

What Not To Do, Or Say, In CMBS

Presented by 1st Service Solutions.

1st and only Rated CMBS Borrower

Advocate. www.1stsss.com



Hear from
CMBS Industry Leaders

Moderator:



Ann Hambly
Founder & CEO
1st Service Solutions

Speakers:



Patrick Sargent
Partner
Alston & Bird



Michael Carp
Over 30 years of Special
Servicing experience



Rob Treleven
Over 30 years of CMBS
experience



Kevin Duty
Managing Director, Workouts
1st Service Solutions



Meet
today's
Speakers

Efforts To Improve **Borrower Experience With CMBS**

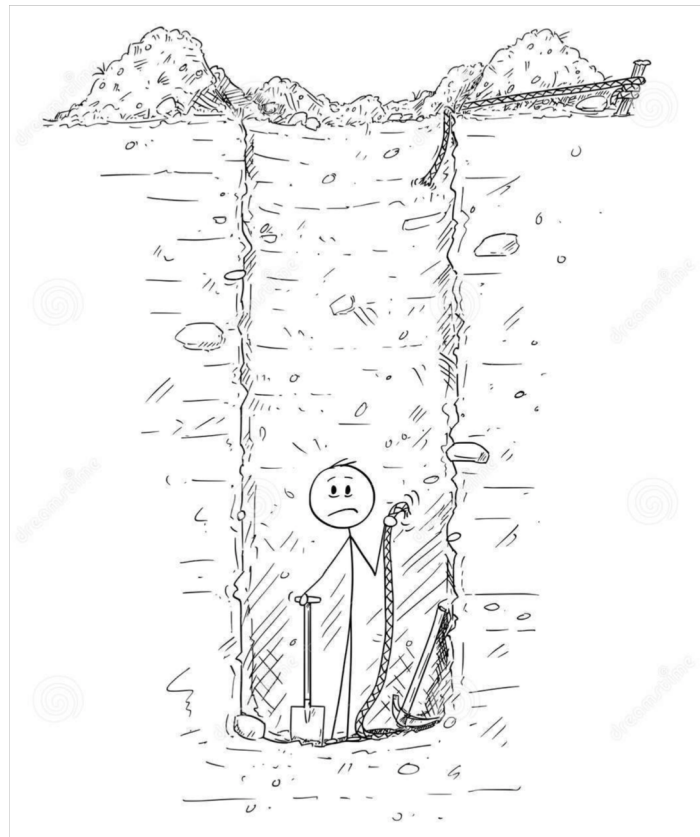


- CREFC
 - Waive recurring DSCR testing for the first six months after closing
 - Major tenant threshold for lease approval
 - Streamlined reserve disbursement processing
 - Standardized definitions of DSCR, DY, LTV, NOI, etc.
- Servicer changes
- Investment



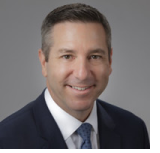
04

When You Find
Yourself In A Hole,
Stop Digging



Things You Should **Never**
Do, Or Say, In CMBS





Don't Sign Your New Loan Documents **Without Being Sure You Understand Every Word!**

- Examples:
 - Late fee definition & balloon payment
 - DSCR calculation includes market vacancies
 - DSR calculation includes underwritten vacancies
 - Cash sweep with no way out
 - Cash collateral account during cash sweep used at lender discretion



Don't Close A New CMBS Loan **Without Having Proper CMBS Knowledgeable Representation**

- Business
- Legal



Don't Refuse To Comply With Cash Management If/When Cash Management Is Triggered

- Servicer calculations are final, absent a manifest error
 - “Can't fight city hall”
- Loan will be transferred to special servicer and put into default
- Fees will start accruing
- Potential recourse carve-out

Don't Go Ahead And Do Something That Requires Lender Approval **Before Getting Lender Approval**



- In this case it is not better to ask for forgiveness!
- Monetary penalties including default interest & possible cash sweep
- Deemed approved

Cash



- When NOI is insufficient to pay debt service
 - Remit NCF
 - Don't hold back NCF = receiver
- Communicate with master servicer
 - Don't tell servicer that you cannot pay your payment
 - Recourse carve-out insolvency



Don't Refuse To Sign The Pre-Negotiation Agreement

- Or you will get foreclosed
- Special servicer will not engage in discussions without PNA
- Non negotiable “ish”



Don't Agree To A “Deed In Escrow” As Part Of Your ‘Settlement’ With The Special Servicer

- What is a deed in escrow?
- Do servicers really mean it?
- Are there other options?

Don't Have Your Lawyer Be Your Sole Point Of Contact With The Special Servicer



- Special servicer will hand over to their attorney & prepare for battle
- Best to have business to business contact



Don't Miss Your Maturity Date **By One Day**

- It can cost you up to 6% of the balance of the loan
- Be sure balloon payment is excluded in late fee definition
- Even short term forbearances sometimes require a loan be transferred to special servicer
- Special servicer will add 1% liquidation fee to payoff statement

Contact Information

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Next Webinar: December 12th

18 Lessons from 2018

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Attending