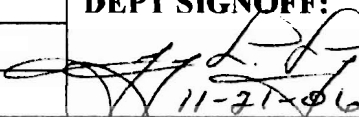


**EL DORADO COUNTY BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

**Meeting of
December 12, 2006**

AGENDA TITLE: 2nd Annual Report to Board on Real Estate Fraud for FY 2005/06

DEPARTMENT: D.A.	DEPT SIGNOFF:	CAO USE ONLY: D
CONTACT: John Mitchell	 11-21-06	Kelley Webb 11/28/06
DATE: 11/16/2006 PHONE: 6421		

DEPARTMENT SUMMARY AND REQUESTED BOARD ACTION:
Receive, discuss, and file this report.

CAO RECOMMENDATIONS: Receive / file. Laurie A. Grel 12/1/06

Financial impact? () Yes (X) No	Funding Source: () Gen Fund () Other
BUDGET SUMMARY:	Other:
Total Est. Cost _____ \$0.00	CAO Office Use Only:
Funding	4/5's Vote Required () Yes (X) No
Budgeted _____ \$0.00	Change in Policy () Yes (X) No
New Funding _____	New Personnel () Yes (X) No
Savings* _____	CONCURRENCES:
Other _____	Risk Management
Total Funding _____ \$0.00	County Counsel
Change in Net County Cost _____ \$0.00	Other

***Explain**

BOARD ACTIONS:

<p>Vote: Unanimous _____ Or</p> <p>Ayes:</p> <p>Noes:</p> <p>Abstentions:</p> <p>Absent:</p> <p><small>Rev. 5/04 ISKW001 Agenda</small></p>	<p>I hereby certify that this is a true and correct copy of an action taken and entered into the minutes of the Board of Supervisors</p> <p>Date: _____</p> <p>Attest: Cindy Keck, Board of Supervisors Clerk</p> <p>By: _____</p>
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OFFICE OF THE
DISTRICT ATTORNEY
EL DORADO COUNTY, CALIFORNIA

GARY L. LACY, DISTRICT ATTORNEY

November 21, 2006

SEAN O'BRIEN
Chief Assistant District Attorney

PAUL S. SUTHERLAND
Assistant District Attorney
Placerville

HANS M. UTHE
Assistant District Attorney
South Lake Tahoe

DAVID KOUPAL
Chief Investigator

El Dorado County Board of Supervisors
330 Fair Lane
Placerville, CA 95667

Subject: 2nd Annual Report to Board on Real Estate Fraud for FY 2005/06

Dear Board Members:

Recommendation:

Receive, discuss, and file this report.

Reason for Recommendation:

On June 8, 2004, the board approved Resolution No. 169-2004 directing the county recorder to add a \$2 fee to every recording of a real estate instrument according to the provisions of Government Code Section 27388. The resolution stated that the fee was to enhance the capacity of local police and prosecutors to deter, investigate, and prosecute real property fraud crimes.

This is my second annual report to you as required by Section 27388 (copy attached).

The data furnished below indicate an increase in our investigative activities of real estate fraud compared to the program's first year FY 04/05: Nineteen cases were investigated in FY 05/06 compared to 12 in FY 04/05.

Please note that not all prosecutions of real estate fraud cases appear in our stats due to primary jurisdiction being assumed by another prosecutorial agency. For example, the prosecution of Heineman and Johnson (FY 04/05 investigation case) was handled by the United States Attorney's Office. Both are in custody. This real estate fraud scheme was a nationwide activity that affected thousands of properties. In El Dorado County, we had five separate properties that were fraudulently transferred into trusts in an attempt by Heineman and Johnson to defraud mortgage companies out of their mortgages. Our office is still dealing with lingering details of this case.

The real estate fraud program is still in its relative infancy in terms of awareness among the public. Awareness is increasing as an observed crossover between real estate fraud and elder abuse cases is occurring. Elder abuse cases often involve real estate fraud components. The operation of the Elder Protection Unit, begun in July, will expand these areas of inquiry of elder investigations to probe possible real estate fraud. These inquiries have started recently through a coordination and exchange of information between the real estate fraud investigator and the prosecutor of the Elder

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Protection Unit.

