

Real Estate Fraud Prosecution Trust Fund Committee  
Meeting Minutes  
January 10, 2008

This is the third 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, section 27388.

Attendance:

Vern Pierson- District Attorney  
Jeff Neves- Sheriff

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

Not in Attendance:

Laura Gill- Chief Administrative Officer  
Doug Nowka- Assistant Director of Human Services

Time: 2:30 pm

Distribution of report- Annual Report, FY 2006/2007

Discussion of program by District Attorney including the following topics:

1. Case: Unnamed Subject- apparent fraud  
DAI: Bob Cosley

The above-mentioned case is currently being investigated. There are approximately 20 known victims to date. The scam begins when a seller's agent drastically inflates the selling price of a home so that the buyer can obtain a 100% mortgage and receive cash back at closing. The selling agent then finds an appraiser to appraise the home at the new listing price. Once the mortgage is approved by the lender the sellers gets their full price, the buyer gets close to \$100,000 cash, and the agents for the buyer and seller gain a higher commission than they would have on the original list price. ... But it's a scam that can defraud the lender, artificially inflate values in entire neighborhoods and leave an economy reeling from the effects of foreclosure.

2. Investigator Dennis Theis has been involved in Real Estate Fraud claims that surround a brother and sister who have been recording fraudulent deeds of trust on properties with the belief that based on the calculation of the APN that the property rightfully belongs to them. Being that these siblings are clearly suffering from mental illness these cases have been referred to Senior Services and County Counsel. The District Attorney's Office has declared these cases to be unprosecutable due to the mental capacity of the offenders.

3. According to Dick Jones, Deputy District Attorney, there have been many cases of reported Real Estate Fraud that once investigated are declined. This trend has resulted from the high level of adjustable rate mortgages that buyers took out on their homes not anticipating future market conditions. Buyers are claiming that the terms of their loans were not fully disclosed or that they were misled, but when the loan documents are reviewed Dick has found that the terms of the loan are fully disclosed to the buyer in writing with the buyers signature clearly at the bottom. At this point Dick explains to the buyers that it is ultimately their responsibility to read the documents prior to signing to insure that they understand the terms and conditions of their loan.

Next Step:

District Attorney to present report to Board of Supervisors at February 26, 2008 meeting.

Committee to convene annually per government code.

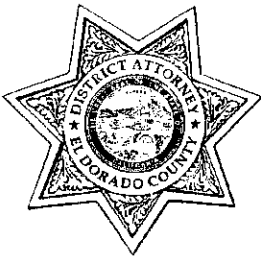
Vote authorizing transfer of \$31,845 from Trust Fund:

Motion by Jeff Neves

Second by Kelly Webb

Approved by all voting members

Meeting Adjourned 3:00 p.m.



OFFICE OF THE  
**DISTRICT ATTORNEY**  
EL DORADO COUNTY, CALIFORNIA

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**VERN PIERSON, DISTRICT ATTORNEY**

January 29, 2008

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

Subject: 3<sup>rd</sup> Annual Report to Board on Real Estate Fraud for FY 2006/07

Dear Board Members:

**Recommendation:**

Receive, discuss, and file this report.

**Reason for Recommendation:**

On June 8, 2004, the board approved Resolution No. 16-2004 directing the county recorder to add a \$2 fee to every recording of 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 the district attorney's third annual report to you as required by Section 27388 (copy attached).

**Please Reply To:**

■ 515 Main Street  
Placerville, CA 95667  
(530) 621-6472  
Fax (530) 621-1280

□ 1360 Johnson Blvd., Ste. 105  
South Lake Tahoe, CA 96151  
(530) 573-3100  
Fax (530) 544-6413

The data furnished below indicates an increase in our investigative activities of real estate fraud compared to the programs 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 prosecution 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 have 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 the lingering details of this case.

WEB SITE:  
[www.co.el-dorado.ca.us/eldoda](http://www.co.el-dorado.ca.us/eldoda)

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

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**VERN PIERSON, DISTRICT ATTORNEY**

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 stated recently through a coordination and exchange of information between the real estate fraud investigator and the prosecutor of the Elder Protection Unit.

In addition, the district attorney investigator for real estate fraud will be coordinating and conduction 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)

None.

Two were filed in FY 04/05 and one was filed in FY 05/06.

2. No. cases investigated

Ten cases.

Eleven were investigated in FY 04/05 and nineteen in FY 05/06.

3. No. of victims involved in the cases filed

None.

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

None.

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

a. Funds received (special revenue fund): \$94,851.73

b. Funds expended (DA budget): \$31,845

Please see documentation attached

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**VERN PIERSON, DISTRICT ATTORNEY**

6. No. of arrests

None.

