THE GOOD, THE BAD, THE UGLY…PRIVATE LENDING

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After speaking to, literally, hundreds of private lending companies, this is what I have found to be the general characteristics of private lenders & private lending. Also, some of the reasons why the most successful private lenders network with each other and some of the hazards of being a one-man private lending organization.

1) Private lenders often know other private lenders who have other private lending opportunities. By networking, the opportunity exists to place funds in the most desired hands.
2) Private lenders are torn between the need to keep all of their money invested, at the best rates, at all times…and keeping some funds reserved in case a better investment opportunity comes up
3) Private investors have borrowing opportunities which allow then to leverage money they do not have…the opportunities to borrow and lend the proceeds back out at a higher rate
4) Private lenders can demand that a large part, or all, of the proposed interest be paid up front. And, if the interest reserves and/or costs are rolled into the loan, they get interest on interest
5) Private lenders, even if they use attorneys to draw documents, may be unaware of alternatives to mortgages with foreclosure provisions, such as deeds of trust
6) Private lenders may be unaware that, even on residential properties, there are legitimate ways to circumvent Federal RESPA, Truth-In-Lending and Section 32 regulations
7) Private lenders may be unaware that referral fees are permitted on properly structured transactions
8) Private lenders may prefer not to deal with retail borrowers, but do want enough professionals to know about them so that there are always deals waiting in the wings
9) Private lenders may not know of the ways to put the busy-work of lending…underwriting and enforcement into other persons' hands, at no cost to them

10) Private lenders may not know of alternative to prepayment penalties, such as lock-out provisions

11) Private lenders who place their own funds ***do not necessarily know***…

   a) How to professionally rofessionally underwrite loans or investigate borrowers' (regarding income, assetx, credit, employment and background, etc)

   b) How to tell good from fraudulent or incompetent appraisals

   c) Their liability, almost unlimited by scope, size or time, regarding environmental site hazards that are not investigated or handled properly

   d) That even some real estate attorneys do not know every liability of title problems that title insurance may not protect against if handled poorly

   e) The current market for their funds

   f) The best form of documentary protections for their transactions

   g) The options for handing off the busy-work of administering their investments onto others, at no cost to themselves.

   h) The mechanics of cross-collateralizing their investments

   i) The mechanics of protecting themselves from borrowers who could hide behind a "corporate shield"

   j) The investing opportunities available to them outside of their "small circle of friends"

   k) Law changes that can put them at rish of violating US securities/syndication/RICO statutes

   l) The other lending opportunities available to them, such as transactional lending, which can bring in, literally, hundreds of percent of annual interest

12) In summary, it can be concluded that a one-man private lending shop misses opportunities; often lends at less than the market will bear and can fail at some of the most basic, most important due diligence obligations that can imperil the investments or, even worse, put them in jail!

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