

Real Estate Fraud Prosecution Trust Fund Committee

MINUTES

October 7, 2010

This is the sixth annual meeting of the Real Estate Fraud Prosecution Trust Fund Committee since the Board of Supervisors first approved the program on 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 § 27388.

Attendance:

Voting Members:

Vern Pierson- District Attorney (voting member)
Gayle Erbe-Hamlin- Chief Administrative Officer (voting member)
Daniel Nielson- Director Human Services (voting member)

Non Voting Members:

Jodi Albin- Fiscal Administrative Manager, District Attorney's Office
Kelly Webb- Principal Administrative Analyst, Chief Administrative Office
Robert Cosley- District Attorney Supervising Investigator

Not in Attendance:

Fred Kollar- Sheriff (non voting member)
Kimberly Beal- El Dorado County Association of Realtors

Time: 2:30 p.m.

Distribution of Report- Annual Report, FY 2009/2010

Discussion of program by District Attorney including the following topics:

- FY 08/09 Meeting items update
- FY 09/10 Statistics required under Government Code § 27388
- FY 09/10 Annual expenditure report
- FY 09/10 Case review

FY 08/09 Meeting items update

The following cases are updates of those cases discussed in the prior meeting that were still reported as ongoing. Cases that had been discussed and had been concluded in the prior report are not added.

SUBDIVISION LLC EMBEZZLEMENT

DAI: Bob Cosley / Case 2009-155

\$500,000 loss

Partners purchase acreage to develop into (22) 1-2 acre lots. Suspect partner ends up embezzling close to ½ million for his own personal use through fake invoices. Property may go into foreclosure. Investigation received and opened on March 30, 2009. This case will require various interviews including the victim, witnesses (sub-contractors) and potential defendant(s) as well as search warrants for financial and corporate records.

Update: Case filed and suspect arrested for multiple counts of grand theft and embezzlement. Court is pending.

TEN LOCAL INVESTORS INVEST LAND DEVELOPMENT

DAI: Bob Cosley / Case 2009-333

Potentially over \$1,000,000 loss

This investigation is pending the interviews of victims, search warrants for bank records, etc. There are potentially (10) alleged victims with a total loss exceeding \$1,000,000 who all invested in property for developing however only (1) victim has been cooperative so far and the main witness recently suffered a massive stroke.

Update: Case is pending and being handled by Franzen

EX-HUSBAND STEALS VICTIMS ID TO OBTAIN HELOC

DAI: Bob Cosley / Case 2009-128

\$40,000 loss

Ex-husband utilizes victim's identity to obtain home equity line of credit unbeknownst to victim. Ex-husband spends all monies leaving victim with a large payment and possibly losing house to foreclosure. Investigation is pending further review and obtaining additional financial documents which may result in a civil matter due to ex-spouses and divorce decrees involved.

Update: Financial documents received determined to be civil matter only. Case closed.

PROPERTY TAX REASSESSMENT SCAM

DAI: Bob Cosley / Case 2008-240 (Multiple Victims)

Loss is statewide and is unknown at this time

Corporation advertises that they can reduce property taxes for a fee. This procedure can actually be done free through the County Assessor's Office. The defendants in this case have sent out thousands of letters to homeowners throughout the state of California that appear to be official County or State documents. Due to this offices outreach Fraud Alert media program homeowners have forwarded close to 300 of these letters to our office.

The El Dorado County District Attorney's Office is investigating this in conjunction with the Los Angeles County District Attorney's Office, the Ventura County District Attorney's Office and the California State Attorney General's Office. This case has already resulted in the arrest of (1) defendant by the Ventura County District Attorney's Office and should result in additional filings and arrests.

Update: Multiple felony counts of theft and fraud related charges filed by L.A. County DAs Office. Suspects arrested in the Ventura County Area. Court case is pending.

DIVERSION OF CONSTRUCTION FUNDS

DAI: Mike Franzen / Case TP08-12-007488

Possible \$160,000 loss

The DA's Office is investigating this case in conjunction with the Contractors State License Board (CSLB) and was received in December of 2008. The DA investigator must still conduct interviews of victims and witnesses as well as produce and serve search warrants for financial records prior to attempting to file this case with a Deputy DA.

