

# Real Estate Fraud Prosecution Trust Fund Committee

## AGENDA

July 18, 2018

This is the thirteenth 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  
John D'Agostini: Sheriff, El Dorado County Sheriff's Office  
Don Ashton: Chief Administrative Officer, CAO's Office  
Patricia Charles-Heathers: Department of Health & Human Services

#### **Non-Voting Members:**

Kimberly Beal: El Dorado County Association of Realtors  
James Clinchard: Assistant DA, District Attorney's Office  
Jamie Pesce, Deputy District Attorney, District Attorney's Office  
Edwin Kim, Deputy District Attorney, District Attorney's Office  
Jeff Dreher, Chief Investigator, District Attorney's Office  
Shawn Eastman: Supervising Investigator, District Attorney's Office  
Ted Horlbeck: Investigator, District Attorney's Office  
Shaneen May: District Attorney's Office  
Kerri Williams-Horn: Chief Fiscal Officer, CAO's Office  
Megan Arevalo: Dept. Analyst, CAO's Office

### CALL TO ORDER

Distribution of Report- Annual Report, FY 2017/2018 (Attachment B)

Discussion of program by District Attorney including the following topics:

- FY 17/18 Statistics required under Government Code § 27388
- FY 17/18 Annual expenditure report
- FY 17/18 Case review

## **PROGRAM SUMMARY**

See Attachment A

## **FY 17/18 ANNUAL EXPENDITURE REPORT**

See Attachment B

## **FURTHER ACTION**

- District Attorney to present report to Board of Supervisors at the July 24, 2018 meeting.
- Committee to convene annually per Government Code.
- Vote approving transfer of \$72,191.01 from the Trust Fund:

Motion by:

Second by:

Approved by all voting members:

## **MEETING ADJOURNED**



# El Dorado County District Attorney's Office

## 2017-2018 Real Estate Fraud Program Annual Report

County of El Dorado

Vern Pierson

District Attorney

El Dorado County

Prepared by Investigator Ted Horlbeck

## **PROGRAM SUMMARY:**

The Real Estate Fraud Program, under the guidance of El Dorado County District Attorney Vern Pierson, is dedicated to investigating and criminally prosecuting individuals and companies for fraudulent activity connected to real estate transactions. These include loan fraud, notary fraud, mortgage and loan modification fraud, identity theft and forgery in connection with real estate transactions, grand theft, fraudulent transfers of property and financial elder abuse in real estate transactions. The Real Estate Fraud Program is comprised of Chief Investigator Jeff Dreher, Supervising Investigator Shawn Eastman, Investigator Ted Horlbeck, Assistant District Attorney James Clinchard, an assigned Deputy District Attorney, and support staff personnel.

Investigator Ted Horlbeck worked the entire fiscal year 2017-2018 in the Real Estate Fraud Program. As of June 30, 2018, a total of 16 cases have been reported to and investigated by the El Dorado County District Attorney's Office.

The El Dorado County District Attorney Office's continued outreach and awareness of rental scams has proven to be very effective. The number of reported cases from the South Lake Tahoe area involving fraudulent rentals of vacation homes has decreased from 33 cases in FY 15/16, to 10 cases in FY 16/17, and only 3 reported cases for this fiscal year. Due to their awareness to be alert for these types of scams, all 3 of the new cases were discovered and reported by the property owners. Upon further investigation by the District Attorney's Office, it was determined that no actual crime had occurred, thus there were no victims.

The District Attorney's Office continues to take an aggressive approach towards these rental scam matters. For example, two matters that carried forward from last year were combined into one due to them having a common suspect. Upon completion of the lengthy investigation which required multiple search warrants, criminal charges were filed and an arrest warrant was subsequently issued for the suspect when she failed to appear in court.

