

Attorney Shannon B Jones posted a brief Q&A about a current issue she is receiving numerous calls and questions about.

[Shannon B Jones](#), is a partner at [Shannon B. Jones Law Group](#). The Law Group currently represents over 5,000 real estate agents in Northern California. Ms. Jones is a member of the California Association of REALTORS® Strategic Defense Panel and is endorsed by the [California Association of REALTORS®](#). She also is the author of the best-selling real estate book, "A Real Estate Agent's Practical Guide to Avoiding Litigation".

Question & Answer Regarding Junior Lienholder's Demand For Compensation

Question: I am a listing agent on a short sale with two (2) loans secured against the property. The senior lender has issued an approval of the short sale and specified the amount the senior lienholder is requiring that it be paid. It has also specified the amount which may be paid to the junior lienholder. The junior lienholder is requiring additional amounts be paid to it without notice to the senior lienholder. Is this legal? Does it expose the seller or me to liability? How do I handle this situation? Can I force the junior lienholder to accept less money and close the transaction?

Answer: A short sale is a voluntary process on the part of the lenders to accept less money than the amounts of the loans. You cannot force any lender to accept a short sale. When a senior lienholder issues an offer to accept a short sale and specifies the terms, those terms must be complied with or there is a breach of contract. If payments are made to the junior lienholder without notice to the senior lienholder, the agents as well as the seller may be exposed to liability for defrauding the senior lienholder. In addition, the title company, to the extent the title company was aware of the payments, also may be held liable to the senior lienholder for not following proper escrow instructions. In order to facilitate a short sale without liability, the senior lender needs to be notified of the amounts paid to the junior and approve those amounts. In addition, all payments to all parties relating to a short sale must be disclosed on the HUD-1 approved by the lenders.

The information herein is not intended to offer legal or financial advice. Please consult with author or another appropriate professional for specific and/or more information. The information below provides varying degrees of perspective and may vary with market conditions. While some are legal points, many of the guidelines are marketing or practical points.

To contact [Shannon B. Jones](#) directly, please go to:

SHANNON B. JONES LAW GROUP
208 W. El Pintado Rd.
300 Diablo Rd. (mailing)
Danville, California 94526
925.837.2315 Telephone - 925.837.4831 Facsimile
sbj@sbj-law.com Email

Sacramento Office
8880 Cal Center Drive, Suite 400
Sacramento, California 95826
916.368.1000 Telephone
sbj@sbj-law.com Email