Update: Multiple counts filed including Diversion of Construction Funds and Embezzlement. Suspect arrested by DA Fugitive Team and pled guilty on all counts. Case is closed

DIVERSION OF CONSTRUCTION FUNDS

DAI: Mike Franzen / Case 2008-519

Possible loss is unknown at this time

Although this case was received December 3, 2008, only a few details of this case are currently known due to other pending cases. This case does involve a large well known builder and a sizable monetary loss.

Update: Franzen assigned to Garrido case full time and due to lack of Investigators available this case was delayed. Victim, although not pleased with our response, eventually went after suspect civilly. Case is closed.

REAL ESTATE / MORTGAGE FRAUD – FORGERY

DAI: Unassigned / Case 2009-653

Unknown loss

This case involves an individual who advertises through Craig's List to meet single women and lures them into some type of real estate deal to purchase very expensive properties. The perpetrator in this case impersonates another real person, completely unbeknownst to the single female and the person being impersonated forging the person's signature during the recordation of all the real documents. This case was just received on June 17, 2009 and will require extensive follow-up by the investigator.

Update: Although some of the cases involved victims living in the El Dorado County, again due to unavailability of investigators, victims were referred to Sacramento and Placer counties. Sacramento and Placer counties had victims in their areas and had an ongoing investigation

LOAN MITIGATION FRAUD

DAI: Bob Cosley / Case 2009-343

Unknown loss

This case was recently received and was the result of this office's outreach program which includes meetings with the El Dorado County Board of Realtors and the "Warning Letters" that are attached with all the foreclosure notices that are being mailed out to all the distressed homeowners.

This case came from a local real estate agent on April 28, 2009, who attended one of our meetings on real estate fraud. The realtor in this case was visited by an individual who left a flier in his office regarding loan mitigation. The agent immediately became suspicious and contacted this office. A preliminary investigation revealed that this

individual is not licensed and does in fact have a record involving fraud. Since there are no known victims, this case will possibly require an undercover officer conducting some sort of sting.

Update: Suspect working out of the Sacramento Area and involved victims in that area. Information relayed to Sacramento County DAs Office.

FORECLOSURE / LOAN MITIGATION FRAUD

DAI: Bob Cosley

Unknown Loss

This case was just received on June 26, 2009, via Bill Schultz, County Recorder-Clerk and at first glance appears to have surfaced throughout the state. This scheme involves a scam corporation who approaches a distressed homeowner and promises to help them save their foreclosure utilizing outside investors and lower their mortgage by half. Homeowners are desperate and agree to sign over their Grant Deed. In the end the homeowner loses their home and the outside investor loses their investment after this corporation walks away from the loans.

Update: El Dorado County had one victim in the South Lake Tahoe region and due to lack of investigators, Stanislaus County DA was asked to tag their case on with our victim. Stanislaus County DA is working case in conjunction with the AG's Office and the FBI All related documentation and information given to Stanislaus County DA. Case closed.

ELDER ABUSE REAL ESTATE FRAUD CASES

DAI: Chris Lindholm

Investigator Lindholm is assigned to handle the Elder abuse cases which include victims of real estate / mortgage fraud. Since the start of our "Alert Notice" program he has received (5) cases wherein the elder victims paid a potentially fraudulent loan broker who was supposed to mitigate their pending foreclosure. The victims are apparently out the cash they fronted and have not heard from the broker nor are they able to contact them. Their homes are still in foreclosure. These victims were instructed to prepare the necessary documentation and deliver it to our office.

Lindholm has several other related real estate cases that are still being investigated and/or being prepared for filing of related criminal charges.

Update: Since Lindholm is now assigned full time to Welfare Fraud and we now have no investigators assigned to the Elder Abuse cases (due to funding loss). This case however is still being pursued by Lindholm as time allows.

