

# **Real Estate Fraud Prosecution Trust Fund Committee**

## **MINUTES**

October 15, 2009

This is the fifth 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:**

Vern Pierson- District Attorney  
Fred Kollar- Under Sheriff  
Gayle Erbe-Hamlin- Chief Administrative Officer  
Daniel Nielson- Director Human Services  
Jodi Albin- Fiscal Administrative Manager, District Attorney's Office  
Kelly Webb- Principal Administrative Analyst, Chief Administrative Office  
Robert Cosley- District Attorney Investigator  
Kimberly Beal- El Dorado County Association of Realtors

Not in Attendance:

Jeff Neves- Sheriff

**Time: 9:30 a.m.**

Distribution of Report- Annual Report, FY 2008/2009

Discussion of program by District Attorney including the following topics:

- FY 07/08 Meeting items update
- FY 08/09 Statistics required under Government Code § 27388
- FY 08/09 Annual expenditure report
- FY 08/09 Case review

## **FY 07/08 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.

### **CASE I**

#### **CASH BACK MORTGAGE FRAUD**

DAI: Bob Cosley

The above-mentioned case has concluded. There are approximately 20 known victims. 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.

#### **Update:**

The above mentioned case was started in September of 2007 as the result of a tip from a local real estate appraiser and eventually developed into additional involved properties throughout a three county region and additional defendants.

Two individuals were arrested, indicted and pled guilty to numerous federal charges and are currently serving time in a Federal Penitentiary. Several other individuals were identified as having some involvement and became cooperative witnesses. Their information has resulted in other spin offs to other federal cases. It is yet to be determined if any of those spin off cases will fall within the El Dorado County region.

Also, as a result of the above mentioned investigation, the El Dorado County District Attorney's Office has joined together with the United States Attorney's Office to form a Mortgage Fraud Task Force. This Task Force, which will work hand-in-hand with both FBI agents and U.S. Treasury agents on current local cases, will enable our office to handle the very complex and extremely time consuming mortgage fraud/real estate fraud type cases. This office intends to continue this working relationship for years to come.

## CASE II

### DIVERSION OF CONSTRUCTION FUNDS

DAI: Bob Cosley / Case 2008-121

This case, which was brought to the attention of the District Attorney's Office in April of 2008, involves a builder who has allegedly diverted millions of dollars from several individuals. As a result some victims have been financially decimated, having to spend and then lose their entire retirement and/or years of hard earned savings only to eventually have their properties foreclosed on.

The investigation revealed that there is at least (7) identified victims however only (5) victims have been cooperative and are pursuing this matter for prosecution. In August of 2008 the IRS (Mortgage Fraud Task Force) initially requested to assist in our case and it became part of a Federal Grand Jury investigation. As a result of the Federal Grand Jury numerous pertinent financial and corporate documents were obtained through their subpoena powers.

#### **Update:**

After some (6) months of being tied into the Federal Grand Jury it became apparent that the Federal Agents were overwhelmed with much larger cases and could not be relied upon to help any further on this case as well as any other cases. In February of 2009, the District Attorney's Office made a request to the IRS to have this case and all its' evidence returned to our jurisdiction. Unfortunately this process of release the files took about (4) months and on June 11, 2009, this office finally received some of the documents. There are still more documents that the IRS is holding and should be available the week of June 30.

Currently there have been over (25) interviews conducted of the various victims as well as many of the sub-contractors. There are still a few interviews pending and then an analysis, utilizing this office's Forensic Auditor, of all the financial documents which are contained in over (14) boxes.

From April of 2008 to the present only (1) investigator, (1) Deputy District Attorney and (1) Forensic Auditor have been involved in this case and have spent countless hours investigating the case. It is believed that this case will be finalized, charges filed and at least (1) arrest of the main perpetrator occurring within the next (2) months.

## **CASE II**

### **DIVERSION OF CONSTRUCTION FUNDS**

DAI: Bob Cosley / Case 2008-121

This case involved a builder/contractor who was hired by (2) separate individuals to have their homes built. As in the aforementioned case the builder allegedly diverted thousands of dollars from the victims' construction loans, not paying off the subcontractor and causing numerous recorded liens on their properties.

There have been hours spent preparing and serving search warrants to obtain bank records. There have also been hours spent meeting with the Deputy District Attorney to determine if there exists ample evidence for prosecution as well as the forensic auditor who has had to analyze all of the records obtained. The Contractor State License Bureau (CSLB) eventually assisted and determined, through an expert, that the actual estimated losses were minimal to both victims. The CSLB also found that the builder in this case was unlicensed and ended up filing charges for unlicensed contractor. From April 15, 2008 to the present (1) investigator has spent over (45) hours investigating this case in addition to the approximate (10) hours expended by (1) Deputy District Attorney and (10) hours by our forensic auditor.

#### **Update:**

After further investigation no evidence of criminal activity was found. In conjunction with CSLB, who agreed with our findings, case is civil only and will not be prosecuted by the District Attorney's Office.

