

EL DORADO COUNTY
REAL ESTATE FRAUD PROSECUTION TRUST FUND
Annual Meeting Minutes: FY 2012/2013

DATE: September 4, 2013

ATTENDEES:

Voting Members:

Vern Pierson – District Attorney
Terri Daly – Chief Administrative Officer
Don Ashton – Interim Director Human Services

Non-Voting Members:

James Clinchard – Assistant District Attorney
Kimberly Beal – El Dorado County Association of Realtors
Steve Miller – District Attorney’s Office
Grant Stomsvik – Investigator, District Attorney’s Office

Absent Members:

Robert Cosley – Chief Investigator, District Attorney’s Office
John D’Agostini – Sheriff, El Dorado County Sheriff’s Office

CALL TO ORDER: 1:46 p.m.

INTRODUCTIONS:

DISCUSSIONS:

- Pierson provided the history of the Real Estate Fraud Prosecution Trust Fund. Funds are generated from a \$3 fee paid to the County for filing of specific real estate documents. Other counties are considering raising their fees, and once again El Dorado County is not in favor of a fee increase.
- Pierson and Miller advised that the DA’s Office has two sources of funds pertaining to Real Estate: Real Estate Fraud Prosecution Trust Fund and Mortgage Crisis Grant. The DA’s Office is not applying for the Mortgage Crisis Grant this year as there are remaining funds from FY12-13. Clinchard discussed how the Mortgage Crisis Grant generally pertains to cases involving a wrongdoing by a bank.
- Miller stressed the importance of time studying to each Fund or Grant separately.

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REVIEW OF CASES:

- Review of AGENDA dated September 4, 2013 with Case(s) Status/Updates.
- Discussion of Case 2011-356: Pierson and Stomsvik reported that this is an ongoing investigation involving numerous victims throughout the state. The El Dorado County District Attorney's Office has assumed the lead role of collecting and reviewing all cases for potential prosecution by the Attorney General's Office.
- Discussion of Case 2008-121: Clinchard reported that the investigation for this matter began in 2008 with the case being filed in 2010. There have been numerous motions before the Court and just recently the Preliminary Hearing scheduled for September 9, 2013 was once again vacated with the new date TBD. This matter has and will continue to consume many attorney, investigator and forensic auditor hours.

FY 12/13 STATISTICS:

- Foreclosure Scams: Notice of Default = 1,088; Notices of Trustee Sales = 1,044. These numbers reflect a decrease from previous fiscal year. Pierson and Beal discuss the feasibility of continuing with the DA "Beware" Notices to each resident upon filing of a Default. DA office to determine cost. Beal recommends continuation.
- Restitution: Pierson requested that we capture the amount of Restitution paid, in addition to the amount of Restitution ordered, in each fiscal year.

FY 12/13 EXPENDITURE REPORT:

- Pierson and Miller present the Annual Expenditure Report of 7/1/12 – 6/30/13.

Revenue from Recorded Documents	\$145,629.90
Interest	<u>\$ 160.07</u>
Balance as of June 30, 2013	\$145,789.97
Expenditures	- <u>\$ 70,734.95</u>
Adjusted Balance	\$ 75,055.02
- Vote approving transfer of \$70,734.95 from Trust Fund:
 - Motion by Terri Daley – Chief Administrative Officer
 - Second by Don Ashton – Interim Director Human Services
 - Approved by all voting members: Vern Pierson, Terri Daly and Don Ashton.

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FY 12/13 EXPENDITURE REPORT (Cont.)

- DA to present report (Consent Calendar) at Board of Supervisors on October 1, 2013. Daly and Pierson discuss that a member should be in attendance at Board of Supervisors meeting and available for any questions.
- Meeting Date: Discussion pertaining to date of annual meeting. *Members to have further discussion prior to next meeting.* Goal would be to have annual meeting prior to close of books for the County fiscal year. DA to review Government Code Section 27388 to determine if date change is possible.

MEETING ADJOURNED: 2:20 p.m.

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 concluded in the prior report are not included.

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.

Status: The case is pending and is currently scheduled for a Preliminary Hearing on September 9, 2013, in South Lake Tahoe.

UNPAID SUB-CONTRACTORS

DAI: Dillard 2008-516

Suspect built a home in South Lake Tahoe for a client and was paid in full. Suspect then filed bankruptcy and left the state without paying his sub-contractors.

Status: Defendant pled on June 17, 2013. Restitution hearing scheduled for September 27, 2013, in South Lake Tahoe.

FORGED QUIT CLAIM DEED/LAW FIRM

DAI: Stomsvik 2011-356

This case involves a law firm based in Costa Mesa California. There are numerous victims of this firm throughout the state. The El Dorado County District Attorney's Office has taken over the role of "lead investigator" and will be collecting and reviewing all cases for potential filing and prosecution by the California Attorney General's Office.