In its continuing efforts to educate and inform the public, the El Dorado County District Attorney's Office placed its Real Estate Fraud public service announcement on its website and posted two separate warning ads on Facebook. As of June 30, 2018, the Facebook postings have garnered a combined 78,831 views. Additionally, the Office created a Real Estate Fraud "Tips & Resources" tri-fold brochure (Attachment 'A') and a Vacation Rental Scam Warning flyer (Attachment 'B'). Copies of the brochures and flyers are available to the public in the front lobby of the District Attorney's Office, at the County Recorder's Office, and at both the El Dorado County and El Dorado Hills Chamber of Commerce offices. Furthermore, the District Attorney's Office worked with Craigslist and created an ad on their website for a vacation rental property that when

accessed, redirects the visitor to the District Attorney's Office website for information on rental fraud.

On April 10, 2018, Investigator Horlbeck and Deputy District Attorney (DDA) Edwin Kim presented at the Sierra Economic Crime Task Force meeting that was hosted by the El Dorado County District Attorney's Office. The focus of the meeting was real estate fraud with Regional invited attendees from the Sacramento, Yolo, and Placer County District Attorney Offices (Deputy District Attorneys and investigators), the El Dorado County and Sacramento County Sheriff Offices, the Franchise Tax Board, and the Department of Consumer Affairs.

Furthermore, on May 1, 2018, Investigator Horlbeck and DDA Kim met with local realtors affiliated with Lyon Real Estate to discuss real estate fraud and its reporting procedures. A presentation before the El Dorado County Association of Realtors has been scheduled as well.

Further outreach efforts include representatives from the El Dorado County District Attorney's Office attending the bi-monthly Adult Protective Services staff meetings and the monthly Crisis Intervention Team meetings which are hosted by the El Dorado County Sheriff's Office. The goal for attending these meetings is to address and respond to any issues relating to real estate fraud.

The number of Notice of Default's by homeowners between 7/1/17 and 6/30/18 was 343, a decrease of one from the 344 reported in FY 16/17. The number of Notice of Trustee Sale's equaled 216 this year which represents a 35% increase from the 160 reported last year. As the economy appears to be healthy, the housing market has shown some fluctuation as evidenced by these numbers.

In May of this year, the median selling price of an El Dorado County home hit a record high at \$551,000 according to data from the El Dorado County Association of Realtors. This represents a 19% increase over May of last year.

**FY STATISTICS RELATED TO FORCLOSURES**

	<u>2015/16</u>	<u>2016/17</u>	<u>2017/18</u>
Notice of Defaults:	431	344	343
Notice of Trustee Sales:	344	160	216

**FY STATISTICS REQUIRED UNDER GC 27388**

	<u>2015/16</u>	<u>2016/17</u>	<u>2017/18</u>
Cases Filed:	3	0	3
Cases Investigated:	49	22	16
Number of Victims:	49	22	20
Total Monetary Losses:	\$1.563 Million	\$322,000.00	\$724,040.00
Total Funds Received in Trust:	\$130,960.80	\$138,550.50	\$122,543.81
Total Funds Expended From Trust:	\$77,584.37	\$45,597.08	\$72,191.01
Adjusted Ending Balance For 6/30/18:	\$206,853.84	\$300,048.00	\$350,400.79

**FY CUMULATIVE STATISTICS INCLUDING OPEN CASES FROM PRIOR YEARS**

	<u>2015/16</u>	<u>2016/17</u>	<u>2017/18</u>
Number of Cases Filed:	3	0	3
Number of Cases Investigated:	50	22	16
Number of Search Warrants:	14	6	6
Number of Arrests:	7	0	1

## **PROGRAM RECCOMENDATIONS:**

The El Dorado County District Attorney's Office, by virtue of the Real Estate Fraud Program, stays committed to its on-going community outreach efforts to keep the public informed and educated. The El Dorado County District Attorney's Office was represented at the South County Health and Safety Fair which was held on April 28, 2018, and was once again present at the El Dorado County Fair which ran from June 14–17, 2018. Investigators were available at both events to answer questions and address real estate fraud related concerns. Additionally, the newly created Real Estate Fraud brochure and Vacation Rental Scam flyer were available as were Investigator Horlbeck's business cards for residents looking for a specific person to contact with any real estate fraud questions.