7. No. of convictions that resulted from the expenditure of funds

None.

**Fiscal Impact:**

None. On January 10, 2008, the Real Estate Fraud Prosecution Trust Fund Committee met and authorized the transfer of \$31,845 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,



Vern Pierson  
District Attorney



# RESOLUTION NO. 169-2004

## OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

WHEREAS, in the matter of enhancing the capacity of local police and prosecutors to deter, investigate, and prosecute real property fraud crimes under Government Code Section 27388;

WHEREAS, El Dorado County has an increasing rate of real property fraud crimes;

WHEREAS, the District Attorney and other local law enforcement agencies have limited resources which can be directed to the investigation and prosecution of these crimes,

NOW, THEREFORE BE IT RESOLVED, that the El Dorado County Board of Supervisors hereby directs the El Dorado County Recorder to add a \$2 fee to every recording of a real estate instrument according to the provisions of Government Code Section 27388;

BE IT FURTHER RESOLVED, the El Dorado County Auditor/Controller is directed to establish a Real Estate Fraud Prosecution Trust, according to the provisions of Government Code Section 27388;

AND, the Chief Administrative Officer is directed to establish the Real Estate Fraud Prosecution Trust Fund Committee according to the provisions of Government Code Section 27388.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the 8TH day of JUNE, 2004, by the following vote of said Board:

Ayes: SOLARO, PAINE, DUPRAY

ATTEST

CINDY KECK  
Clerk of the Board of Supervisors

By Cynthia Johnson  
Deputy Clerk 6/8/04

Noes: BAUMANN, SWEENEY  
Absent: NONE

Rusty Dupray  
Chairman, Board of Supervisors 6/8/04

**RUSTY DUPRAY**

I CERTIFY THAT:  
THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

DATE \_\_\_\_\_

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.

CASES  
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.

<p><b>EL DORADO COUNTY DISTRICT ATTORNEY</b></p> <p><b>REAL ESTATE FRAUD</b></p> <p><b>ANNUAL EXPENDITURE REPORT, 07/01/06 - 06/30/2007</b></p>
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I. Salary	20,293
II. Benefits	8,561
Total Salary and benefits	28,854

III. Direct Operating Expenses

Supplies	0
Communications	0
Transportation	0
Audit	0
Minor Equipment	0
Staff Development	0
Publications/Advertising Hot Line	962
Total Direct Operating Expense	962
Total Direct Expense	29,816

IV. Indirect Costs

0.1 of salaries	\$2,029
Total Costs	\$31,845

Revenue received and posted	0
Total program costs	
Accrue	
Additional revenue expected	0
Total revenue for fiscal y	0
Total Cost for Program	
Possible carryover	0

TOTAL YEAR SALARY AND BENEFITS (SEE ATTACHED QUARTERLY WORKSHEETS)

<u>Position</u>	<u>Hours</u>	<u>Gross Sal.</u>	<u>Hrly Rate</u>	<u>Benefits</u>	<u>Hrly Rate</u>	<u># Pgm Hrs</u>	<u>SALARY COST</u>	<u>BENEFITS COST</u>	
				1st qtr			\$15,442.65	7,040.52	22,483.17
				2nd qtr			2,176.20	992.16	3,168.36
				3rd qtr			0.00	0.00	0.00
				4th qtr			\$2,674.53	\$527.89	3,202.42

Total \$20,293.38 \$8,560.57 \$28,853.95

0

Operating Cost Detail

<u>Category</u>	<u>Description</u>	<u>Logged Cost</u>	<u>FAMIS Cost</u>	<u>Total Cost</u>
Transportation		0.00	0	0
			\$0.00	0
			0.00	
		0.00		
Parking	4420			
	5704			
	Total	<u>0.00</u>	<u>0.00</u>	<u>\$0.00</u>
Advertising Hot Line	4400		0.00	
	4041		0.00	
	4041		0	
	4041		0	
	4041		0.00	
	Total	<u>0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>
Audit			0.00	<u>\$0.00</u>
Phones	from spreadsheet			<u>\$0.00</u>

Office Supplies		0			
	4260			0.00	
	4420			0.00	
	4465			0.00	
	4506			0.00	
Membersh	4220			0.00	
	6801				
					0
Publications	6706				
	4440 fraud ads		962.00		
	6844				962
	6900				
Postage	6900				
	4261				
	6900				
	s/total	\$0.00	\$962.00	962.00	
Staff Dev					
	4600			0.00	
	4600			0.00	
	4600	0		0.00	
	4503			0.00	
	4503			0.00	
	4503			0.00	
	4600			0.00	
				0.00	
	4602			0.00	
				0.00	
				0.00	
				0.00	
				0	
				0.00	
				0.00	
	s/total	\$0.00	0.00	\$0.00	
Total Direct Operating Expense		0	962.00	\$962.00	Proof 962
FAMIS total			\$24,989.00		
	4th qtr timestudies		3,202.42		
	2nd qtr timestudies		3,168.36		
	indirect: 1,544 in FAMIS, 2,029 = total, diff. =		485.00		
			<u>31,844.78</u>		

