

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

DEPT: District Attorney 

BOARD AGENDA # B-8

Urgent Routine

AGENDA DATE August 26, 2014

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Consideration of the Real Estate Fraud Prosecution Trust Fund Annual Report Covering Fiscal Year 2013-2014

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 2014-2015 Fiscal Year.

FISCAL IMPACT:

In Fiscal Year 2013-2014, the Real Estate Fraud Prosecution program had \$331,028 in expenditures and \$202,865 in department revenue and \$153,115 in contributions from the General Fund. The 2014-2015 Final Budget includes appropriations in the amount of \$388,115 for the Real Estate Fraud Prosecution program. This budget is funded with \$235,000 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. (Continue page 2)

BOARD ACTION AS FOLLOWS:

No. 2014-449

On motion of Supervisor Chiesa, Seconded by Supervisor Withrow
and approved by the following vote,

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

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:

ATTEST:


CHRISTINE FERRARO TALLMAN, Clerk

File No.

FISCAL IMPACT CONTINUED:

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.

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, any 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.

The Real Estate Fraud Unit is currently investigating several state-wide foreclosure rescue schemes. One major case originated in Modesto and spread from San Diego to Miami, Florida. The case is being prosecuted by the California Attorney General's Office. Indictments are expected in late 2014 or early 2015.

In Fiscal Year 2013-2014, 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 decreased significantly in Fiscal Year 2013-2014.

Most real estate and mortgage fraud cases are extremely complex and time consuming. There are three federal trials and one state trial expected to begin in Fiscal Year 2014-2015. One of the federal trials has victims throughout the United States with the investigation reaching Hong Kong. Extensive trial preparation was done during the Fiscal Year 2013-2014, however, the trials were moved to the Summer of 2015. Another federal trial is scheduled to begin in the Spring of 2015, related to a Modesto developer alleged to have defrauded Modesto victims and attempted to defraud the City of Modesto.

Major banks have recently been fined billions of dollars by the federal government related to fraud associated to the Residential Mortgage Backed Securities (RMBS). As a result, the banks are now more willing to report fraud to law enforcement. We have seen an increase in bank reported fraudulent short-sale transactions. Bank fraud carries a ten-year statute of limitations. Short sale fraud investigations have increased as a result of the banks filing more fraud reports with law enforcement.

Consideration of the Real Estate Fraud Prosecution Trust Fund Annual Report Covering Fiscal Year 2013-14

The Real Estate Fraud Unit is currently staffed with one prosecutor (who is also a licensed real estate broker); one criminal investigator that is assigned to investigate state and federal crimes involving real estate and mortgage fraud; and a second investigator that is assigned to investigate real estate fraud as well as general crimes. The Unit also has a part time Real Estate Fraud Unit assistant (who is also a licensed real estate agent). The Unit's assistant has a background in banking and real estate which greatly helps in reviewing bank documents. Both investigators work with state and federal agencies that investigate mortgage fraud, and they submit cases to the Stanislaus County District Attorney's Office and the United States Attorney's Office.

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 ten (10) public presentations to various local groups concerned with real estate fraud in the community. The majority of presentations are to industry professionals in hopes of combating fraud within the real estate industry.

A member of the Real Estate Fraud Unit attends yearly mortgage fraud training provided by FHFA OIG in Washington, DC to learn more about joint federal investigations of Residential Mortgage Backed Securities (RMBS) and Mortgage Securitization involving fraud committed against Freddie Mac and Fannie Mae.

General Statistics

The Real Estate Fraud Unit entered the 2013-2014 fiscal year with 57 ongoing investigations. During the fiscal year, the unit received an additional 30 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.

Aggregate Monetary Loss in State and Federal Cases:

Aggregate monetary loss suffered by victims for cases entering the fiscal year: \$165,471,881

Aggregate monetary loss suffered by victims for cases initiated during the fiscal year: \$6,959,200

Aggregate monetary loss suffered by victims in cases in which there has been an investigation, filing or conviction: \$172,431,081

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

23 filed cases continued from last year into this fiscal year involving 1,423 victims.

3 new cases were filed in Stanislaus County Superior Court for 10 victims.

12 convictions were obtained in State and Federal court for 1,323 victims. There were over 1,300 victims related to the Cydney Sanchez federal foreclosure rescue, bankruptcy fraud case.

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Fiscal Year 2013-2014 Case Highlights

During the Fiscal Year 2013-2014 there were six convictions at the State level and six convictions at the Federal level.

Cydney Sanchez of Los Angeles, Brent Medearis of Modesto, and two other defendants plead guilty to operating a foreclosure rescue and bankruptcy fraud scheme from 2009. A plea agreement had been reached in the 2012-2013 Fiscal Year and they were convicted in the 2013-2014 Fiscal Year. 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. There were 1300 estimated victims.