The scam: When a distressed homeowner is facing foreclosure they would receive literature in the mail from this firm advertising that they could delay the homeowner's pending foreclosure. The firm would not reveal how they would delay the foreclosure, but insisted that they had a "proprietary formula" that they would not discuss. The homeowner would pay the firm between \$1100 and \$1500 a month for the delay.

What the law firm would actually do was anonymously fax a fraudulent Grant Deed to the homeowner's lending institution with a forged Notary Public stamp and signature, as well as a forged County Recorder stamp and number. This Grant Deed would have a random third party that was in bankruptcy fraudulently added to the deed. This was done without the third party's knowledge or consent. A bankruptcy temporarily stalls a foreclosure proceeding.

Status:

Case is currently under investigation. Our office is cooperating with the State Attorney General's Office on this as it is occurring state wide.

REAL ESTATE INSURANCE FRAUD

DAI: Dillard 2011-0005

Recently divorced home owner who had finished building his extremely large dream home three years prior was extremely upside down on his mortgage. Home is mysteriously emptied of all furniture and vehicles, and burns down in the middle of the night. Numerous circumstances indicated arson such as a tractor notably parked across the sidewalk upon fire departments arrival. Insurance paid off mortgage; home owner goes underground and does not complete insurance claim process.

Status: Ongoing investigation.

REAL ESTATE INSURANCE FRAUD

DAI: Dillard 2011-0257

Suspect sold land in El Dorado County to an unsuspecting female victim. Victim paid \$20,000 for this land and met the seller at the Recorder's office to file the grant deed. Turns out the seller had no ownership in this land to begin with and the grant deed was fraudulent.

Status: Matter still pending; currently scheduled for Pre-Preliminary Hearing on November 18, 2013, and Preliminary Hearing on November 20, 2013.

MORTGAGE FRAUD

DAI: Dillard 2012-375

Mortgage company allowed a refinance and was possibly defrauded by way of a forged release.

Status: Closed. No Jurisdiction.

DISTRESSED HOME OWNER

DAI: Stomsvik 2011-590

Distressed home owner paid suspect company upfront and on a monthly basis to save his home.

Status: Victim was reimbursed for her loss by bank. Case closed 12/27/2012.

LAW FIRM REAL ESTATE SCAM

DAI: Stomsvik / Case 2011 – 344

The victim in this case is a title company. The title company's attorney contacted our office in regard to the title company having suffered a significant loss due to a homeowner having fallen prey to a con-artist that convinces homeowners to deed their home to a 508 Charitable Trust and ignore their mortgage companies Notices of Default.

As part of the complex scam fraudulent Deeds of Trust, Assignments, Notices of Rescission, and Deed of Reconveyances are recorded against the mortgage.

During the investigation I learned that the FBI has an open and ongoing investigation against the con-artist, which also included my suspect as both a suspect and a victim. After consulting with the FBI, the Title Company, and experts in the mortgage field, we concluded that a successful prosecution and conviction against my suspect would be highly unlikely. The FBI is continuing their investigation into the con-artist and may grant some degree of immunity to my suspect in order to facilitate their prosecution of the con artist.

Status: Case closed in March, 2013

FORECLOSURE DELAY SCAM

DAI: Stomsvik / Case 2012 – 084

The victim filed a complaint with this office in regard to having paid over \$6000 to a mortgage refinance/foreclosure delay company located in Garden Grove California. The victim never received any services for the money she spent. A search warrant was obtained for the businesses banking records and the records confirmed that the victim had in fact paid this company over \$6000 with over half of the monies going into the suspect's personal account. An Internet search revealed several "hits" indicating that this company had committed several acts of real estate fraud in other parts of California.

During the course of the investigation I learned that Garden Grove Police Department also had several open cases involving this same company. The Garden Grove Police will be including this case in their compilation of cases and will be prosecuting it in their jurisdiction.

Status: Case Closed

MOBILE HOME CASE

DAI: Stomsvik / Case 2012 – 558

The District Attorney's Office received a fraud complaint from a victim indicating that she had sold her mobile home to the suspect for \$25,000 and would be paid on a monthly payment plan. The victim stated that the suspect paid less than half of the \$25,000 and refused to pay the rest and would not vacate the mobile home. She also indicated that the suspect had fraudulently obtained a title to the mobile home.

I investigated this case and due to the lack of any documentation by the victim or the suspect, and the fact there were conflicting witness statements, I was unable to determine if any fraud had actually been committed. The victim had already lost an unlawful detainer suit in civil court. The victim has hired a civil attorney and intended to file suit against the suspect. I advised the victim that this would be her best course of action.