Change in Balance  
Real Estate Fraud Special Revenue Fund  
June 30, 2006 through June 30, 2007

Balance June 30, 2006	166,822.34	
Balance June 30, 2007	186,356.07	
Difference	19,533.73	
FY 05/06 expense JE'd to DA from Fund	75,318.00	
Fees and Interest FY 06/07	94,851.73	(prior to transferring FY 06/07 expenses to DA)

FAML6400 V4.2  
LINK TO:

EL DORADO COUNTY FAMIS 4.2  
SUMMARY: TRIAL BALANCE

12/06/2007  
10:03 AM

FISCAL MO/YEAR : 12 2006 CURRENCY CODE :  
FUND TYPE : 20 COUNTYWIDE SPECIAL REVENUE  
FUND : 522 SPECIAL REV: DISTRICT ATTORNEY  
SUB FUND : 362 REAL ESTATE FRAUD PROSECUTION TRUST

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S ACCT	DESCRIPTION	JUNE 2006	BALANCE
100	EQUITY IN POOLED CASH	-41,455.07	166,822.34
110	ACCOUNTS RECEIVABLE	903.60	903.60
350	FND BAL: UNRSVD UNDESIGNATED	0.00	-107,445.14
401	ESTIMATED REVENUE	0.00	64,000.00
411	ACTUAL REVENUES	-9,426.53	-110,258.80
420	ORIGINAL BUDGET	0.00	-64,000.00
431	EXPENDITURES	49,978.00	49,978.00
	SUB FUND TOTAL	0.00	0.00

F1-HELP F2-SELECT F4-PRIOR F5-NEXT  
F7-PRIOR PG F8-NEXT PG F9-LINK  
G014 - RECORD FOUND

FAML6401 V4.2 EL DORADO COUNTY FAMIS 4.2 12/06/2007  
 LINK TO: DETAILS: TRIAL BALANCE 10:00 AM

ACTIVE  
 FISCAL MO/YEAR : 06 2007 CURRENCY CODE :  
 FUND TYPE : 20 COUNTYWIDE SPECIAL REVENUE  
 FUND : 522 SPECIAL REV: DISTRICT ATTORNEY  
 SUB FUND : 362 REAL ESTATE FRAUD PROSECUTION TRUST  
 GL ACCOUNT : 431 EXPENDITURES

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 BEGINNING BALANCE DEBITS CREDITS ENDING BALANCE  
 .00 75,318.00 .00 75,318.00  
 S POST DATE T/C DOCUMENT VENDOR AMOUNT  
 INDEX DOCUMENT REF ----- D E S C R I P T I O N -----  
 12/19/2006 431 JE2701282 02 75,318.00  
 7722362 JE FY 05/06 EXPENSE TO 220800

F1-HELP F2-SELECT  
 F7-PRIOR PG F8-NEXT PG F9-LINK  
 G013 ~ LAST PAGE DISPLAYED



FAML6450 V4.2

EL DORADO COUNTY FAMIS 4.2

11/28/2007

LINK TO:

SUMMARY: INDEX CODE OR ORGANIZATION

3:53 PM

ACTIVE

BALANCE (Y,M,Q,A) : Y C / P PERIOD : CURRENCY CODE :

FISCAL MO/YEAR : 12 2007 JUNE 2007

INDEX CODE : 220800 REAL ESTATE FRAUD

ORGANIZATION :

CHAR / OBJECT :

FDTP FUND SBFD :

PROJECT PROJ DTL :

GRANT GRANT DTL :

USER CODE :

S	SUBOBJ	DESCRIPTION	BUDGET	ACTUAL	ENCUMBERED	BALANCE
	2020	OPERATING TRANSFER	92,357	75,318		-17,039
		REVENUE TOTAL	92,357	75,318		-17,039
	3000	PERMANENT EMPLOYEE	92,357	28,854		63,503
	4400	PUBLICATION & LEGA		974		-974
	9004	STANDARD INDIRECT		2,029		-2,029
		EXPENDITURE TOTAL	92,357	31,857		60,500
		REVENUE LESS EXPE		43,461		43,461

F1-HELP F2-SELECT F4-PRIOR F5-NEXT

F7-PRIOR PG F8-NEXT PG F9-LINK

G014 - RECORD FOUND