In addition, the district attorney investigator for real estate fraud will be coordinating and conducting training sessions with law enforcement personnel throughout the county and senior service's staff in human services. Training will thoroughly explain what is involved with real estate fraud, how to identify real estate fraud, and what steps to take if real estate fraud is suspected.

\ The items below are required to be reported to you:

1. No. real estate fraud cases filed (number of complaints filed)

1. One : Bowman, Michael (Paramount Mortgage 2005-120)

One additional case submitted for filing in February (was filed after July 1)
: Belleret-Wexelman, Deborah 2006-012

Two were filed in FY 04/05.

2. No. cases investigated

Nineteen (19)
2005-080
2005-082
2005-103
2005-108
2005-120
2005-125
2005-006
2006-008
2006-012
TP05-02-0013
2006-020
2006-021
2006-023
2006-026
2006-030
2006-037
2006-039
2006-043
2006-052

Eleven were investigated in the previous year.

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3. No. of victims involved in the cases filed

2. Four (4): Mr. & Mrs. Seccombe and Mr. and Mrs. Sahlberg (Bowman, Michael)

4. Total aggregated monetary loss suffered by the victims, as a result of cases filed and those under investigation

3. Bowman case: approximately \$350,000
4. For investigations pending (Bano): estimate \$52,000

5. The amount of funds received and expended, including payment of salaries and expenses, purchase of equipment and supplies, and other expenditures by type

5. Funds received (special revenue fund): \$109,155.20
6. Funds expended (DA budget) 75,318

Please see documentation attached

6. No. of arrests

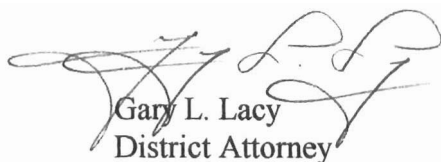
7. One (1) pending : Bowman (was arrested and bailed)

7. No. of convictions that resulted from the expenditure of funds: None

Fiscal Impact:

None. On November 9, the Real Estate Fraud Prosecution Trust Fund Committee met and authorized the transfer of \$75,318 from the trust account (special revenue fund) to the district attorney's office. A copy of the minutes of this meeting is also attached.

Sincerely,



Gary L. Lacy
District Attorney

**Real Estate Fraud Prosecution Trust Fund Committee
Meeting Minutes
November 9, 2006**

This was the second annual meeting of the Real Estate Fraud Prosecution Trust Fund Committee since the program was first approved by the Board of Supervisors June 8, 2004. This meeting utilizes the Real Estate Fraud Prosecution Trust Fund Committee as directed by the June 8, 2004 agenda item in accordance with government code, section 27388.

Attendance:

Laura Gill – Chief Administrative Officer
Gary Lacy – District Attorney
Jeff Neves – Sheriff

John Mitchell – Administrative Analyst, District Attorney's Office
Kelly Webb – Principal Admin Analyst, Chief Administrative Office

Not in Attendance:

Doug Nowka – Assistant Director of Human Services

Time: 10:00 a.m.

Distribution of report – Annual Report, FY 2005/06

Discussion of program by District Attorney including the following topics:

- Discussion on determination of which potential cases are referred for prosecution.
- Increase in the number of investigations from the previous year.
- Cross over with the Elder Protection Unit due to the fact that a number of cases referred to the Elder Protection Unit have a potential real estate fraud component.
- Update on two cases included in the report
 - Balleret-Wexelman – Case has been filed
 - Bowman – Arrested and on bail. Court date set for mid November, 2006

Follow-up on issues from October 31, 2005 meeting:

Update regarding District Attorney Investigator Theis providing training to Sheriff's Department staff, Placerville and South Lake Tahoe Police Departments, and Human Services staff on how to identify possible real estate fraud cases and steps to take for investigation and prosecution.

