

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

DEPT: District Attorney

BOARD AGENDA: 5.B.3
AGENDA DATE: September 11, 2018

SUBJECT:

Acceptance of the Real Estate Fraud Prosecution Trust Fund Annual Report for Fiscal Year 2017-2018

BOARD ACTION AS FOLLOWS:

RESOLUTION NO. 2018-0446

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

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


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

BOARD AGENDA:5.B.3
AGENDA DATE: September 11, 2018

CONSENT:

CEO CONCURRENCE: YES

4/5 Vote Required: No

SUBJECT:

Acceptance of the Real Estate Fraud Prosecution Trust Fund Annual Report for Fiscal Year 2017-2018

STAFF RECOMMENDATION:

1. Accept the Fiscal Year 2017-2018 annual report of the District Attorney's Office regarding the Real Estate Fraud Prosecution Trust 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. Most 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 FHFA requires the banks to repurchase the loans.

The Real Estate Fraud Unit is currently staffed with one prosecutor and one criminal investigator who is assigned to investigate state and federal crimes involving real estate and mortgage fraud. The prosecutor has a real estate license. 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 and real estate industry professionals to prevent real estate related crimes from being committed.

General Statistics

The Real Estate Fraud Unit (Unit) entered Fiscal Year 2017-2018 with 61 ongoing investigations that were carried over from previous years. During Fiscal Year 2017-

2018, the Unit received 28 additional complaints that resulted in 12 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 suffered by victims of Real Estate Fraud in State and Federal Cases:

- for cases entering the fiscal year: \$57,967,710
- for cases initiated during the fiscal year: \$28,898,501
- for cases in which there has been an investigation, filing or conviction: \$86,866,211

Stanislaus County statistics for the Unit for Fiscal Year 2017-2018:

- 12 filed cases continued from last year into this fiscal year involving 236 victims
- 5 new cases were filed in Stanislaus County Superior Court involving 111 victims
- 9 convictions were obtained in State and Federal court involving approximately 150 victims

During Fiscal Year 2017-2018 there were five (5) convictions at the County/Local level and two (2) convictions at the Federal level. There were also two (2) defendants convicted at the State level through the California Attorney General's Office. There were 20 cases rejected for prosecution by this office.

Fiscal Year 2017-2018 Case Highlights

Most real estate and mortgage fraud cases are extremely complex and involve years of investigation. Trial preparation is also very time consuming when prosecuting these cases. During Fiscal Year 2017-2018, the Unit continued the investigations of two separate federal cases, which previously resulted in the federal indictments of seven defendants. In addition, the Unit previously conducted state investigations which resulted in the indictments of six defendants of a foreclosure rescue/bankruptcy fraud case that is being prosecuted by the Office of the Attorney General in San Diego, California. Five of the six defendants were convicted. Their leader, Jacob Orona, received seven years and four months in federal prison. Also, during Fiscal Year 2017-2018, the investigator from the Real Estate Fraud Unit testified in a federal jury trial which led to the conviction of a local real estate attorney charged with short sale fraud.

The Unit spent a large portion of their time in Fiscal Year 2017-2018 on a complex and sophisticated major fraud investigation that involves approximately fifty homes and approximately \$27,000,000 in mortgage loans. The defendants are trying to eliminate their mortgages through the Bankruptcy Court in Los Angeles. The Unit is working with the FHFA OIG and the Federal Deposit Insurance Corporation.

The Unit saw a significant increase in the reporting of civil complaints. The complaints mainly consist of family disputes over real property in which family members transfer title to property away from other family members to themselves. Additionally, there was an increase in complaints involving persons who are about to or have lost their homes to foreclosure. Some of these homeowners want the District Attorney's Office to assist them by stopping the banks from foreclosing or returning their homes after the banks

have already foreclosed despite not paying their mortgage, which is not something the District Attorney's Office can do.

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 and are quick to report it.

Bankruptcy fraud to stall foreclosure continues to be the single most significant problem. The District Attorney's Office currently has two open federal bankruptcy fraud cases to investigate with the assistance of the FBI and the United States Bankruptcy Courts.