Furthermore, the El Dorado County District Attorney's Office continues to work collaboratively with all local, State, and Federal agencies in an effort to better serve the citizens of El Dorado County to address their real estate fraud concerns and investigate all cases reported. Moving forward in FY 2018-2019, the El Dorado County District Attorney's Office will strive to improve its outreach efforts to include the following:

- Participating in the Eastern District Mortgage Fraud Task Force with an emphasis on real estate fraud reporting and investigations.
- Meeting with representatives of the South Lake Tahoe Association of Realtors.

# Attachment 'A'

**Filing False Documents**

Thieves may assume the identity of a property's true owner, or claim to represent the true owner, in order to fraudulently obtain title to the property. They then borrow against the property, or sell the property, stealing the equity. Criminals may also alter deeds before they are recorded, thereby changing ownership interests or amounts borrowed.

**Mechanics Lien Fraud**

A mechanic's lien is a security interest in the title to property for the benefit of those who have supplied labor or materials that improve the property but have not been paid for their services. Criminals usually record fraudulent mechanics liens without performing any work on the property to cloud the property title and attempt to receive payment. This may prevent transfer, sale or refinancing of the property.

**Are you a victim of Real Estate Fraud in El Dorado County?**

If so, please fill out the Fraud Complaint form online at [www.eldoradoda.com](http://www.eldoradoda.com) or call the Fraud Hotline: (866) 629-0171

**ADDITIONAL RESOURCES**

**California Bureau of Real Estate**  
Sacramento Office  
1651 Exposition Blvd.  
Sacramento, CA 95815  
(877) 373-4542  
[www.dre.ca.gov](http://www.dre.ca.gov)

**California Contractors State License Board**  
Sacramento Intake & Mediation Center  
9821 Business Park Drive  
Sacramento, CA 95827  
(800) 321-CSLB (2572)  
[www.cslb.ca.gov](http://www.cslb.ca.gov)

**Adult Protective Services**  
(530) 642-4800 (24 hours)

**Federal Bureau of Investigation**  
2001 Freedom Way  
Roseville, CA 95678  
(916) 746-7000

**California Department of Justice**  
(916) 445-9555  
[www.oag.ca.gov](http://www.oag.ca.gov)

  
**District Attorney**  
El Dorado County  
778 Pacific Street  
Placerville, CA 95814  
(530) 621-6472  
[www.eldoradoda.com](http://www.eldoradoda.com)

**Protect Yourself**  
*from*  
**REAL ESTATE FRAUD**



**Tips & Resources for Homeowners**

**Vern Pierson**  
**District Attorney**  
**El Dorado County**  
**Real Estate Fraud Unit**

## WHAT IS REAL ESTATE FRAUD?

Real estate fraud is any illegal activity affecting a home. It can include, but is not limited to:

- Stealing your identity to purchase a house or apply for a home loan without your knowledge.
- Forging your signature on a deed or other document.
- Tricking you into paying money for services that do not help you or that you do not need.

## SIMPLE TIPS TO AVOID REAL ESTATE FRAUD

- Never sign any documents without reading them first. If you do not understand it, don't sign it.



- Ask questions. If the person can't provide straightforward and logical answers, then don't work with them.
- Do not pay up front fees. Foreclosure consultants are prohibited by law from collecting money before services are performed.

- Beware of foreclosure rescue scams! Don't transfer title to individuals offering this service.
- Don't ignore letters from your lender or loan servicer. Responding to those letters may save your home.



- Don't pay your mortgage payments to anyone other than your lender or loan servicer directly.
- Do not give out your social security number and other personal identifying information until you have thoroughly checked on the individual or company that is doing business with you.
- Never pay for real estate deals with cash. Pay with a check so that your payments can be traced if needed.
- **Remember, if it sounds too good to be true, it probably is!**

## YOUR RIGHTS AS A HOMEOWNER

- California law gives you certain rights. Be sure to follow these simple laws that protect you from fraud.
- Check the person's license with the Bureau of Real Estate (BRE), the Contractors State License Board (CSLB), or the California Department of Justice (DOJ).