James Lee Lankford and Jon McDade were both convicted in federal court. 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. James Lee Lankford was the owner and broker of Century 21, Apollo Realty, Modesto. Lankford was sentenced to over ten years in the El Reno, Oklahoma federal prison. Jon McDade received a much lesser federal sentence.

Bias and Nancy Arreola were both convicted locally of participating in a state-wide foreclosure rescue fraud scheme being prosecuted by the California Attorney General's Office.

Erika Burg was convicted locally of bilking a local family related to the purchase of a Stanislaus County home.

Griselda Flores was convicted locally of bilking a local family related to the purchase of a Stanislaus County home.

Argelina Leiva was convicted locally of filing false documents with the county recorder to stall foreclosure.

Kattauri Montanez was convicted locally of filing a false document with the county recorder.

A 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 fraud dates back to 2006. The investors were solicited to Modesto from Salt Lake City, Utah. The homes all went to foreclosure with losses totaling several million dollars. His co-defendants were previously convicted in federal court in Utah and West Virginia. Again, the case originated in Modesto.

This same individual was also charged federally with defrauding approximately twenty-eight (28) developers in several states and Hong Kong. This scheme also originated in Modesto. Both federal trials are scheduled for the Summer of 2015.

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Another 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 our Real Estate Fraud Unit and the Federal Housing Finance Agency Office of Inspector General.

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

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 funds a full-time Attorney V, 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 2013-2014 (From 07/01/13 to 06/30/14)**

PROGRAM REPORT FOR STANISLAUS COUNTY

STATISTICS	CARRIED FROM PRIOR YEAR	CURRENT YEAR	TOTAL
Case Referrals	67	34	101
Investigations	57	30	87
Filed Cases	23	3	26
Victims in Filed Cases	1,423	10	1,433
Monetary loss/case	\$165,471,881	\$6,959,200	\$172,431,081

CURRENT YEAR ACTIVITY		
Convictions	12	
Cases referred to Federal Prosecution	6	
Cases referred to Attorney General		
Cases rejected		
Monetary loss for current cases	\$171,980,056	

Stanislaus County District Attorney

Seek Justice

Serve Justice

Do Justice

Real Estate Fraud Prosecution



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A LITTLE ABOUT US

- **June 2005...SB 537 passed (Govt. Code 27388)**
- **\$3.00 fee for specified Real Estate documents goes to Trust Fund for Fraud Investigations**
- **Stanislaus County began January 2006**
 - **FBI Task Force in 2009**
- **Full Time Deputy District Attorney**
- **One Criminal Investigator**
 - **One part time investigator**
- **One Part Time Investigative Assistant**



REAL ESTATE FRAUD MISSION

- 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.



WHO REALLY ARE THE VICTIMS OF LOAN FRAUD?

- The banks acquired the bad loans from mortgage brokers, other lenders, etc.
- The banks sold the bad loans to Fannie and 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).



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.



SOME OF OUR MANY PARTNERS

- **Federal Housing Finance Agency (FHFA), OIG**
- **Federal Bureau of Investigation**
- **Internal Revenue Service**
- **U.S. Department of Treasury, FDIC**
- **California State Franchise Tax Board**
- **California Bureau of Real Estate**
- **California Bureau of Corporations**
- **Stanislaus County Clerk – Most REF cases involve recorded documents**
- **Major Banks now cooperating more with law enforcement**



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 state fraud.**
 - **Highly specialized area**
- **Needs to be a paradigm shift in how we view and punish white collar crime.**



SOME CONVICTIONS:

- James Lee Lankford, Apollo Realty sentenced to 10 years in federal prison.
- Cydney Sanchez and three other defendants including Modesto resident pled guilty to bankruptcy fraud for operating a foreclosure rescue scheme based in Los Angeles. [video]
- Blas and Nancy Arreola convicted for their part in a foreclosure rescue scheme originating in San Bernardino County.
- Erika Burg convicted for defrauding a victim related to a home purchase.
- Griselda Flores convicted for defrauding a couple related to a home purchase. Flores did not use their money to purchase the home.
- Argelina Leiva convicted of filing false documents to stall foreclosure

PENDING CASES:

- A federal trial is scheduled for next Spring for a Modesto developer accused of defrauding Modesto residents and attempting to defraud the City of Modesto related to a commercial property.
- A state trial is scheduled for a Modesto broker accused of defrauding a Modesto land developer.
- 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.

PENDING CASES CONTINUED

- San Bernardino Foreclosure Rescue Case, 10 to 15 defendants, and several hundred victims.
 - Multiple State and Federal Agencies involved from San Diego to Miami, Florida.
- Short Sale Fraud Federal Indictment expected in the end of 2014.
- Major Investigation of Industry Professionals with multiple properties.

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?