Investigator Theis has prepared training materials and will be coordinating with the Sheriff's Department and Human Services to conduct training in the near future. No date has been set.

The Auditor Controllers office completed the audit requested last year. No significant findings were noted.

Next Steps:

District Attorney to present report to Board of Supervisors at December 12, 2006 meeting.

Committee to convene annually per government code.

Vote authorizing transfer of \$75,318 from Trust Fund:

Motion by Laura Gill

Second by Gary Lacy

Approved by All voting members

Concurred by Jeff Neves

Meeting Adjourned 10:40 a.m.

27381. No charge or fee shall be made for recording, indexing, or issuing certified copies of any discharge, certificate of service, certificate of satisfactory service, report of separation, or notice of separation of any officer, commissioned warrant officer, warrant officer, flight officer, cadet, midshipman, noncommissioned officer, petty officer, soldier, sailor, or marine separated, released, or discharged from the Army, Navy, Marine Corps, Coast Guard of the United States, Women's Army Corps, Women's Army Auxiliary Corps, Women's Reserve of Navy, Marine Corps, or Coast Guard, or from the Army and Navy Nurse Corps.

27383. No fee shall be charged by the recorder for services rendered to the State, to any municipality, county in the State or other political subdivision thereof, except for making a copy of a paper or record.

27387. In addition to any other fee, the county recorder shall collect a fee from any lienor, other than a governmental entity, for the recordation of an abstract of judgment or other document creating an involuntary lien within the meaning of Section 27297.5 affecting title to real property. The fee shall not exceed the actual cost to the recorder of providing the notice required by Section 27297.5.

27387.1. In addition to any other recording fee, the recorder may collect a fee from the party filing a deed, quitclaim deed, or deed of trust, other than a government entity, pursuant to Section 27297.6. The fee shall not exceed the mailing cost of the notice specified in Section 27297.6, not to exceed seven dollars (\$7).

27388. (a) In addition to any other recording fees specified in this code, upon the adoption of a resolution by the county board of supervisors, a fee of up to two dollars (\$2) shall be paid at the time of recording of every real estate instrument, paper, or notice required or permitted by law to be recorded within that county, except those expressly exempted from payment of recording fees. "Real estate instrument" is defined for the purpose of this section as a deed of trust, an assignment of deed of trust, a reconveyance, a request for notice, and a notice of default. "Real estate instrument" does not include any deed, instrument, or writing subject to the imposition of a documentary transfer tax as defined in Section 11911 of the Revenue and Taxation Code, nor any document required to facilitate the transfer subject to the documentary transfer tax. The fees, after deduction of any actual and necessary administrative costs incurred by the county in carrying out this section, shall be paid quarterly to the county auditor or director of finance, to be placed in the Real Estate Fraud Prosecution Trust Fund. The amount deducted for administrative costs shall not exceed 10 percent of the fees paid pursuant to this section.

(b) Money placed in the Real Estate Fraud Prosecution Trust Fund shall be expended to fund programs to enhance the capacity of local

police and prosecutors to deter, investigate, and prosecute real estate fraud crimes. After deduction of the actual and necessary administrative costs referred to in subdivision (a), 60 percent of the funds shall be distributed to district attorneys subject to review pursuant to subdivision (d), and 40 percent of the funds shall be distributed to local law enforcement agencies within the county in accordance with subdivision (c). In those counties where the investigation of real estate fraud is done exclusively by the district attorney, after deduction of the actual and necessary administrative costs referred to in subdivision (a), 100 percent of the funds shall be distributed to the district attorney, subject to review pursuant to subdivision (d). The funds so distributed shall be expended for the exclusive purpose of deterring, investigating, and prosecuting real estate fraud crimes.