- Read all documents before you sign them. Be suspicious of anyone who tells you to "just sign" the documents without reading them.
- Ask for and keep a safe copy of everything you sign.

## Examples of Real Estate Fraud crimes:

### Foreclosure Rescue Scams

This fraud affects homeowners who have lost their income or have no equity in their home because of falling property values. The homeowners are desperate and must either sell their home at a large loss or let the lender foreclose.



A "foreclosure specialist" will offer to negotiate a loan modification with the lender on behalf of the homeowner. The consultant guarantees results for a flat fee. Often, the foreclosure specialist takes the fee and does nothing or little in return.

# Attachment 'B'

# BEWARE

## VACATION RENTAL SCAMS



*Here's the typical scenario: a real vacation rental property is fraudulently advertised on Craigslist complete with pictures and amenity descriptions that have been hijacked from a legitimate site. A prospective renter responds to the ad and begins to communicate with the alleged "owner" via email or text. The renter is asked to make a wire transfer to a bank account that is provided or via PayPal's Friends & Family option. Once payment is received, communication with the scammer either stops or the renter is told that someone will meet them at the property with the keys upon their arrival. It is then that they learn they have been scammed.*

### Are you a victim of Vacation Rental Fraud in El Dorado County?

If so, please fill out the Fraud Complaint form online at [www.eldoradoda.com](http://www.eldoradoda.com) or call the Fraud Hotline: (866) 629-0171

Vern Pierson  
District Attorney  
El Dorado County



778 Pacific Street  
Placerville, CA 95667  
(530) 621-6472

♦♦♦ *If it seems too good to be true, then it probably is!* ♦♦♦



## HELPFUL TIPS TO AVOID VACATION RENTAL SCAMS



- ♦ **Be suspicious of ads appearing on Craigslist** - Websites such as VRBO, Airbnb, HomeAway and Flipkey are suggested.
- ♦ **Don't be swayed by the low price** - It's always thrilling to find a great deal however, if it seems too good to be true, then it probably is! Compare the price with other similar listings in the area.
- ♦ **Be Cautious of emails from a personal email address** - If you're inquiring about a property on a vacation rental website, the email should come from that website—not something like Gmail, Yahoo, Outlook, AOL or Hotmail.
- ♦ **Be wary of requests for unusual methods of payment** - A payment request via wire transfer, money order, or PayPal should raise a red flag. Use your credit card on the vacation rental website.
- ♦ **Do not release personal identifying information** - If the person you are in contact with requests a scan of your passport, driver's license, or requests your Social Security Number for verification, **DO NOT** give it to them!
- ♦ **Trust your instincts** - Is the listing or the "owner's" email filled with broken English? Does something just not feel right? If so, trust your instincts.
- ♦ **Exercise due diligence** - Cross reference the address of the rental property and the owners name online.
- ♦ **Report suspicious behavior** - Contact your credit card company if you believe your charge is fraudulent.

## **HIGHLIGHTED CASE SUMMARIES FOR FY 2017/2018**

### **DAI Ted Horlbeck / 2017-001**

This case involves two separate victims who rented vacation properties in South Lake Tahoe from Craigslist ads only to find they were a scam. Both victims were unable to recoup their losses through their banks. A suspect was linked to both cases via a Wells Fargo bank account. Search warrants were written for multiple Google Gmail accounts and the Wells Fargo bank account. The Google search warrants showed the account holder to be in Nigeria. The suspect connected to the bank account was located in New Jersey and was charged criminally with fraud and grand theft. Total combined loss in excess of \$2,000.00.

Status: Charged – The suspect failed to appear in court and an arrest warrant has been issued.

