

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

DEPT: District Attorney *BJ*

BOARD AGENDA # B-9

Urgent Routine

AGENDA DATE November 17, 2015

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 2014-2015

STAFF RECOMMENDATIONS:

1. Accept the report of the District Attorney's Office regarding the Real Estate Fraud Prosecution Trust Fund pursuant to California Government Code section 27388.
2. Approve the continuation of this program and current funding levels in the 2015-2016 Fiscal Year.

FISCAL IMPACT:

In Fiscal Year 2014-2015, the Real Estate Fraud Prosecution Program had \$342,769 in expenditures, \$211,486 in departmental revenue, \$153,115 contribution from the General Fund and a \$21,832 contribution to Fund Balance. The 2015-2016 Adopted Final Budget includes appropriations in the amount of \$365,311 funded by \$212,196 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. As of July 1, 2015, this fund had a positive fund balance of \$238,583. (Continued on page 2)

BOARD ACTION AS FOLLOWS:

No. 2015-575

On motion of Supervisor DeMartini, Seconded by Supervisor O'Brien
and approved by the following vote,

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

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
CHRISTINE FERRARO TALLMAN, Clerk

File No.

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FISCAL IMPACT: Continued

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 embezzlement, 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, most 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.

During this fiscal year the Real Estate Fraud Unit conducted or continued the investigations of three separate federal cases resulting in the federal indictments of nine defendants.

Most real estate and mortgage fraud cases are extremely complex and time consuming to investigate and prosecute. Three federal trials and two state trials are scheduled in Fiscal Year 2015-2016. Trial preparation is also very time consuming. The trials are a result of complex investigations from years ago.

Real Estate Fraud Prosecution is currently staffed with one prosecutor (who is also a licensed real estate broker); one criminal investigator who is assigned to investigate state and federal crimes involving real estate and mortgage fraud; and a part time Real Estate Fraud Unit assistant (who is also a licensed real estate agent). The unit's assistant utilizes her banking and real estate background to analyze financial transactions. The Investigator has built close working relationships with other state and federal agencies that investigate mortgage fraud and submits 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.

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In the past year, the Real Estate Fraud Prosecution unit made one public presentation to a group of realtors in the Bay Area. The majority of presentations are normally industry professionals in hopes of combating fraud within the real estate industry. The Real Estate Fraud Prosecution was not able to provide as many public presentations this year due to the current demanding case load.

A member of the Real Estate Fraud unit has attended yearly mortgage fraud training provided by the FHFA OIG in Washington, DC to learn more about joint federal investigations of Residential Mortgage Backed Securities (RMBS), Mortgage Securitization, and fraud committed against Freddie Mac and Fannie Mae. This past year the training included phase three of the Mortgage Bankers Association program on commercial property lending practices.

Fiscal Year 2014-2015 Case Highlights

The Real Estate Fraud Unit members spent a large portion of their time in Fiscal Year 2014-2015 on a complex and sophisticated major fraud investigation that carried over from the prior year which culminated with the federal indictment of seven defendants. Out of the six defendants who reside in Stanislaus County, two of them are the owners of a local real estate company. The 15-count federal indictment alleges bank fraud and mail fraud resulting from fraudulent activity related to twenty-three properties. The fraudulent activity ranges from loan origination fraud to short sale fraud from 2006 to 2015. The United States Attorney's Office in the Eastern District of California is prosecuting the case.

Another defendant was charged locally with forgery after the Real Estate Fraud Unit received a complaint alleging the defendant acquired a twenty-acre rural property by forging a Grant Deed and obtained a loan against the property under false pretenses.

In addition, a Modesto real estate attorney was federally indicted for charges related to short sale fraud.

Furthermore, the Real Estate Fraud Unit recently received a complaint from the California State Bar alleging an Oakdale attorney stole over \$180,000 from a client. The money was obtained from the excess proceeds from a trustee sale of a foreclosed property. The attorney was charged locally.

A Modesto land developer and her husband were arrested for allegedly recording a false document to obtain clear title to a commercial property and then obtained a loan against the property. The property then went to foreclosure. This case is currently being prosecuted locally.

Alan David Tikal was sentenced to twenty-four years in federal prison for his role in defrauding over one thousand victims in Stanislaus County and throughout California in a foreclosure rescue scheme. The scheme was initially discovered in

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Stanislaus County. Tikal's wife, Tamara Tikal, and Tikal's partner, Ray Kornfield, were also convicted of federal charges related to this foreclosure rescue scheme. Tikal was a 2010 case.