Status: Pending Investigation

TIMESHARE RELIEF FRAUD

DAI: Stomsvik / 2013 – 092

The victim filed a complaint with the District Attorney's Office indicating that they had paid over \$6000 to a timeshare liquidation company that advertised that they would sell a person's timeshare(s) and relieve them of the burden of taxes and maintenance fees. The victim stated that she had paid the company and they did not sell her timeshares and would not return phone calls or correspondence.

I made numerous telephone calls to the timeshare company and received "the runaround." While another District Attorney Investigator was in southern California I requested that he make personal contact with the president of the company. The investigator in fact met with the president and I later received a call from him. He indicated that they would immediately contact the victim and fulfill their obligation to her.

The victim did receive contact from the company and it appears that the situation will be resolved between the two of them.

Status: Pending investigation

FRAUD ATTEMPT

DAI: Stomsvik / 2012 – 238

The suspects in this case are a married couple and were convicted in 2008 in Alameda County for a similar scam which is as follows: The suspects contact a real estate agent and inquire about purchasing a high-end home. A suitable home is located and the suspects agree to purchase the home after gaining the trust of the real estate agent and seller. At the last minute the suspects indicate that their funding source is temporarily delayed in an overseas account and

request a loan from the agent for the down payment. The suspects put forth forged documentation to show that they actually have the funding. After receiving the "loan" from the real estate agent the suspects never complete the transaction and take off with the money.

In 2012 the suspects appeared to be setting up the same scam in El Dorado County. Fortunately the Real Estate Agent became suspicious and "googled" the suspect's names. He located a Fraud Alert Bulletin from the Alameda County District Attorney's Office depicting the scam. No exchange of money was ever made and this was an attempt only.

The suspects were not prosecuted in this county due to the transaction never having been completed. The suspect's Alameda County probation officer was notified and all reports were forwarded to them to take the appropriate action.

Status: Case closed on August 9, 2012

FORECLOSURE FRAUD

DAI: Stomsvik / 2012 – 083

The victim filed a complaint with the District Attorney's office stating that their mortgage company had misled them into believing that if they made several "trial payments" they would be able to keep their house from entering into foreclosure.

I contacted the victim and they stated that they had eventually worked things out with their mortgage company and did not desire prosecution.

Status: Case closed on January 13, 2013

PROMISSORY NOTE

DAI: Stomsvik / 2012 – 375

The District Attorney's Office received a fraud complaint from a victim whose ex-husband had stopped payments on their divorce settlement due to an industrial accident. The victim stated that a note secured by a Deed of Trust had been changed without her consent.

Ultimately the suspect won a judgment from the industrial accident and the victim received her money and declined prosecution.

Status: Case closed on November 28, 2012

FORECLOSURE FRAUD "ROBOSIGNING"

DAI: Stomsvik / 2013-148

The victim filed a complaint with the District Attorney's Office stating that they were defrauded by their mortgage company and were the victim of "robo signing."

Status: Pending investigation

REAL ESTATE FRAUD AGAINST FINANCIAL INSTITUTION

DAI: Stomsvik / 2012-510

The victim in this case, a banking institution, filed a complaint with this office alleging that an individual suspect and a mortgage company committed real estate fraud by filing unauthorized and forged documents with the County Recorder's Office and wrongfully obtained a \$600,000 interest in the subject property.

Status: Pending investigation and a civil suit is nearly complete.

FALSE LIEN BY CREDIT COMPANY

DAI: Stomsvik / 2013-215

The victim stated that as he was in the process of selling his house, he discovered a lien against his house filed by a credit card debt collection company. The owner of the company had previously been charged in a massive real estate fraud scandal in Sacramento County, Orange County, and Arizona and is currently on probation.

Status: Pending investigation.

FORECLOSURE FRAUD "ROBOSIGNING"

DAI: Stomsvik / 2013-252

The victim states that he purchased his property in 2008 for cash and received a foreclosure notice in 2009. He hired a civil attorney and initially lost at trial, but won on appeal. They are scheduled to attend an Alternate Dispute Resolution meeting.

Status: Pending investigation.

FRAUDULENT EASEMENT

DAI: Stomsvik / 2013 – 223

The victim purchased a residence with acreage and during the title search his title company did not locate an easement on the property. Many years later the neighbor behind the victim began building four residences and started construction of a road through the victim's property on the easement. The victim sued his title company and won a judgment worth over \$50,000.

The victim was furious that the neighbor continued with the construction of the road and began blocking the roadway with several large objects and eventually scared away the construction workers. Law enforcement was called by the neighbor on numerous occasions and the victim was hostile and on one occasion was arrested and booked into jail. The neighbor filed suit and won a permanent injunction against the victim.