FY 09/10 Statistics required under GC 27388

1. Number of cases filed	1
2. Number of cases investigated	24
3. Number of victims involved in the cases filed	1
4. Total aggregated monetary loss suffered by victims	
Fiscal Year 09/10 New Cases	\$500,000.00 +
Fiscal Year 08/09 Pending Cases	\$1,500,000.00
5. Total Funds Received in Trust	\$102,170.81
6. Total Funds Expended	\$189,474.00
7. Number of Arrests	1
8. Number of Convictions	2

FY 09/10 Annual Expenditure Report

See Attachment A

Fiscal Year 09/10 Case Review

REAL ESTATE INVESTMENT FRAUD

Cosley / 2010-032 and 542

Case Summary with Potential Loss

Case is an alleged huge investment fraud case involving close to 100 victims throughout California and losses in the tens of millions. This case is far to complex for our office to handle.

Update:

Case was referred to the State Attorney General's Office.

FRAUDULENT NOTICE OF DEFAULTS

Cosley / 2010-171 and 143

Case Summary with Potential Loss

Homeowners after numerous attempts to modify their loans through their lender as sent foreclosure notices of pending home auction.

Update:

Cases reviewed by DDA and determined to be civil in nature. Complainants sent letters from our office advising of disposition.

PROPERTY INVESTMENT FRAUD

DAI: Franzen / 2010-0128

Case Summary with Potential Loss

Dispute between (2) partners in property investment alleging improper and fraudulent actions involved with the property from one owner against another.

Update:

Case reviewed by DDA and determined to be civil matter only. Complainant advised of outcome via letter.

POSSIBLE REAL ESTATE PURCHASE SCAM

DAI: Cosley / 2010-0309

Case Summary with Potential Loss

Information was received from a local Real Estate agent regarding possible home buyer attempting to solicit her into an illegal purchase of one of her listed homes. Name of buyer, who presents a Purchase Agreement to the agent, is fictitious however true identity is determined during initial part of the investigation. Suspect works out of and resides in a Bay Area County.

Update:

Information is relayed to the county of suspect's residence with a cc to our Complainant. Case closed.

LARGE FINANCIAL INSTITUTION CLAIMS REAL ESTATE FRAUD

DAI: Cosley / 2010-0423

Case Summary with Potential Loss

One of the most well know financial institutions actually initiated the complaint on this case which involved (4) suspects who created a fictitious front to borrow money to purchase properties. Wells Fargo claimed a loss of approximately \$130,000.00.

Update:

An investigation revealed that, although one of the several properties represented in this complaint was in El Dorado County, the suspects and additional properties were outside our county. Even though this case posed a very tempting investigation it was reviewed by our Fraud Team and decided, due to other more unavailability of investigators that it

had to be referred to Santa Clara County. Santa Clara County was notified and Wells Fargo was advised as to outcome.

REAL ESTATE INVESTMENT FRAUD

DAI: Cosley / 2010-0246

Case Summary with Potential Loss

This is an alleged real estate investment scam involving financial deals that primarily took place in Sacramento County. Complainant alleges a loss of \$100,000.00.

Update:

Case was reviewed by DDA and determined that since the complainant and other parties involved in this report had involved a civil attorney who was currently pursuing the matter in civil court and that criminal elements were lacking no further actions would proceed with our office. Information was relayed to the complainant via letter.

REAL ESTATE FRAUD ALLEGED AGAINST FINANCIAL INSTITUTION

DAI: Franzen

Case Summary with Potential Loss

Complainant alleges that a representative of a large well known financial institution perjured recorded documents regarding their property stating that the homeowner had agreed to give up their property.

Update:

Case is pending further investigation with time permitting.

FRAUD CLAIM AGAINST THE COUNTY

DAI: None / 2009-800

Case Summary with Potential Loss

Complainant alleges that El Dorado County, specifically South Lake Tahoe, had illegally obtained rights to a property wherein the owners did not wish to sell. Loss is unknown.

Update:

Case was reviewed by DDA Jones and referred to County Counsel for further review.

PARTNER IN REAL ESTATE INVESTMENT CLAIMS FRAUD

DAI: Cosley / 2010-0390

Case Summary with Potential Loss

Complainant alleges that he/she got involved in a 50% partnership purchase of a home in Diamond Springs and was never put on Deed. Other partner refused to amend Deed to include Complainant. Loss claim is over \$60,000.00.

