

Victimized investor blames lack of enforcement

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Lisa Bastian says she's tired of being depicted as greedy and naive. The greed in Nevada's trust deed investment scandals was exhibited not by investors but by mortgage lenders licensed by the state yet inadequately policed by it, she said.

Bastian, 45, has been a businesswoman most of her adult life but recently sold her business so she could live off the proceeds while taking a more active, stay-at-home mom's role in rearing and educating her 9-year-old daughter. Now the \$100,000 she invested with USA Capital stands at risk, despite her due diligence before investing.

Media accounts of lending firm breakdowns, she says, imply that investors should have known better than to expect "double-digit" returns on investments in deeds of trust secured by a borrower's real estate. "But the fact is we were, by and large, prudent investors. I looked at the loan-to-value ratio, and USA Capital said they were lending 50 percent of the value of a property. They told me this was a client with a good past record, and the worst thing that could happen was the loan could go into default and we could go get the land."

Instead, when USA Capital declared bankruptcy, she said, the bankruptcy court prohibited her and her co-investors from foreclosing on the property to seize the land. "The court formed a committee of creditors, just three people with the biggest investments, and those three make all decisions on behalf of all creditors. We're at their mercy, and we sit with our fingers crossed that the decisions will be good." She feels she has completely lost control of her money, yet she still isn't getting her interest payments.

"What really offends me," she continued, is that USA Capital continued soliciting new investors even after it was clear that it had to file bankruptcy, or perhaps even after it had decided to do so.

"When you are going into a \$940 million bankruptcy, you know about it well ahead of time. Nobody wakes up one morning and says they're going to file that day. And yet they were petitioning new investors up until two weeks before they filed."

She continued, "The bottom line is the mortgage lending division needs more power of enforcement. For instance, USA Capital claims that they went into bankruptcy because 50 percent of the loans they made were nonperforming. Well, why doesn't the government require these companies to notify their investors the second the payment is late on their investment, and back it up with a fine so big that the companies would live in fear if they didn't notify?"

"The Mortgage Lending Division doesn't do anything until they get a complaint. Well, they don't get a complaint until everybody's money is already blown! This is a huge industry and there ought to be random audits done monthly. Furthermore, there ought to be some licensing standards; these Joe Blows ought to prove their worthiness to play with people's money."