The District Attorney's Office continues to see reverse mortgage complaints. Elderly homeowners vacate their home which violates the terms of the reverse mortgage. The home now has equity due to the rise in real estate values. Relatives want to take possession of the home and have the District Attorney's Office get them title to the house. These relatives do not realize that the terms of the reverse mortgage state the borrower is to occupy the home, maintain the home, and pay the property taxes and home insurance. A relative can purchase the home upon the death of a borrower under certain circumstances or they can repay costs of the reverse mortgage loan to gain ownership of the home.

Another notable felony conviction during Fiscal Year 2017-2018 included Modesto real estate agent Noah Adam Yates. He was the ring leader of a real estate fraud scheme in which he set up a fake web site to lure investors to his scam. Noah Yates then directed that over one-half million dollars be wired to a bank account from two hard money lenders located in South Lake Tahoe and San Diego. Noah Yates created the fraudulent documents that were filed at the Stanislaus County Recorder's Office which indicated that loans to properties had been paid so "straw buyers" could get the new loans and then pocket the proceeds. A term of Noah Yates's felony conviction is to repay restitution of \$500,000 to the two victims.

Recently, the Unit had two cases of a suspect hacking into an email account of a real estate professional and diverting the escrow funds. In both cases, the money was recovered. One of the cases involved serving a search warrant and working in collaboration with an out of state law enforcement agency to recover the funds.

Real Estate Fraud program expenditures for Fiscal Year 2017-2018 were \$377,792.85. The expenditures were funded with \$202,548.60 in fee collections, \$54,736.25 in County General Fund Contribution, and \$120,508 of one-time revenue from prior years held in fund balance.

POLICY ISSUE:

Pursuant to Government Code Section 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.

A county shall not expend funds held in that county's Real Estate Fraud Prosecution Trust Fund until the county's Auditor-Controller verifies that the county's District Attorney has submitted an annual report for the county's most recent full fiscal year.

The District Attorney's Office submitted the annual report to the Clerk of the Board on August 24, 2018 for distribution to the Board of Supervisors. 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 Fraud Prosecution Trust Fund.

FISCAL IMPACT:

The 2018-2019 Adopted Proposed Budget includes appropriations in the amount of \$260,229 funded by \$190,000 in estimated Department revenue generated from a fee charged for certain real estate documents filed within the County and a \$70,229 contribution from the General Fund. This budget unit supports the salaries and benefits expenditures of staff assigned to the Real Estate Fraud Unit.

BOARD OF SUPERVISORS' PRIORITY:

The recommended actions are consistent with the Board's priority of *Supporting Strong and Safe Neighborhoods and Developing a Healthy Economy* by investigating and prosecuting real estate fraud crimes and promoting awareness programs to assist the public to recognize and avoid fraudulent real estate transactions.

STAFFING IMPACT:

The Unit currently has a full-time Attorney V and a full-time Criminal Investigator assigned to it.

CONTACT PERSON:

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

ATTACHMENT(S):

1. Fiscal Year 2017-2018 Real Estate Fraud Program Report

REAL ESTATE FRAUD PROGRAM

FISCAL YEAR 2017-2018 (From 07/01/17 to 06/30/18)

PROGRAM REPORT FOR STANISLAUS COUNTY

STATISTICS	CARRIED FROM PRIOR YEARS (STILL OPEN)	NEW IN CURRENT YEAR	TOTAL
Real Estate Fraud Complaints	66	28	94
Investigations	61	12	73
State Filed Cases	12	5	17
Victims in Filed Cases	236	111	347
Federal Indicted Cases	3	1	4
Victims in Indicted Cases	52	3	55
Monetary Loss for All Cases	\$57,967,710	\$28,898,501	\$86,866,211

	Cases	Defendants
Convictions - Federal	2	2
Convictions - State	2	2
Convictions - County/Local	4	5
Cases referred to Federal Prosecution		
Cases referred to Attorney General		
Cases referred to Agency		
Cases rejected	20	20