a local attorney are able to go to an office to check the status of their cases. It is also easier to communicate with local counsel regarding changes in the borrower's income, lifestyle and other issues affecting the borrower.



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## ABOUT THE AUTHOR

Brian Lit, Esq. is Managing Partner of the Lit Law Group, P.A. Brian got his undergraduate degree while playing tennis at the University of South Florida. After graduating from Stetson University College of Law, Brian represented one of the nation's largest lenders here in the state of Florida.

For a free consultation with Brian, call 877.449.0340.

