

# OBSERVATIONS

from the desk of Mildred Wilkins, (FIS)...

## Are You Ready to Intervene?

### Twenty Questions for Today's Real Estate Professional

I was recently asked by the Charleston Trident Board of REALTORS® to differentiate the **(FIS)** Foreclosure Intervention Specialist certification from other short sale certification programs. Please know that the Board has offered both the (SFR) (Short Sales and Foreclosure Certification) and the (LMC) (Loan Modification Certification) certifications which are excellent programs.



Both have been widely attended in Charleston and I strongly encourage you to sign up for one or both at the next opportunity. Every single licensee should avail themselves of a basic short sale class so they have a rudimentary understanding of this 'new' transaction which is dominating the market in many parts of the country.

**(FIS)** will be offered for the first time in South Carolina beginning March 2010, courtesy of a FPR (Foreclosure Prevention and Response) grant from NAR. I think the operative word of distinction is 'basic' as compared to 'comprehensive'. This 30 hour program is designed for the agent who has decided to commit to getting an in-depth understanding of the various facets of handling these intricate transactions—the relationship connection, the Law, the Ethics, property valuation, the process, the negotiating, getting to the closing table, the downside, the resources needed, community partnerships, the self-study to continue to grow and much, much more.

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Why offer **(FIS)**? Because hundreds of students who had taken either the 4 or 8 hour basic short sale training classes offered by Home Ownership Matters beginning in 2003 demanded more. More time, more expansive, more details. The course evolved and in 2005, the **(FIS)** certification was introduced in Ohio. Since then (FIS) has been approved for CE credit in six (6) states and there are graduates from twelve (12) states. States approved for CE include: Ohio, Indiana, Kansas, Nebraska, Colorado and Oklahoma.

30 hours, 700+ pages of material.

Tried and true methodology coupled with sound philosophy  
from a former Fannie Mae Broker-Specialist

Updated regularly and state specific (Law section)

I decided the easiest way to say what you'll learn is to pose the questions which will be addressed.

### **Are you ready to intervene?**

1. Do you know how to distinguish a 'frozen customer' from a potential short sale client? Do you currently use an intake form to determine who is a viable candidate for this type transaction and who is just not prepared for the commitment? Can you screen OUT the 60% of folks whom you should not list as short sales?
2. Are you prepared to analyze/distinguish the many HATS which may be required to help someone who is in default: the social worker, medical counselor, marriage counselor, human resources helper, spiritual advisor, budget counselor, salesperson extraordinaire, valuation expert, etc.

Are you real clear on what role you can and/or should play? Are you connected to/familiar with the community resources to address those needs which are outside of your scope of expertise? Do you currently utilize a referral form for this purpose? Can you

see the potential for a fair housing complaint (or other complaint) without some standardized referral policy/form?

3. Do you know how to 'handle' the law while avoiding the 'practice of law'? Do you clearly understand that it is necessary to understand some components of the law (and be able to explain them to your client) as part of a short sale attempt or an REO purchase?
4. Do you understand the impact of the seller filing bankruptcy on a potential short sale? The increased likelihood of a deed-in-lieu? Do you currently discuss this at the onset with your customer since it could/should end your relationship if they file later?
5. Are you familiar with the new Treasury guidelines for short sale—other than the fact that the commission cannot be reduced below 6%? Have you studied the guidelines? Do you understand them?
6. Are you familiar with the foreclosure law in your state? Is it a judicial or non-judicial process? What difference does it make? The guidelines for service on a defaulted borrower? Familiar with what the customary forms are and what they look like? Are you aware that violation of state foreclosure law can work in a borrower's favor to gain extra time which could be used to facilitate a short sale? Or a reverse mortgage?
7. Do you have the expertise to accurately determine the value of a property in today's declining market? Are you familiar with the professional BPO which is used as the industry standard (fanniemaebpo.com)? Could you complete one and do you understand why it can be much more accurate than the more commonly used CMA or market analysis? Are you clear on why accurate property valuation, from the beginning, plays such a critical role in the success or failure of your short sale effort?
8. Do you feel you clearly understand the unique protocol for short sales, not to be confused with REO and traditional sales? Who signs what? When? Presentation of offers? To whom?

