

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: District Attorney

BOARD AGENDA # B-6

Urgent Routine

AGENDA DATE August 27, 2013

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of the Real Estate Fraud Prosecution Trust Fund Annual Report Covering Fiscal Year 2012-2013

STAFF RECOMMENDATIONS:

1. Accept the report of the District Attorney's Office regarding Real Estate Fraud Prosecution Trust Fund pursuant to California Government Code section 27388, sub-sections (d)(1) and (d)(2).
2. Approve the continuation of this program and current funding levels in the 2013-2014 Fiscal Year.

FISCAL IMPACT:

The 2013-2014 Adopted Proposed Budget includes appropriations in the amount of \$472,526 for the Real Estate Fraud Prosecution program. This budget is funded with \$319,411 in estimated department revenue generated from a fee charged for certain real estate documents filed within the County, and a \$153,115 contribution from the General Fund. The County contribution remains the same as last fiscal year. Revenue from fees charged will help maintain this program's activities. These funds must be used solely for the prosecution and investigation of real estate fraud.

BOARD ACTION AS FOLLOWS:

No. 2013-439

On motion of Supervisor De Martini, Seconded by Supervisor O'Brien

and approved by the following vote,

Ayes: Supervisors: O'Brien, Withrow, Monteith, De Martini and Chairman Chiesa

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

DISCUSSION:

Real estate fraud is an ongoing problem throughout California and particularly in Stanislaus County. Some of the current fraudulent schemes consist of lender fraud, short sale fraud, foreclosure rescue fraud, and bankruptcy fraud. The majority of residential mortgage loans are owned by the Federal Home Loan Mortgage Corporation (Freddie Mac), the Federal National Mortgage Association (Fannie Mae) and the Federal Housing Administration (FHA), therefore, losses are sustained by the taxpayers. A common misconception is that the banks owned the loans and suffered losses for their actions during the sub-prime, stated-income loan frenzy in the mid 2000's. In reality, the banks sold the loans and now service them for Freddie Mac, Fannie Mae and FHA. The Real Estate Fraud Unit works closely with the Federal Housing Finance Agency Office of Inspector General (FHFA OIG) to investigate fraud on Freddie Mac and Fannie Mae owned loans that were purchased from the banks. If loan fraud is substantiated, the Federal Housing Finance Agency requires the banks to repurchase the loans.

Bankruptcy fraud continues to be prevalent throughout California. A Bankruptcy Court Trustee recently estimated half of all bankruptcies in Southern California are solely to facilitate foreclosure rescue schemes. The Real Estate Fraud Unit is currently investigating several state-wide foreclosure rescue schemes where the Bankruptcy Court is being used to delay and stall foreclosure. The Real Estate Fraud Unit is part of a Federal Task Force with the Federal Bureau of Investigation and the United States Attorney's Office. The United States Attorney's Office recognizes the bankruptcy fraud in our area and welcomes cases for federal prosecution.

In Fiscal Year 2012-2013, the Real Estate Fraud Unit investigated and arrested several persons for filing and recording false and fictitious Grant Deeds and Deeds of Trust at the Stanislaus County Recorder's Office that were used to stall or delay the lender from foreclosing. After several arrests within a short period of time, the filing of false and fictitious documents to stall foreclosure seems to have stopped in the past several months. The Real Estate Fraud Unit focused on arresting industry professionals, such as licensed real estate agents or brokers, and those persons who had been warned not to attempt to file and record false and fictitious documents to stall or delay foreclosure. The unsophisticated home owners who did not understand they were committing a crime, and were solicited by those involved with the schemes, were warned to stop the unlawful activity and were not prosecuted, if they complied.

Most real estate and mortgage fraud cases are extremely complex and time consuming. A great deal of investigation is required as well as extensive prosecutorial preparation. Many of the cases involve several hundred victims and multiple defendants. A recent foreclosure rescue and bankruptcy fraud case had 300,000 pages of documents related to the case. Another major foreclosure rescue and bankruptcy fraud case that will be prosecuted in San Bernardino County has multiple defendants and several hundred victims. The investigation originated in Stanislaus County and spread throughout the state.

Approval of the Real Estate Fraud Prosecution Trust Fund Annual Report Covering Fiscal Year 2012-13

The Real Estate Fraud Unit is currently staffed with one prosecutor (who is also a licensed real estate broker), two criminal investigators and a part time Real Estate Fraud Unit assistant (who is also a licensed real estate agent). Both investigators work with members of a Federal Mortgage Task Force and submit cases to the U.S. Attorney, the California Attorney General, and the District Attorney for prosecution.

It is the goal of the Real Estate Fraud Unit to prosecute those who commit real estate fraud and to educate the public and real estate industry professionals in order to prevent real estate related crimes from being committed.

In the past year, the Real Estate Fraud Unit made five (5) public presentations to various local groups concerned with real estate fraud in the community.

A member of the Real Estate Fraud Unit attended Residential Mortgage Backed Security training hosted by FHFA OIG in Washington, DC to learn more about joint federal investigations of Residential Mortgage Backed Securities (RMBS) and Mortgage Securitization.