The victim hired an aggressive attorney that the state bar has labeled a "vexatious litigant." The victim lost a civil suit against the neighbor and later filed 7 separate appeals. This litigation has been going on since 2006 and the victim has researched numerous real estate documents, including easements and water rights, back to the 1950's and has concluded that there is a broad conspiracy involving numerous prominent businessmen and citizens of El Dorado County.

Status: Pending investigation.

HOME WARRANTY

DAI: Stomsvik / 2012 – 444

The victim filed a complaint with the District Attorney's Office stating that they had purchased a residence and that prior to the purchase the residence was inspected by a home warranty company. The victim moved into the residence and discovered a damaged and malfunctioning air conditioning unit. The victim desired prosecution for fraud.

The case was investigated and it was determined that there was no fraud and that the victim should seek a civil remedy to the situation.

Status: Case closed on March 26, 2013

FY 12/13 STATISTICS RELATED TO FORECLOSURE SCAMS

Notices of Default	1,088
Notices of Trustee Sales	1,044

FY 12/13 Statistics required under GC 27388

Number of cases filed	0
Number of cases investigated	14
Number of victims involved in the cases filed	14 + EDC residents
Total aggregated monetary loss suffered by victims	Undetermined
Total funds received in Trust	\$145,789.97
Total funds expended from Trust	\$ 70,734.95
Number of arrests	0
Number of convictions	1

FY 12/13 Cumulative Statistics

Including open cases from prior years

Number of pending filed cases	5
Number of cases investigated	31
Number of victims involved in the pending filed cases	56 + EDC residents
Approximate alleged monetary loss suffered by victims of pending filed cases	\$1,489,401.00
Total funds received in Trust	\$ 145,789.97
Total funds expended for operation of program	\$ 70,734.95
Number of arrests	5
Number of convictions	3
Restitution ordered regarding pending filed cases	Undetermined

FY 12/13 Annual Expenditure Report

See Attachment A

EXHIBIT “A”

EL DORADO COUNTY
 REAL ESTATE FRAUD PROSECUTION
 ANNUAL EXPENDITURE REPORT, 7/1/12-6/30/13

	YTD	Budget ¹	Variance
I. Salary	\$ 49,893.68	\$ 58,463.55	\$ 6,569.87
II. Benefits	14,690.47	37,492.00	22,801.53
Total Salary and benefits	64,584.15	93,955.55	29,371.40
III. Direct Operating Expenses			
Subscriptions	274.81	-	(274.81)
Memberships	-	-	0.00
Staff Development	-	-	0.00
Criminal Investigation	-	-	0.00
Transcription	16.24	-	(16.24)
Transportation/Travel	870.39	-	(870.39)
Office Expense	-	-	0.00
Equipment: Computer	-	-	0.00
Total Direct Operating Expense	1,161.44	-	(1,161.44)
Total Direct Expense	65,745.59	93,955.55	28,209.96
IV. Indirect Costs			
.10 of salaries	4,989.36	-	(4,989.36)
Total Costs ¹	\$ 70,734.95	\$ 93,955.55	\$ 23,220.60

Trust Fund Beginning Balance as of July 1, 2012	\$ -
Revenue from Recorded Documents	145,629.90
Interest	160.07
Unadjusted Ending Balance as of June 30, 2013	145,789.97
Total Expenditures FY 12/13	70,734.95
Adjusted Ending Fund Balance	\$ 75,055.02

¹ The budget includes appropriations related to Foreclosure Crisis Recovery totaling \$23,220.60, which are funded by the Foreclosure Crisis Recovery Fund.

Operating Cost Detail

Category	Description	Logged Cost	FAMIS Cost	Total Cost
Office Expense	4260			
Postage	4261	-	-	-
Memberships	4220	-	-	-
Subscriptions	4263			
	Cell track abscrptn Stomsvik Air Systems, LLC	274.81		
	Sub Total	274.81	-	274.81
Criminal Investigation	4317			
	Sub Total	-	-	-
Transcription	4320			
	Trans PVR Betchley Jody Ezzell	16.24		
	Sub Total	16.24	-	16.24

Equipment: Computer	4462				
		Sub Total			<u>- - -</u>
Staff Development	4503				
		Sub Total			<u>- - -</u>
Travel	4600	Reimb mls/air/prking 12-9 - 12/13 -Grant Stomsvik		333.60	
Mileage	4602	Reimb mlg 12/9 - 12/13 Grant Stomsvik		41.51	
Hotel	4608	Reimb hotel 12/9 - 12/13 Grant Stomsvik		495.28	
		Sub Total		<u>870.39</u>	<u>- 870.39</u>
Total Direct Operating Expense				<u>1,161.44</u>	<u>- 1,161.44</u>
FAMIS Balance	220800			65,745.59	
		Indirect Cost		4,989.36	
				<u>Total</u>	<u>70,734.95</u>
				oob	-