9. Have you figured out what to disclose? To whom? And when?  
Are the guidelines set by your Broker consistent with both Federal and state requirements/prohibitions on disclosure? Are you clear on the Who? What? When? HOW?
10. Are you familiar with your Board and Broker's position on:
- a. Disclosure—Who? When? How?
  - b. Commission—Who? What? When? How?
  - c. Signing of offers/amendments/price reductions—Who? When?
  - d. Presentation of offers—To whom? When? Signatures? Why?
  - e. Multiple offers—that is a whole other 20 questions
11. Does your brokerage utilize a set of disclosure forms which have been customized for the use with short sale scenarios? Are you familiar with them? Do you understand the protection that you may gain from covering the special risks associated with short sale transactions? Are you interested?
12. Do you understand the tax implications for a borrower who has completed a short sale? Please don't tell me that you thought they were off scot free because the short sale was approved. (They are not) Do you have a referral to a tax accountant?
13. Have you read your state's Seller Disclosure Law? Have you studied the state disclosure form? Does it include a reference to "threatened or pending litigation"? Or perhaps "notices from any Government or quasi-governmental agency"? Any "challenge to the title"? Are you clear on why any/all of these could forestall a short sale approval and therefore need to be disclosed?
14. Do you have clarity on the impact of a foreclosure on your customer's ability to purchase down the road? Was that part of your discussion about the reason to consider a short sale in the first place? Have you discussed operating 'in good faith' as vital to the ability to keep the house on the market?

15. Is there a 2<sup>nd</sup> (or 3<sup>rd</sup>) mortgage? Are there other potential liens against the home (home owners' association, taxes, personal judgment) which must be dealt with? Got a plan for how you are going to handle those? Do you know where to start?
16. Do you clearly understand the role of the Guarantor and/or the investor in determining whether or not a specific short sale can be approved? For that matter, do you know that the Servicer is merely a go-between hired to facilitate the administration of the loan but is NOT a decision maker? Who is? How can you find them? What are THEIR guidelines? Are they the same from Guarantor to Guarantor? Available in public records?
17. Are you familiar with the Qualified Written Request—backed by Federal Law (RESPA, no less) and the impact it can have as a 'tool' in delaying the foreclosure process if well-prepared? Used effectively and in a timely manner, you can gain valuable time to complete the short sale. We'll cover that.
18. Has your firm/Broker created a "hold harmless" document which covers the scenarios which you cannot be responsible for with the clear understanding from your client that you will have no liability? Since the risk of lawsuit is pretty high with this new type of transaction, getting some understanding of what should be included and why should be paramount, I would think.
19. Have you identified as an agent/brokerage/Broker those scenarios which will require you to end the relationship? Have you established a policy concerning the need for a unilateral (not mutual) release? Under what circumstances, with what notice?

Certainly advance disclosure would be required: I would recommend at the inception of the agency relationship. We cover in detail during **(FIS)** training what I call the "Divorce Decree". What happens if the client abandons? Files Bk? Enters into a deed-in-lieu? Refuses

showings? Fails to cooperate in other ways? Policies should drive practices and both help to minimize liability.

Proper training and thorough understanding on each of these issues is paramount in order for you to be both effective at processing a short sale from beginning to end AND avoid the various opportunities to get yourself or your client into serious trouble along the way.

Short sales are the new reality for many markets around the country. They have become a major part of the market (along with REO's) and becoming intimately familiar with how to process them successfully is paramount for any agent who wishes to thrive in today's market.

If you do not already have clarity on ALL the issues which have been addressed in this article, then you are a prime candidate for the (FIS) certification program. Each of these will be explored and addressed during this 30 hour training program. You will leave with clarity on every single point covered here and will have the expertise to feel confident that you are representing your client with strong tools which have prepared you to be successful in getting the result you hope for and they deserve. YOUR knowledge base is a key component of your professionalism. Your success as a REALTOR® is tied directly to the caliber of your information.

Don't miss an opportunity to learn, explore and interact with one of leading instructors on this timely topic. Her experience actually doing short sales, her time with Fannie Mae as a Broker-Specialist and expansive training (HUD, Fannie Mae, NeighborWorks, Legal Services, and National Consumer Law Center) can be invaluable to you.

**Sign up today! Coming soon to a classroom near you!**

### **Final Question**

Is there someone in your office to whom you can refer a customer who needs short sale help? Within your firm? Maybe you can/should become that 'Referral agent' if you do not have the expertise today.

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### Other Foreclosure Resources

1. [www.HOMwebinar.com](http://www.HOMwebinar.com)
2. [HomeOwnershipMatters.blogspot.com](http://HomeOwnershipMatters.blogspot.com)
3. [www.HomeOwnershipMatters.com](http://www.HomeOwnershipMatters.com) —  
Calendar and Foreclosure/Loss Mitigation sections
4. [www.nti.org](http://www.nti.org) — NeighborWorks America — Training Institute
5. [www.consumerlaw.org](http://www.consumerlaw.org) — National Consumer Law Center



*Mildred Wilkins*

**President of Home Ownership Matters**  
**Author of "Your Real Estate Advisor"**  
available at: [www.DovePublishingHouse.com](http://www.DovePublishingHouse.com)  
**Toll-free 1 (866) 507-5105**

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