General Statistics

The Real Estate Fraud Unit entered the 2012-2013 fiscal year with 40 ongoing investigations. During the fiscal year, the unit received an additional 33 complaints, most of which are now active investigations. Many investigations that originate in Stanislaus County are found to have been committed throughout California and other states. Many of these investigations originate from a complaint from the Stanislaus County Recorder's Office regarding the filing of false and fictitious documents (please see attached fiscal year 2012-2013 statistics).

Aggregate Monetary Loss in State and Federal Cases:

Aggregate monetary loss suffered by victims for cases entering the fiscal year: \$160,626,674

Aggregate monetary loss suffered by victims for cases initiated during the fiscal year: \$6,986,707

Aggregate monetary loss suffered by victims in cases in which there has been an investigation, filing or conviction: \$167,613,381

Sample Stanislaus County statistics for the Unit for the fiscal year:

14 filed cases continued from last year into this fiscal year involving 68 victims.

7 new cases were filed in Stanislaus County Superior Court for 7 victims.

6 convictions were obtained in Stanislaus County for 6 victims.

Fiscal Year 2012-2013 Case Highlights

Cydney Sanchez of Los Angeles, Brent Medearis of Modesto, and four other defendants pled guilty to operating a foreclosure rescue and bankruptcy fraud scheme from 2009 and were recently convicted. The investigation originated in Stanislaus County and spread throughout California and other states. The case was prosecuted federally by the U.S. Attorney's Office in the Eastern District. The Real Estate Fraud Unit worked closely with the Federal Bureau of Investigation, U.S. Postal Service, and the Federal Housing Finance Agency Office of Inspector General.

Gabriel Albor, a California licensed real estate broker, was arrested and charged with filing false and fictitious documents to stall and delay foreclosure. Albor pled guilty to the felony charge.

Phillip Sotelo, the former owner of a Modesto real estate sales company, pled guilty to a 2011 arrest for filing false and fictitious documents to stall and delay foreclosure.

There are several current open cases in which the defendants are awaiting trial. These criminal charges are only allegations and defendants are presumed innocent unless proven guilty beyond a reasonable doubt.

A very complex foreclosure rescue and bankruptcy fraud investigation continues. The investigation originated in Stanislaus County and spread to the Bay Area, Southern California, and Nevada. Because the majority of the defendants reside in Southern California the case will be prosecuted by the California Attorney General's Office. The investigation is being conducted by the Real Estate Fraud Unit and the Federal Housing Finance Agency Office of Inspector General.

There is another major foreclosure rescue and bankruptcy fraud case that originated in Stanislaus County and spread to Southern California. That case remains open.

Trial preparation continues for two Modesto men charged federally with bank fraud, wire fraud, and mail fraud. The men defrauded elderly homeowners (as well as banks) which led to the elderly victims losing their homes to foreclosure. The U.S. Attorney's Office charged the men with stealing in excess of \$10,000,000. One of the defendants was the owner and broker of a large real estate sales company in Modesto. The federal trial is scheduled for November 2013.

Another Modesto man is currently awaiting a federal trial for operating a fraudulent scheme to inflate prices of Modesto homes and then defraud the lenders. The homes went to foreclosure with losses totalling several million dollars. His co-defendants have already been convicted.

This same individual was also arrested and charged federally with defrauding approximately twenty-eight (28) developers in several states and countries that extends from Modesto to Hong Kong. Both federal trials are scheduled for the end of 2013.

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POLICY ISSUE:

Acceptance of this annual report pursuant to government Code section 27388, subdivisions (d)(1) and (d)(2) will demonstrate that Stanislaus County is acting in compliance with the statutory provisions authorizing the formation and use of the Real Estate Trust Fund. The efforts of the personnel in this unit support the Board's priorities of promoting A Safe Community and Efficient Delivery of Public Services.

STAFFING IMPACT:

The Real Estate Fraud Program Unit currently has a full-time Attorney V, two full time Criminal Investigators and a part time Assistant.

CONTACT:

Jeffrey W. Mangar, Deputy District Attorney, (209) 525-5550

REAL ESTATE FRAUD PROGRAM
FISCAL YEAR 2012-2013 (From 07/01/12 to 06/30/13)
PROGRAM REPORT FOR STANISLAUS COUNTY

STATISTICS	CARRIED FROM PRIOR YEAR	CURRENT YEAR	TOTAL
Case Referrals	40	47	87
Investigations	40	33	73
Filed Cases	14	7	21
Victims in Filed Cases	68	7	75
Monetary loss/case	\$160,626,674	\$6,986,707	\$167,613,381

CURRENT YEAR ACTIVITY		
Convictions	6	
Cases referred to Federal Prosecution	5	
Cases referred to Attorney General	1	
Cases rejected		
Monetary loss for current cases	\$167,613,381	

Stanislaus County District Attorney

Seek Justice

Serve Justice

Do Justice

Real Estate Fraud Prosecution



A LITTLE ABOUT US

- **June 2005...SB 537 passed (Govt. Code 27388)**
- **\$3.00 fee for every Recorded Real Estate document goes to Trust Fund for Fraud**
- **Stanislaus County began January 2006**
 - **FBI Task Force in 2009**
- **Full Time Deputy District Attorney**
- **Two Criminal Investigators**
- **One Part Time Investigative Assistant**



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REAL ESTATE FRAUD MISSIONS

- Investigate and prosecute real estate fraud complaints at the State and Federal level.
- Educate industry professionals, civic groups and the public on current real estate fraud schemes and how to avoid becoming a victim of those schemes.
- Work with the specialized regulatory agencies such as Bureau of Real Estate and Bureau of Corporations regarding dishonest and unscrupulous industry professionals.
- 20%- 25% of criminal fraud complaints involve licensed agents and brokers.



