

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

DEPT: District Attorney BOARD AGENDA #: B-5

AGENDA DATE: August 22, 2017

SUBJECT:

Acceptance of the Real Estate Fraud Prosecution Trust Fund Fiscal Year 2016-2017 Annual Report

BOARD ACTION AS FOLLOWS:

No. 2017-464

On motion of Supervisor DeMartini, Seconded by Supervisor Monteith
and approved by the following vote,

Ayes: Supervisors: Olsen, Withrow, Monteith, DeMartini, and Chairman Chiesa

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, 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-5

AGENDA DATE: August 22, 2017

CEO CONCURRENCE: *pht*

4/5 Vote Required: Yes No

SUBJECT:

Acceptance of the Real Estate Fraud Prosecution Trust Fund Fiscal Year 2016-2017 Annual Report

STAFF RECOMMENDATIONS:

1. Accept the District Attorney's Office annual report regarding the Real Estate Fraud Fiscal Year 2016-2017 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

Acceptance of the Real Estate Fraud Prosecution Trust Fund Fiscal Year 2016-2017 Annual Report

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.

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 or continued the investigations of two separate federal cases, which previously resulted in the federal indictments of seven defendants. In addition, the Real Estate Fraud Unit also conducted state investigations resulting in the indictments of six defendants being prosecuted in San Diego, California.

In the upcoming 2017-2018 Fiscal Year, there are two federal trials and eleven state trials scheduled to begin. Trial preparation is also very time consuming when prosecuting these cases.

General Statistics

The Real Estate Fraud Unit entered the 2016-2017 Fiscal Year with 61 ongoing investigations that carried over from previous years. During the fiscal year, the unit received an additional 26 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.

The following represents aggregate monetary loss totals suffered by victims of Real Estate Fraud:

- for cases entering the fiscal year: \$122,618,688
- for cases initiated during the fiscal year: \$9,093,681
- in cases in which there has been an investigation, filing or conviction: \$131,712,369

Stanislaus County statistics for the Unit in Fiscal Year 2016-2017:

- 13 filed cases continued from last year into this fiscal year involving 235 victims
- 2 new cases were filed in Stanislaus County Superior Court involving 15 victims
- 8 convictions were obtained in State and Federal Court involving 150 victims

Fiscal Year 2016-2017 Case Highlights

The Real Estate Fraud Unit spent a large portion of their time in Fiscal Year 2016-2017 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

Acceptance of the Real Estate Fraud Prosecution Trust Fund Fiscal Year 2016-2017 Annual Report

short sale fraud from 2006 to 2015. The United States Attorney's Office in the Eastern District of California is prosecuting the case.

Another foreclosure rescue scheme with over 100 victims originated in Stanislaus County in approximately 2011. Six defendants were indicted by a Grand Jury in San Diego, CA with bail set at \$4,500,000. Four defendants pled guilty during this Fiscal Year and received approximately five years in state prison each. The two remaining defendants await trial in September 2017 and face much lengthier sentences than five years. This scheme ranged from Southern California to Miami, Florida. In a related case, two Stanislaus County defendants were previously convicted in the prior Fiscal Year. The defendants were charged with over 100 criminal counts of real estate fraud. The California Attorney General's Office has dedicated many of their Southern California staff to this prosecution. This very large, complicated and sophisticated case is being prosecuted by Deputy Attorneys General Kristopher Young and Garrett A. Gorlitzky.

The Department experienced a significant increase in complaints involving family members transferring title of property from other family members to themselves as well as an increase in complaints involving persons that are losing their homes to foreclosure or have lost their homes to foreclosure.

Filing false documents with the Stanislaus County Recorder's Office to stall foreclosure continues to be an ongoing problem. The Stanislaus County Recorder's Office has many knowledgeable personnel that continue to identify false documents being filed and recorded.

Bankruptcy fraud to stall foreclosure continues to be another ongoing problem. The District Attorney's Office currently has three federal bankruptcy fraud cases to investigate with the assistance of the FBI and the United States Bankruptcy Courts.

