

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

DEPT: District Attorney

BOARD AGENDA #: B-10

AGENDA DATE: August 16, 2016

SUBJECT:

Consideration of the Real Estate Fraud Prosecution Trust Fund Annual Report Covering Fiscal Year 2015-2016

BOARD ACTION AS FOLLOWS:

No. 2016-426

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

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

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

ATTEST: Elizabeth A. King
ELIZABETH A. KING, Clerk of the Board of Supervisors

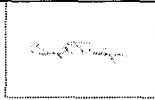
File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM**

DEPT: District Attorney

Urgent

Routine



BOARD AGENDA #: B-10

AGENDA DATE: August 16, 2016

CEO CONCURRENCE: 

4/5 Vote Required: Yes No

SUBJECT:

Consideration of the Real Estate Fraud Prosecution Trust Fund Annual Report Covering Fiscal Year 2015-2016

STAFF RECOMMENDATIONS:

1. Accept the report of the District Attorney's Office regarding the Real Estate Fraud Prosecution Fund pursuant to California Government Code section 27388.

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.

The Real Estate Fraud Unit is currently staffed with one prosecutor, 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. The prosecutor and part-time assistant both have real estate licenses. The Unit's assistant utilizes her banking and real estate background to assist with interpreting 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, the California Attorney General'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 as well as real estate industry professionals in order to prevent real estate related crimes from being committed.

In June 2016, the Real Estate Fraud Unit was asked to speak at the Central Valley Association of Realtors. Presentations are normally given to industry professionals to deter and combat fraud within the real estate industry.

Most real estate and mortgage fraud cases are extremely complex and involve years of investigation. During this Fiscal Year, the Real Estate Fraud Unit conducted state investigations that resulted in the arrests of eight defendants. In addition, the Real Estate Fraud Unit continued the investigation of a major federal mortgage fraud case resulting in the federal indictments of seven defendants. Furthermore, the Unit's investigation of another case resulted in the Attorney General's Office indicting an additional six defendants for mortgage fraud. The investigation with the Attorney General's Office was conducted with the assistance of the Federal Housing Finance Agency Office of Inspector General. The six defendants in San Diego were charged with 135 counts of mortgage fraud related charges.

In the upcoming 2016-2017 Fiscal Year, there are two federal trials and two state trials scheduled to begin. One of the federal trials involves 11 defendants. Trial preparation is also very time consuming when prosecuting these cases.

General Statistics

The Real Estate Fraud Unit entered the 2015-2016 Fiscal Year with 64 ongoing investigations that carried over from previous years. During the fiscal year, the unit received an additional 29 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: \$147,629,994
- Aggregate monetary loss suffered by victims for cases entering the fiscal year: \$130,537,111.
- Aggregate monetary loss suffered by victims for cases initiated during the fiscal year: \$17,092,883
- Aggregate monetary loss suffered by victims in cases in which there has been an investigation, filing or conviction: \$147,629,994

Stanislaus County statistics for the Unit in Fiscal Year 2015-2016:

- 18 filed cases continued from last year into this fiscal year involving 149 victims.
- 8 new cases were filed in Stanislaus County Superior Court involving 206 victims.
- 10 cases were closed, of which 11 convictions were obtained in State and Federal Court involving 74 victims.

Fiscal Year 2015-2016 Case Highlights

The Real Estate Fraud Unit 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 during

Consideration of the Real Estate Fraud Prosecution Trust Fund Annual Report Covering Fiscal Year 2015-2016

the past Fiscal Year 2014-2015. The attorney was convicted locally of grand theft in this Fiscal Year 2015-2016 and can no longer practice law.

The unit received a referral from the United States Department of Agriculture (USDA) which resulted in the arrest of three defendants who had defrauded the USDA. They also attempted to eliminate mortgages with worthless checks using sovereign citizen type tactics. These defendants are being prosecuted locally.

In August of 2012, the Real Estate Fraud Unit received complaints of two defendants filing false documents at the Stanislaus County Recorder's Office to stall foreclosure. That investigation led to their local convictions in 2013. During the course of that investigation, additional fraud schemes were discovered in other counties in Northern and Southern California and in July 2016 six defendants located in San Diego were indicted.

In September 2015, Tony Havens pled guilty to two federal cases involving a mortgage fraud "Gift Program" that spread from Modesto to Park City, Utah to West Virginia.

In another case, Tony Havens pled guilty to federal mortgage fraud charges after Havens promised developers in eight eastern states and investors in Hong Kong loans exceeding one billion dollars. Havens was sentenced to federal prison.

In June 2016, Aruna Chopra pled guilty in Federal Court to defrauding a local family by recording a false document to obtain clear title to commercial property near Kaiser Hospital in order to then obtain a loan against the property. Chopra was sentenced to Federal Prison.

In another case, two Los Angeles defendants were charged with foreclosure rescue fraud involving approximately 200 victims, several of whom live in Stanislaus County. The case was initiated in 2013.