Update:

Case was reviewed by Fraud Team and determined to be civil only. Complainant was advised to retain civil representation.

LOAN FRAUD

DAI: Cosley

Case Summary with Potential Loss

Complainant alleges that he/she loaned \$47,000.00 to friends for the purported purchase of some property in Amador County. Complainant later discovered that the loan was to pay for other debts incurred by friends and that they were scammed with a fraudulent Grant Deed

Update:

Case was reviewed by Fraud Team and determined to be civil only. Complainant was advised to retain civil representation.

The Fraud Unit has reviewed and/or investigated (9) other Real Estate cases that have resulted in referrals to other entities, rejected due to insufficient evidence to prove criminal prosecution, proved to be civil only or are still being investigated.

The following cases have been referred to other entities:

1. TP09-12-008267 was referred to the Department of Corporations
2. Case 2010-0578 was referred to and handled by the Department of Real Estate and the Federal Trade Commission.
3. Case 2009-891 was referred to the El Dorado Sheriff's Office

The following cases have been determined to be civil in nature only:

1. Case 2009-1022
2. Case 2010-0453
3. Case 2010-0510

The following cases were rejected due to insufficient evidence:

1. Case 2009-930
1. Case 2010-0033

The following case is still pending further investigation:

1. Case 2009-711

SUMMARY

Although our office continues to receive potential real estate related fraud cases our investigative and prosecutorial manpower has basically dwindled to (1) part time investigator, (1) forensic auditor and (1) part time prosecutor. Many of our pending cases are still awaiting either arrests of the perpetrators or further court proceedings and some of our cases have been set aside to work as time allows.

ALARMING STATS

Law enforcement and industry reporting indicate that mortgage fraud activity—and law enforcement efforts to address it—continued to increase in 2009. FBI reports that mortgage fraud pending investigations increased 71 percent from fiscal year (FY) 2008 to FY 2009. FBI reported that sixty-six percent of all pending mortgage fraud investigations during FY 2009 involved dollar losses totaling more than \$1 million. While the total dollar loss attributed to mortgage fraud is unknown, First American CoreLogic (using mortgage loan data representing 97 percent of all U.S. properties) estimates that \$14 billion in fraudulent loans were originated in 2009 (\$7.5 billion in FHA loans and \$6.5 billion in conforming loans).

Analysis of available law enforcement and industry data indicates that California was one of the top states for mortgage fraud during 2009

Prevalent mortgage fraud schemes reported by law enforcement and industry in FY 2009 included loan origination, foreclosure rescue, builder bailout, equity skimming, short sale, home equity line of credit (HELOC), illegal property flipping, reverse mortgage fraud (currently the FHA's Home Equity Conversion Mortgage [HECM] and the primary reverse mortgage loan product being offered by lenders and targeted by fraudsters), credit enhancement, and schemes associated with loan modifications.

Emerging mortgage fraud schemes and trends reported by law enforcement and industry in FY 2009 included schemes associated with various economic stimulus plans/programs, commercial real estate loan fraud, short sale flops, condo conversion, property theft/fraudulent leasing of foreclosed properties, and tax-related fraud. Law enforcement sources also reported increases in gang members, organized criminal groups, and domestic

extremists perpetrating mortgage fraud, and the resurgence of debt elimination/redemption schemes.

EDCO Stats related to Foreclosure Scams:

2008/2009 - Total of 2,811 Notices of Default
Total of 1,722 Notices of Trustee Sales

2009/2010 - Total of 2,833 Notices of Default
Total of 2,482 Notices of Trustee Sales

NEXT STEP:

District Attorney to present report to Board of Supervisors at October 19, 2010 meeting.

Committee to convene annually per Government Code.

Vote approving transfer of \$102,171 from Trust Fund:

Motion by: Gayle Erbe-Hamlin

Second by: Daniel Nielson

Approved by all voting members: Yes

Meeting Adjourned: 3:15pm