Fraud Prevention Tips

As an investor, you should:

1. Be on guard when someone contacts you about investing in a “ground floor” opportunity regarding an investment in real estate.
2. Be wary of promises of high returns with little to no risk.
3. Avoid feeling pressured to make a rushed decision about the investment.
4. Receive and retain a copy of all agreements and risk disclosures.
5. Understand the terms and conditions of the investment contract.
6. Consult with a neutral, third party such as a securities attorney to evaluate the real estate investment.
7. Focus on how you can get out of the investment and not just the potential financial gains.
8. Contact the Investigator on Duty at the Securities Division to verify registration and disciplinary history of the investment promoter, to find out if the investment is permitted to be sold or to file a complaint.

Contact Us

To verify registrations, file a complaint or inquire about statutes or rules: **Investigator on Duty**
602-542-0662
SecuritiesDiv@azcc.gov

To arrange investor information presentations or request materials:
Investor Education Coordinator
480-204-4180
Info-azinvestor@azcc.gov

For general information on wise investing and fraud prevention, visit:
www.azcc.gov/az-investor

Ask and check *before* you invest!

Securities Division, Third Floor
Arizona Corporation Commission
1300 W. Washington St.
Phoenix, AZ 85007

Toll Free in Arizona
1-866-VERIFY-9 (837-4399)

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ARIZONA CORPORATION COMMISSION

Securities Division



Real Estate Investments as Securities

Real Estate as Securities

Your interest in a real estate investment may begin with a trusted family member, friend, neighbor or business associate who contacts you about some impressive financial gains, or perhaps a popular newspaper, radio or online advertisement intrigues you with a promise of guaranteed returns secured by an interest in a piece of real estate.

What you may not realize is that some of these investment opportunities may be unregistered securities or worse yet—scams. Whether a real estate investment is a security or not is not always easy to determine and depends upon the unique facts and circumstances of the transaction and not on what a promoter calls the investment.

A general rule of thumb with which to start is that if you as the investor are not in control of the real estate transaction and are expecting a return on your money, the transaction probably involves a security.



Ask Questions and Verify Answers

Most importantly, understand the investment and what it entails. Request documentation that provides a clear and accurate explanation of the investment, such as a prospectus or offering circular. If you receive vague, verbal answers to your questions, don't invest. Here are three important questions to consider before signing a contract:

✓ ***Q: Are you buying an interest in real estate or in a company that is buying or financing real estate?***

A promoter may form a corporation, a limited liability company or a limited partnership that will purchase real estate or make loans to other purchasers of real estate. The promoter raises money for the entity to purchase or finance the real estate by selling equity interests in the entity. What the promoter is selling to investors are ownership interests in the entity. Those equity interests are usually securities. A promoter may also borrow money from investors to raise capital for the entity. In that case, the promoter is often selling **promissory notes**, which are securities.

✓ ***Q: Are you buying real estate you can control?***

A promoter may "package" real property or loans on real property with service agreements—property management, rent or debt collection, foreclosure services—that the promoter will provide you. The promoter, not the investor, will make decisions regarding the management of the real estate or the real estate loan. If you are buying a "package" and lack active control, then you are probably buying an **investment contract**, which is a security.

✓ ***Q: Are you investing in a deed of trust?***

Although commonly called a **deed of trust investment**, the product that the promoter is selling is a promissory note secured by a deed of trust on real estate. Under Arizona law, promissory notes are securities. The law exempts from registration requirements the sale of a note secured by a mortgage or deed of trust on real estate, but if the note and deed of trust are "packaged" with other services the promoter will provide to you, then the "package" you are buying is often an investment contract that would not be exempt from registration.