Cydney Sanchez, Brent Medearis, Cynthia Corn and Jesse Wheeler were all sentenced to federal prison for their roles in an elaborate foreclosure rescue/bankruptcy fraud scheme that originated in the Los Angeles and San Francisco areas. However, it was first discovered in Stanislaus County and investigated by the Real Estate Fraud Prosecution division. This scheme had approximately 1,000 victims.

Ralph Levya was charged locally and convicted in Fiscal Year 2014-2015 for operating California Real Estate Owned (REO) Properties and Delta Escrow. Ralph Levya and others claimed to be authorized by Fannie Mae and Freddie Mac to sell foreclosed properties at a discounted rate. Victims were lured into depositing money into a bank account for Delta Escrow which was a fictitious company created solely to deceive victims into believing the scheme was legitimate and they were in fact purchasing government owned properties. The Real Estate Fraud Unit worked jointly with the FBI in Modesto and in San Antonio, Texas since the defendant was involved in a similar scheme in Texas.

Xue Heu was federally indicted, convicted, and sentenced to five years and four months in federal prison for his role in organizing an investment scheme where investors were told they were purchasing foreclosed homes in Modesto to be renovated and resold at a profit. Investors throughout the U.S. were solicited to this scheme. The Real Estate Unit has received in excess of twenty complaints alleging Xue Heu defrauded them with fraudulent real estate related schemes from approximately 2007 to 2015. Xue Heu has three additional state cases pending alleging further acts of fraud committed in Stanislaus County.

General Statistics

The Real Estate Fraud Unit entered the 2014-2015 Fiscal Year with 57 ongoing investigations that carried over from previous years. During the fiscal year, the unit received an additional 20 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:

- Loss suffered by victims for cases entering the fiscal year: \$138,760,856.
- Loss suffered by victims for cases initiated during the fiscal year: \$2,068,655.
- Loss suffered by victims in cases in which there has been an investigation, filing or conviction: \$140,829,511.

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Statistics for 2014-2015 are detailed in the Real Estate Fraud Prosecution table below.

**REAL ESTATE FRAUD PROSECUTION
FISCAL YEAR 2014-2015 (07/ 01/ 14 to 06/ 30/ 15)
PROGRAM REPORT FOR STANISLAUS COUNTY**

STATISTICS	CARRIED FROM PRIOR YEAR	CURRENT YEAR	TOTAL
Case Referrals	59	20	79
Investigations	57	17	74
Filed Cases	12	15	27
Victims in Filed Cases	1,387	87	1,474
Monetary loss on case	\$138,760,856	\$2,068,655	\$140,829,511

CURRENT YEAR ACTIVITY	CASES	DEFENDANTS
Convictions	10	15
Cases referred to Federal Prosecution	0	0
Cases referred to Attorney General	1	1
Cases rejected	1	1
Monetary loss for open cases	\$140,829,511	

POLICY ISSUE:

Consideration of this annual report pursuant to government Code section 27388 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 District Attorney submitted the annual report in September. The delay in presenting the Report to the Board this year was due to an attempt to submit a concurrent request for a fee increase which will now be presented to the Board at a later time.

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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, one full-time Criminal Investigator and a part-time Assistant.

CONTACT:

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

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



REAL ESTATE FRAUD UNIT'S 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.



REAL ESTATE FRAUD UNIT'S MISSION

(CONT)

- **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

WHO REALLY ARE THE VICTIMS OF LOAN FRAUD? (Cont)

- 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.



STATE VS. FEDERAL PROSECUTION

(CONT)

- **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).**



WHY STATE PROSECUTIONS (CONT)

- **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**



SOME OF OUR MANY PARTNERS (cont)

- **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**



ONGOING ISSUES (CONT)

- **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:

- Ralph Leyva was convicted of grand theft on April 14, 2015, and sentenced to four years in state prison on September 10, 2015. Leyva and others operated a sophisticated scheme to defraud investors believing they were purchasing bulk government owned properties at a discount.

SOME CONVICTIONS (cont):

- Adbul Kassim was convicted on July 1, 2014 for filing false documents at the Stanislaus County Recorder's Office in an attempt to stop foreclosure. Kassim was sentenced to 300 days in jail.