The Real Estate Fraud Unit members spent a large portion of their time in Fiscal Year 2015-2016 with 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 Attorneys' Office in the Eastern District of California is prosecuting the case.

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.

Consideration of the Real Estate Fraud Prosecution Trust Fund Annual Report Covering Fiscal Year 2015-2016

FISCAL IMPACT:

The 2016-2017 Proposed Budget includes appropriations in the amount of \$363,115 funded by \$210,000 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. This budget unit supports the salaries and benefits expenditures of staff assigned to the Real Estate Fraud Unit.

| | | |
|-----------------------------------------------|---------|------------|
| Cost of recommended action: | | \$ 363,115 |
| Source(s) of Funding: | | |
| Filing fee from certain real estate documents | 210,000 | |
| Funding Total: | | \$ 210,000 |
| Net Cost to County General Fund | | \$ 153,115 |

| | |
|-------------------------------------------------|------|
| Fiscal Year: | 2016 |
| Budget Adjustment/Appropriations needed: | No |

| | |
|-------------------------------------|---------|
| Fund Balance as of June 2016 | 238,583 |
|-------------------------------------|---------|

BOARD OF SUPERVISORS' PRIORITY:

The efforts of the personnel in the Real Estate Fraud Unit support the Board's priorities of promoting A Safe Community and Efficient Delivery of Public services by investigating and prosecuting real estate fraud crimes and promoting awareness programs to help the public recognize and avoid fraudulent real estate transactions.

STAFFING IMPACT:

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

CONTACT PERSON:

Jeff Mangar, Deputy District Attorney (209) 525-5550

ATTACHMENTS:

None

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)
- Money used for Fraud Investigations
- Stanislaus County began January 2006
 - FBI Task Force in 2009



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

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.



STATE VS. FEDERAL PROSECUTION (CONT)

- **NEEDED RESOURCES:** Help with asset seizures, accounting, and computer forensics.
- **POTENTIAL SENTENCE:** Federal prosecution usually means lengthier sentences (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

- **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

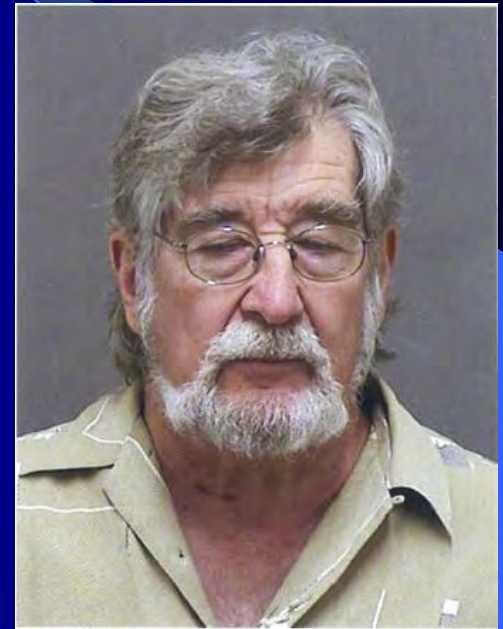


ONGOING ISSUES (CONT)

- **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:

- Oakdale attorney stole \$180,000 from client
 - Excess proceeds from a trustee sale of foreclosed property
 - Arrested FY 2014- 2015
 - Convicted FY 2015- 2016
 - James Fonda Disbarred
 - Pay Restitution



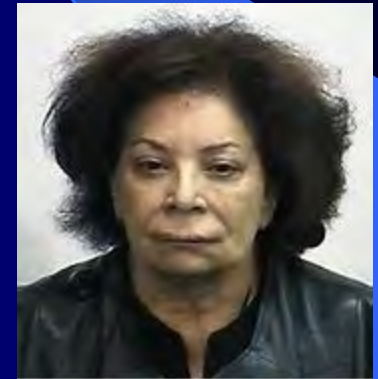
SOME CONVICTIONS (cont):

- Local real estate agent- Anthony Savage
- Cashed forged \$85,000 check
 - From Pennsylvania elderly couple HELOC
- Cashed forged \$22,950 check
 - From Canadian Leasing Co
- Wired balance to NY account
 - No physical address
- Funds forwarded overseas



SOME CONVICTIONS:

- Aruna Chopra defrauded Modesto residents and attempted to defraud the City of Modesto related to a commercial property.
 - Federal Case = \$14,000,000 loss
 - State Case = \$500,000 loss
 - Sentenced to Federal Prison



SOME CONVICTIONS (cont):

- 2013 complaint of foreclosure rescue/
bankruptcy fraud
 - 2 Los Angeles defendants recently arrested
 - 200 victims (including in Stanislaus County)
 - \$1,000,000 loss to victims
 - Case Pending

SOME CONVICTIONS (cont):

- Defendant filed documents to gain title to a local family's home.
 - Victims did not know defendant
- Defendant filed eviction documents
- Defendant recently arrested- Case pending
- Must wait for conviction for court to clear title

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?