SOME OF OUR MANY PARTNERS

- **Stanislaus County Clerk –Recorder Lee Lundrigan and her staff (most REF cases involve recorded documents)**
- **Federal Bureau of Investigation and the Federal Housing Finance Agency Office of Inspector General**
- **Internal Revenue Service and Franchise Tax Board**
- **U.S. Department of Treasury, FDIC**
- **Bureau of Real Estate, Bureau of Corporations**



WHO ARE REALLY THE VICTIMS OF LOAN FRAUD?

- The banks acquired the bad loans from mortgage brokers, other lenders, etc.
- The banks sold bad loans to Fannie & Freddie.
 - The loans were securitized and sold to investors
- FDIC took over Fannie and Freddie in 2008
- Banks still service the loans, however, the taxpayers really own the bad loans

STATE VS. FEDERAL PROSECUTION

- Some cases need federal resources to prosecute.
- **JURISDICTION:** Sometimes the victims, witnesses and defendants are throughout CA, US and abroad.
- **SIZE:** Some cases have hundreds (even thousands) of victims.
 - We have to work together to investigate and prosecute.
- **NEEDED RESOURCES:** Help with asset seizures, accounting, or computer forensics.
- **POTENTIAL SENTENCE:** Federal prosecution usually means lengthier sentences (and no realignment issues).



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WHY STATE PROSECUTIONS

- We can investigate and begin prosecution much sooner, and hopefully stop the suspects from continuing their crimes in Stanislaus County.
- Federal cases can take much longer to indict (sometimes years after crime is committed to indictment).
- Both state and federally prosecuted cases can also take years to conviction.
 - We have state and federal cases from 2006 that are still in the Court process.



ONGOING ISSUES

- **Federal agencies are now holding banks accountable for their prior lending practices.**
 - **Our unit works with those agencies**
- **Very few detectives in law enforcement investigating mortgage fraud and real estate fraud.**
 - **Highly specialized area**
- **Needs to be a paradigm shift in how we view and punish white collar crime.**
 - **Bank robber vs embezzlement**
 - **Both stole \$120k**



Cases

- **Cydney Sanchez and Four Defendants,** Los Angeles based Foreclosure Rescue/Principal Reduction, Bankruptcy Fraud Case from 2009. All Defendants Pled Guilty in 2013.
- **Gabriel Albor,** Licensed Escalon Real Estate Broker Filing False Documents in 2012 at Stan Co Recorder's Office to Stall or Delay Foreclosure. Pled Guilty in 2013.
- **Philip Sotelo,** Licensed Modesto Real Estate Agent Filing False Documents in 2011 to Stall or Delay Foreclosure. Pled Guilty in 2013.
- **San Bernardino Case,** 2012 Case, Major Foreclosure Rescue, Bankruptcy Fraud Scheme With Multiple Defendants, Hundreds of Victims In Several Western States.
- **11 Defendant Mortgage Elimination Fraud Scheme.**
 - 2006 Case. 9 defendants have pled guilty. Preliminary Hearing has been on-going since 2007 (Longest Preliminary Hearing in Stanislaus County history).

CASES CONTINUED:

- Trial preparation continues for a Modesto Realtor (and owner of a Real Estate Company) federally indicted for defrauding many elderly home owners in 2009. The Broker and his partner were also indicted for bank fraud with losses exceeding \$10,000,000.
- Trial preparation continues for a Modesto defendant federally indicted for defrauding banks and Salt Lake City investors out of millions of dollars with the purchase of approximately 30 Modesto homes. This is a 2006 case scheduled for Federal trial in 2013.
- The same Modesto defendant is awaiting Federal trial for defrauding approximately 28 real estate developers in several states and countries that extends from Modesto to Hong Kong. The investors were promised \$11 Billion dollars in construction loans.

SUBPRIME AND STATED INCOME LOANS

- THEY'RE BACK!
- WILL SUBPRIME LOANS BE SOLD AGAIN? AND TO WHOM?
- WILL WE HAVE 2005, 2006 AND 2007, ALL OVER AGAIN?
- ONE MAJOR LENDER WILL LOAN AFTER ONE YEAR WITH NO BANKRUPTCY OR FORECLOSURE.

REPORTING REAL ESTATE FRAUD

- Contact us at Stanislaus County DA web site

www.stanislaus-da.org

- or call us at **209-525-5550**
- Complete the REF complaint form.

Thank you for your time. Questions?