(c) The county auditor or director of finance shall distribute funds in the Real Estate Fraud Prosecution Trust Fund to eligible law enforcement agencies within the county pursuant to subdivision (b), as determined by a Real Estate Fraud Prosecution Trust Fund Committee composed of the district attorney, the county chief administrative officer, the chief officer responsible for consumer protection within the county, and the chief law enforcement officer of one law enforcement agency receiving funding from the Real Estate Fraud Prosecution Trust Fund, the latter being selected by a majority of the other three members of the committee. The chief law enforcement officer shall be a nonvoting member of the committee and shall serve a one-year term, which may be renewed. Members may appoint representatives of their offices to serve on the committee. If a county lacks a chief officer responsible for consumer protection, the county board of supervisors may appoint an appropriate representative to serve on the committee. The committee shall establish and publish deadlines and written procedures for local law enforcement agencies within the county to apply for the use of funds and shall review applications and make determinations by majority vote as to the award of funds using the following criteria:

- (1) Each law enforcement agency that seeks funds shall submit a written application to the committee setting forth in detail the agency's proposed use of the funds.
- (2) In order to qualify for receipt of funds, each law enforcement agency submitting an application shall provide written evidence that the agency either:
 - (A) Has a unit, division, or section devoted to the investigation or prosecution of real estate fraud, or both, and the unit, division, or section has been in existence for at least one year prior to the application date.
 - (B) Has on a regular basis, during the three years immediately preceding the application date, accepted for investigation or prosecution, or both, and assigned to specific persons employed by the agency, cases of suspected real estate fraud, and actively investigated and prosecuted those cases.
- (3) The committee's determination to award funds to a law enforcement agency shall be based on, but not be limited to, (A) the number of real estate fraud cases filed in the prior year; (B) the number of real estate fraud cases investigated in the prior year; (C) the number of victims involved in the cases filed; and (D) the total aggregated monetary loss suffered by victims, including individuals, associations, institutions, or corporations, as a result of the real estate fraud cases filed, and those under active investigation by that law enforcement agency.
- (4) Each law enforcement agency that, pursuant to this section, has been awarded funds in the previous year, upon reapplication for

funds to the committee in each successive year, in addition to any information the committee may require in paragraph (3), shall be required to submit a detailed accounting of funds received and expended in the prior year. The accounting shall include (A) the amount of funds received and expended; (B) the uses to which those funds were put, including payment of salaries and expenses, purchase of equipment and supplies, and other expenditures by type; (C) the number of filed complaints, investigations, arrests, and convictions that resulted from the expenditure of the funds; and (D) other relevant information the committee may reasonably require.

CASE
REPORTS
CONVICTIONS

(d) 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 submitted to the board, detailing both:

(1) Facts, based upon, but not limited to, (A) the number of real estate fraud cases filed in the prior year; (B) the number of real estate fraud cases investigated in the prior year; (C) the number of victims involved in the cases filed; (D) the number of convictions obtained in the prior year; and (E) the total aggregated monetary loss suffered by victims, including individuals, associations, institutions, corporations, and other relevant public entities, according to the number of cases filed, investigations, prosecutions, and convictions obtained.

(2) An accounting of funds received and expended in the prior year, which shall include (A) the amount of funds received and expended; (B) the uses to which those funds were put, including payment of salaries and expenses, purchase of equipment and supplies, and other expenditures by type; (C) the number of filed complaints, investigations, prosecutions, and convictions that resulted from the expenditure of funds; and (D) other relevant information provided at the discretion of the district attorney.

(e) The intent of the Legislature in enacting this section is to have an impact on real estate fraud involving the largest number of victims. To the extent possible, an emphasis should be placed on fraud against individuals whose residences are in danger of, or are in, foreclosure as defined under subdivision (b) of Section 1695.1 of the Civil Code. Case filing decisions continue to be in the discretion of the prosecutor.

(f) A district attorney's office or a local enforcement agency that has undertaken investigations and prosecutions that will continue into a subsequent program year may receive nonexpended funds from the previous fiscal year subsequent to the annual submission of information detailing the accounting of funds received and expended in the prior year.

(g) No money collected pursuant to this section shall be expended to offset a reduction in any other source of funds. Funds from the Real Estate Fraud Prosecution Trust Fund shall be used only in connection with criminal investigations or prosecutions involving recorded real estate documents.