## **CASE IV**

### **MORTGAGE FRAUD**

DAI: Bob Cosley / Case TP07-06-003673

Defendant in this case, held a third interest on her father's home in South Lake Tahoe along with her brother and decided to refinance the home for \$120,000 without the permission of either her father or brother. Utilizing a friend who was a licensed notary, defendant forged the names of both her father and brother onto documents that were eventually recorded at the Recorder's Office. This enabled the defendant to obtain the \$120,000 from the lending bank. Defendant never made any attempts to make the payments and, since the victims were unaware of the re-finance, the home was foreclosed on.

#### **Update:**

The Deputy District Attorney filed Forgery and Grand Theft charges on both defendants who were later arrested. Trial for this matter is set for August 18, 2009.

## **CASE V**

### **RENTAL SCAM**

DAI: Bob Cosley / Case TP08-10-006087

#### **Update:**

One defendant was charged and arrested in this case and (1) is still outstanding and is believed to have fled out of state. This case is set for trial on December 8, 2009.

## **CASE VI**

### **REAL ESTATE INVESTMENT FRAUD**

DAI: Mike Franzen / Case TP09-05-002909

#### **Update:**

In May 27, 2009, Defendant was arrested in Laguna Beach by El Dorado County District Attorney Investigators and charged with 28 felony counts of grand theft and securities violations that included bank fraud. Defendant is being held on a \$5 million bail and the Preliminary Trial is pending. Numerous search warrants have been issued for additional financial records from institutions discovered after defendant's arrest. As a result of these records more victims have surfaced and additional charges have been filed.

## **CASE VII**

### **PROPERTY LIEN FRAUD**

#### **Update:**

After a further investigation this case appears that it may be a civil matter, pending additional evidence.

## **CASE VIII**

### **DIVERSION OF CONSTRUCTION FUNDS**

DAI: Bob Cosley / Case 2008-122

#### **Update:**

The CSLB assisted in this case and filed administratively against the contractor causing their license to be pulled. Investigation further revealed that there was insufficient evidence to file any criminal charges and primarily dealt with the contractor's poor management of his financial obligations.

## **CASE IX**

### **DIVERSION OF CONSTRUCTION FUNDS**

DAI: Bob Cosley / Case 2007-464

#### **Update:**

Charges were filed on this defendant charging him with Diversion of Construction Funds, Contracting W/O a License and Unlawful and Fraudulent Use of a License. Defendant was arrested and pled guilty.

## **CASE X**

### **THEFT OF EQUITY LINE OF CREDIT**

DAI: Chris Lindholm

#### **Update:**

The case involves an elderly victim and is being investigated in conjunction with the California Department of Real Estate. The investigator, who has received most of the financial records through search warrants, is also in the process of building a spreadsheet to determine if there is a prosecutable case. This case is still ongoing.

## **CASE XI**

### **THEFT OF REAL ESTATE INVESTMENT FUNDS**

DAI: Chris Lindholm

#### **Update:**

Case involves (14) victims with a total loss of \$400,484.65. This case is being investigated in conjunction with the California Department of Corporations who is in the process of serving administrative subpoenas. Investigation is still ongoing.

## **CASE XII**

### **REAL ESTATE FRAUD / UNLAWFUL BUSINESS PRACTICES**

DAI: Bob Cosley

#### **Update:**

This case is also tied up in a civil procedure and the criminal investigation is still pending interviews and statements from witnesses and/or potential defendants in this case.

## CASE XIII

### REAL ESTATE FRAUD / FORGED LOAN DOCUMENTS

DAI: Chris Lindholm

**Update:**

Investigation is still ongoing and awaiting handwriting analysis from the Department of Justice.

#### **FY 08/09 Statistics required under GC 27388**

1. Number of cases filed	4
2. Number of cases investigated	9
3. Number of victims involved in the cases filed	
a. Case 2009-155	1
b. Case 2009-333	10
c. Case 2009-128	1
d. Case 2008-240	Multiple
e. Case TP08-12-007488	Unknown
f. Case 2008-519	Unknown
g. Case 2009-653	Unknown
h. Case 2009-343	Unknown
i. Case	5
4. Total aggregated monetary loss suffered by victims	\$1,700,000 +
5. Total Funds Received in Trust	\$ 63,772.60
6. Total Funds Expended	\$ 209,315
7. Number of Arrests	7
8. Number of Convictions	3

#### **FY 08/09 Annual Expenditure Report**

See Attachment A

## Fiscal Year 08/09 Case Review

### **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.

### **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.

### **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.

### **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.

### **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.

### **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.

### **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.

### **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.

### **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.

### **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 the 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.

### **SUMMARY**

This report touches on only a handful of the total amount of real estate type fraud cases that this office is receiving weekly. A compilation of the total cases being received is still pending. The DAs Office currently has only (2) investigators, (2) attorneys and only (1) forensic auditor assigned only part time to handle the overwhelming case load of incoming cases. There is a third investigator who is assigned primarily to handle the elder abuse (which includes elder victims of real estate fraud) and welfare fraud cases.

