

# **WEISSBERG AND ASSOCIATES, LTD.**

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## **A Recipe For Success: Understanding The Distressed Customer**

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Originating and processing mortgage loan applications for the financially distressed customer can be frustrating. More often than not, these opportunities are not "tidy little packages." But, with some simple problem solving, tenacity and, on occasion, teaming-up with a result-oriented and knowledgeable attorney, these loans can close with little more work than the conventional conforming loan.

As a rule, creditors attack the home. So, the likelihood of a successful refinance for the financially distressed customer cannot be assessed without investigating the status of creditor action against the residence. Why wait for a title commitment? Valuable opportunities can be lost in the interim. Go to the Recorder of Deeds of the county where the property is located and investigate the status of the consensual and non-consensual liens on the property. This is easy to do and only requires the property address, although having the PIN is helpful. Don't be afraid to ask the personnel at the Recorder's offices for help. A little humility and a good sense of humor goes a long way to get hands-on assistance from clerks.

If court action is involved, you must know the status of the case, especially if it is a foreclosure. If a foreclosure is pending go to the courthouse and get a copy of the Complaint (i.e., the document filed by the plaintiff/lender to initiate the lawsuit.) The Answer is much less important since in the great majority of cases the borrower has few defenses to the foreclosure. The Complaint has valuable information concerning arrearages, and other claimants asserting rights against the property. Check the docket of the case to determine how much time you, as the loan officer, have to accomplish the refinance. Has a Judgment of Foreclosure been entered? If so, you must obtain a copy of this critical court order to assess the operative time frames available to you and your customer, which now have been substantially shortened. Once the Judgment of Foreclosure is entered, the immediate intervention of an attorney is often necessary to buy more time for the customer.

Even if a foreclosure is pending, the lenders want to get paid, and do not want the property; but the high volume of foreclosure cases has led to a complete dehumanization among lenders, and especially so with their attorneys. Don't expect accommodations: once the property is in foreclosure, the lender will not care about the sick wife. The key target for the lender is the expiration of the borrower's rights of redemption. This date varies from state to state, but its expiration is the condition precedent to the judicial sale of the property. Even after the expiration of the borrower's rights of redemption, as a rule, the lender will accept full satisfaction, and depending on the circumstances (e.g., equity in the property) possibly a "short sale."

There are large financial and intangible benefits to closing loans with the financially distressed customer. First, these loans can be more profitable than the conforming loan since the customer can be charged higher points, fees and interest rates depending on his credit score and the urgency of his financial situation. Second, if you need to team-up with an attorney to intervene in a foreclosure or otherwise clear title exceptions on the property from creditor action (e.g., non-consensual liens: memoranda of judgment; tax liens; divorce decrees; mechanics liens; tax liens; municipal orders for building code violations; ect.), you will create a valuable business relationship. Besides appreciating the fees that the client is paying for "crisis management" legal work, which always merits a higher billing rate, the attorney will reciprocate with loan opportunities for you. The law of the "jungle": attorneys involved in foreclosures and bankruptcies are often in need of a loan officer that can close the "tough" loan.

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Another enormous benefit, albeit less financial, is the heart-felt appreciation that the distressed customer will have for you and your staff for relieving his family's financial distress and the attendant legal and emotional problems that flow from a foreclosure. You saved the house! And not only that: with a successful refinance, you will have saved the distraught customer's peace of mind, and maybe his marriage, too.

So, as the sages teach, in crisis there is opportunity! And, with the current state of the economy, with the number of foreclosures sky-rocketing, there will be many people desperately looking for result-oriented and knowledgeable loan officers that can and will close on the loan to save the distressed house and preserve the family's way of life.

***About Ariel Weissberg:** Ariel began practicing law in 1979 at a small Chicago law firm where, as the only associate, he gained solid foundations in both business litigation and a wide-range of transactional work. Later, he built upon this foundation at a top medium-sized firm, further broadening his apprenticeship by representing Chapter 11 debtors and middle-market banks.*

*Since 1984, when Weissberg and Associates was founded, Ariel has built a varied and loyal clientele, comprised of small to medium-sized to publicly traded businesses, and individuals, who appreciate his aggressive, yet deliberate hands-on style and his dedication to achieving positive results for his clients. He is a "quick study" especially in financial matters, and he is sought out for complex business planning, especially relating to credit facilities and crisis-management.*

*Ariel has deep roots in the Chicago community. The son of Rabbi Victor H. Weissberg, Ariel graduated from Washington University (B.A. 1976) and received his J.D. from St. Louis University Law School (1979). He returned to Chicago, where, besides practicing law, he involved himself in charitable and community-based activities. Married for over 20 years, Ariel is the father of three exemplary children including Ilan S. Weissberg, who is on active duty as a United States Marine. Ariel is an avid student of military history and an outdoors man. He speaks frequently in the Chicago area concerning real estate, financial distress, and litigation.*