POLICY ISSUE:

Pursuant to Government Code 27388, the County Board of Supervisors shall annually review the effectiveness of the District Attorney in deterring, investigating, and prosecuting real estate fraud crimes based upon information provided by the District Attorney in an annual report. The District Attorney shall submit the annual report to the board on or before September 1 each year. Acceptance of this annual report, will demonstrate that Stanislaus County is acting in compliance with the statutory provisions authorizing the formation and use of the Real Estate Trust Fund.

FISCAL IMPACT:

The 2017-2018 Proposed Budget includes appropriations in the amount of \$420,737 funded by \$230,000 in estimated department revenue generated from a fee charged for certain real estate documents filed within the County, \$37,622 in department fund balance and a \$153,115

Acceptance of the Real Estate Fraud Prosecution Trust Fund Fiscal Year 2016-2017 Annual Report

contribution from the General Fund. An adjustment will be requested in the Fiscal Year 2017-2018 Final Budget to use additional available fund balance totaling \$120,508. Increased use of fund balance will lower the General Fund contribution needed in Fiscal Year 2017-2018 to \$70,229. The program will still continue to be fully funded. This budget unit supports the salaries and benefits expenditures of staff assigned to the Real Estate Fraud Unit.

Cost of recommended action: \$ 420,737

Source(s) of Funding:

Filing fee from certain real estate documents 230,000

Fund Balance 120,508

Funding Total: \$ 350,508

Net Cost to County General Fund \$ 70,229

Fiscal Year: 2017-2018

Budget Adjustment/Appropriations needed: No

Fund Balance as of July 2017 120,508

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



Real Estate Fraud Activities Report for Fiscal Year 2016-2017

Seek Justice

Serve Justice

Do Justice

JEFF MANGAR
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Criminal Investigator
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LYNELLE SOLOMON
Real Estate Fraud Analyst
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A LITTLE ABOUT US

- June 2005 - SB 537 passed (Govt. Code 27388)
- Funds collected from specified Real Estate document fees 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.

REAL ESTATE FRAUD MISSION

- Work with the specialized regulatory agencies such as Bureau of Real Estate and Bureau of Corporations regarding dishonest and unscrupulous industry professionals.



WHO ARE THE REAL 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 ARE THE REAL VICTIMS OF LOAN FRAUD

- 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: Victims, witnesses and defendants throughout CA, US, and abroad.
- SIZE: Some cases have hundreds (even thousands) of victims.

STATE VS. FEDERAL PROSECUTION

- **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

- Both state and federally prosecuted cases can also take years to conviction.
 - We have state 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

- 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

- 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.

CONVICTIONS

Defendants Mahendra Prasad & Martin Bahrami - convicted of federal bank fraud related to fraudulent loan origination and short sale fraud.

Mahendra Prasad



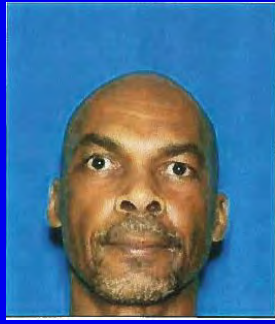
Martin Bahrami



CONVICTIONS

Defendants convicted by Attorney General in San Diego.

Aide Orona David Boyd John Contreras Marcus Robinson



Two additional Defendants stand trial September 2017

CONVICTIONS

Defendants convicted resulting from a referral by the USDA and U.S. Attorney's Office.

Lynn Porter



Donna Porter



Fraud against USDA and Bank of America.

CONVICTIONS

Defendant convicted for filing a document that removed her husband from title on their home so she could sell it.

Jane Stombaugh



REPORTING REAL ESTATE FRAUD

- Contact us at Stanislaus County District Attorney web site www.stanislaus-da.org
- or call **209-525-5550**
- Complete the Real Estate Fraud complaint form.

Questions?