- ***Alarming Stats:*** Mortgage Fraud (MF) has been around for years however in the past 4-5 years it has increased dramatically. Sacramento region is ranked 5<sup>th</sup> nationally in reported MF cases – '05 there were only about 500 reported cases – in '08 there were approximately 3200 reported MF cases.
- ***EDCO Stats related to Foreclosure Scams:***
  - 2007 – Total of 1487 Notices of Default = 124/mo  
Total of 882 Notices of Trustee Sales = 73.5/mo
  - 2008 – Total of 2076 Notices of Default = 173/mo  
Total of 1477 Notices of Trustee Sales = 123/mo
  - 2009 – From 3/20/09 – 4/22/09 there were 395 Notices of Default =  
4740/year (if rate continues at its current pace)  
From 3/20/09 – 4/22/09 there were 182 Notices of Trustee Sales =  
2180/year (if rate continues at its current pace)

In the western region of the United States (primarily the California region) violent crimes are down 3.3 % and property crimes down 3.5% over the past couple years. FBI statistics from the past 6 years supports the aforementioned statistics revealing that mortgage / real estate fraud is up over 20% and is predicted to reach over 30% by 2011. It is believed by most of those involved in law enforcement as well as other experts in this field that it was this type of fraud that played a large part in our country's economic meltdown.

EDCO is particularly susceptible due to the type of housing environment and the number of investigators assigned to handle these fraud cases which are extremely extensive and may involve investigations that continue over a year or longer. This office alone has seen such a dramatic increase in real estate fraud type cases that, as unfortunate as it might be, a large majority of those cases must get put at the bottom of the stack and by the time they have reached the top, the statutes have been surpassed and we can no longer pursue them. As the foreclosure rates in this county skyrocket the reported real estate fraud cases are sure to follow.

**NEXT STEP:**

District Attorney to present report to Board of Supervisors at November 03, 2009 meeting.

Committee to convene annually per Government Code.

Vote authorizing transfer of \$202,759.45 from Trust Fund:

Motion by: Fred Kollar- Under Sheriff

Second by: Daniel Neilson- Department of Human Services

Approved by all voting members: Vern Pierson- District Attorney

Gayle Erbe- Hamlin- Chief Administrative  
Manager

Meeting Adjourned: 10:12am

<p><b>EL DORADO COUNTY</b></p> <p><b>REAL ESTATE FRAUD</b></p> <p><b>ANNUAL EXPENDITURE REPORT, 7/1/08-6/30/09</b></p>
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I. Salary			137,838.90
II. Benefits		Plus: LTD	53,331.25
		Total Salary and benefits	191,170.15
III. Direct Operating Expenses			
416	Telephone		0.00
422	Membership		0.00
426	Office Expense		119.58
430	Professional Services		1,345.05
440	Public/Legal Notice		341.94
446	Minor Equipment		0.00
450	Staff Development		0.00
460	Transportation		2,554.63
720	Audit		0.00
		Total Direct Operating Expense	4,361.20
		Total Direct Expense	195,531.35
IV. Indirect Costs			
	0.1 of salaries		13,783.89
		Total Costs	209,315.24
	Total program costs	209,315	
	Current year Budget	206,890	
	Balance of Special Revenue Fund	202,759	
	<u>Balance of Grant</u>	<u>-6,556</u>	

<b>EL DORADO COUNTY</b> <b>REAL ESTATE FRAUD</b> <b>ANNUAL EXPENDITURE REPORT, 7/1/08-6/30/09</b>
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Operating Cost Detail				Logged	FAMIS	Total
Category	Description			Cost	Cost	Cost
Telephone	404					
		Sub Total		0.00	0.00	0.00
Membership	422					
		Sub Total		0.00	0.00	0.00
Office Expense	426	Hunt N' Sons	1st Qtr missed	0.75		
		New Business Solutions		118.83		
		Sub Total		119.58	0.00	119.58
Postage						
Prof & Spec	4300	Data Trace	May 09-	0.00	0.00	0.00
		Data Trace	June 09-	558.60		
				786.45		
		Sub Total		1,345.05	0.00	1,345.05
Public/Legal Notice	440	Ahora	1st Qtr missed	7/9, 7/30/08	48.85	
		Ahora	1st Qtr missed	8/6, 8/20/08	48.85	
		Ahora		10/29/2008	24.42	
		Ahora		2/20/2008	97.70	
		Ahora		11/12, 11/26/08	48.85	
		Ahora		12/10, 12/24, 12/31	73.27	
		Sub Total		341.94	0.00	341.94
Parking	442					
		Sub Total		0.00	0.00	0.00
Minor Equip	446					
		Sub Total		0.00	0.00	0.00
Staff Development	450					
		Sub Total		0.00	0.00	0.00
Transportation	4602	Mileage	Meixner	19.29		
			Meixner	54.34		
	4605	July-June Mileage & Pool		2,427.85		
	4606	Fuel Purchases	Cosley	53.15		
		Sub Total		2,554.63	0.00	2,554.63
Standard Indirect						
		Sub Total		0.00	0.00	0.00
Audit						
		Sub Total		0.00	0.00	0.00
Total Direct Operating Expense				\$4,361.20	\$0.00	\$4,361.20
FAMIS Balance					220800	195,531.00
Indirect Charges 1st-4th quarter						13,783.89
Total				209,314.89		209,314.89
oob						0.35