SOME CONVICTIONS (cont):

- Xue Heu pled guilty in Federal Court on August 5, 2014 for wire fraud. Heu and others defrauded investors out of approximately \$360,000. Heu claimed to purchase foreclosed homes and flip them for a profit. Hue was sentenced to five years in Federal prison. Heu remains in local custody with three additional fraud cases pending.

California REO Properties/Delta Escrow

BofA
 #0677612094
 Ralph Leyva
 8/10/11-9/6/11
 \$259,200 in,
 \$259,174.78 out

CA REO Services LLC
 1713 Tulare St. Ste 214, Fresno CA
 Agent for service/Jon Thompson
 Samuel, "X", Crystal (MANAGERS)

Delta Escrow
 95 W 11TH
 Tracy, CA



Ariana
 Created 5/2/11
 D&R 8/18/11 from DOC

JP Morgan Chase
 Acct #921601225
 7/25/11-8/31/11
 \$472,708 in,
 \$470,567.61 out.
 Delta Escrow
 Ralph Leyva
 Chanelle
 aka Alissa
 Jordan (Ariana's
 daughter)

Wells Fargo
 #1406599736
 Ralph Leyva
 Personal Acct
 8/23/11-9/9/11
 \$144,000 in,
 \$137,020 out

Compass Bank
 #25337005262
 Ralph Leyva
 8/9/11-9/9/11
 \$190,000 in,
 \$189,990 out



9/6/11
 Leyva at BofA, McHenry
 Branch, Wiring \$180,000
 to Compass Acct.
 Withdrew \$8,629.78 cash
 and ATM withdraw \$400.



Ralph Leyva
 aka George
 Anderson &
 Andrew Taylor



"X"



Thomas
 aka Mark Allen



Jesus



Chanelle
 aka Alissa Jordan
 Withdrew \$19,000 from
 Chase/Delta Escrow Acct



Ronald
Global Premier Properties
 Solicited Bernardo and Shila

Bernardo
 Green Stone Realty
 Redstone Capital
The Family Trust
 \$117,000 wired on 9/2011
 Victim may be Chris
 Trust; Trustee, Attorney
 Jack (San Diego)
 Bernardo chose 3
 properties totaling
 \$462,000, list from Twan.
 780 Castaway, San
 Diego, CA; 797 Lemon, El
 Cajon, CA; 931 Rose,
 Vista, CA



Shila
Bridgepro Inv.
 \$325,708 (\$278,608 &
 \$47,100) on 8/31/11
 Shila chose 1453
 Levant Ln #3 Chula
 Vista, CA \$154,000 and
 2156 Playa Dr #231
 Chula Vista, CA
 \$160,000.

Stewart Title
 Karen/Debra



Twan
Global Capital Services
 Twan contacted by "X". Twan
 referred Ronald to "X".

Inuk wired
 \$10,000 on
 7/25/11



Joseph wired
 \$20,000 on
 7/26/11



PENDING TRIALS:

- A Federal trial is scheduled for this fall involving a Modesto developer accused of defrauding Modesto residents and attempting to defraud the City of Modesto related to a commercial property.

PENDING TRIALS (cont):

- A State trial is scheduled for a Modesto broker accused of defrauding a Modesto land developer.

PENDING CASES (CONT)

- Seven defendants were federally indicted for mortgage fraud on June 25, 2015, related to an elaborate bank fraud scheme including loan origination fraud and short sale fraud case from Modesto to Sacramento. Investigation and trial preparation are ongoing.

PENDING CASES (CONT)

- Tony Havens pled guilty in two cases in Federal Court on September 28, 2015 (vacating two trial dates scheduled in November 2015). Tony Havens' 1st case was for defrauding 28 real estate developers in eight states reaching from Modesto to Hong Kong. The investors were promised \$11 Billion dollars in construction loans.


PENDING CASES (CONT)

- Tony Havens' 2nd case involved the “Gift Program” which included 25 properties in Modesto.

Here is what this job is all about!

Mr. Golley,
Thank you very much
for everything you did for us.
My family and I truly appreciate
your trust in us; had it not been for
you, we would have not been able to
keep our home. Thank you once again
and may God bless you always.

- Ed
#X

 THANK YOU VERY MUCH.

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.