### **DAI Ted Horlbeck / 2017-065**

This case involves two suspects operating a foreclosure rescue delay scam. They convinced a property owner in El Dorado Hills, whose property was in foreclosure, to deed their property to them on the promise they would work things out with the bank. The homeowners in turn paid rent to the suspects for approximately a year and then had to be evicted by the new owner when their home was ultimately foreclosed on and legally sold at auction. The suspects then recorded a fraudulent Deed of Trust to encumber the property belonging to the new owner. The investigation revealed the suspects were operating a large scale foreclosure rescue delay scam that involved 45 properties within and out of the State of California. The Attorney General's Office conducted a concurrent investigation.

Status: Case completed and turned over to the Attorney General's Office to be prosecuted at the federal level.

### **DAI Ted Horlbeck / 2017-083**

The suspect in this case is alleged to have embezzled in excess of \$600,000 from a group of Limited Partner Investors who owned a large office building in Placerville. The suspect was the partnerships certified public accountant for several years and is alleged to have made himself a General Partner at some point which enabled him to have unauthorized control of business transactions. In addition to embezzlement, the allegations include bank fraud and grand theft. A concurrent investigation is being conducted by the California Board of Accountancy which is the state run agency who oversees CPA's.

Status: Pending

### **DAI Ted Horlbeck / 18-01-000692**

This case was reported to the DA's Office by the owner of a vacation rental property in SLT who discovered their property being fraudulently advertised on Craigslist. DAI Horlbeck, via an undercover name and email account, began communicating with the unknown suspect. The investigation revealed two bank accounts for deposits of rental fees. Both accounts were linked to banks operating in Florida, wherefore the El Dorado County District Attorney's Office requested assistance from the Polk County Sheriff's Office in Florida. Both banks were served with subpoenas, however the results did not reveal any evidence of the accounts being involved in the scam. Additionally, the persons linked to the accounts could not be positively identified or connected to the unknown subject who posted the fraudulent listing. This case was reported before any crime was committed.

Status: Closed

### **DAI Ted Horlbeck / 18-04-002617**

The complainants in this case believe they were scammed by the contractor who built their home. They alleged he utilized funds in excess of \$50,000 from their escrow account on another construction project. The suspect was contacted and denied the claims and the investigation did not yield any evidence to support the criminal allegation.

Status: Closed

**DAI Ted Horlbeck / 18-05-003874**

The suspect in this case is a licensed California Real Estate Appraiser who filed a false Uniform Commercial Code Financing Statement personally against two attorneys who work for the California Bureau of Real Estate Appraisers (BREAA) and listed their homes as collateral. The suspect did this because she was unable to renew her license due to the fact that she was under investigation by the BREAA for licensing violations. As a result, she believes they are responsible for \$200,000 + in lost income. The suspect is working with a second subject who lives in Canada and both appear to align themselves with the sovereign citizen ideology. Investigator Horlbeck is working with the Ontario Provincial Police on this case.

Status: Pending

**Assistant District Attorney James Clinchard, Chief Jeff Dreher, DAI Ted Horlbeck, (Additional Deputy District Attorneys and DA Investigators)**

This is a large scale investigation involving multiple suspects and multiple law enforcement agencies. The investigation has been ongoing for several months and is expected to continue for several additional months.

Status: Pending

**FY 17/18 Real Estate Fraud Summary (through July 13, 2018)**

<b>Description</b>	<b>Amount</b>	<b>Comments</b>
<b>Beginning Cash Balance</b>	<b>\$ 300,047.99</b>	2016/2017 Year-End Cash Balance
Revenue	\$ 117,709.20	Recording Fees
Revenue	\$ -	Micrographics
Interest	\$ 4,834.61	
<b>Total Revenue:</b>	<b>\$ 122,543.81</b>	
Q1 Salary & Benefits	\$ 6,936.20	Not submitted yet
Q2 Salary & Benefits	\$ 14,704.69	Not submitted yet
Q3 Salary & Benefits	\$ 11,890.84	Not submitted yet
Q4 Salary & Benefits	\$ 29,496.87	Not submitted yet
Indirect	\$ 5,408.70	10% on salaries
Services and Supplies	\$ 3,753.71	Add'l expenses may still post
<b>Total Expenses:</b>	<b>\$ 72,191.01</b>	
<b>Ending Cash Balance:</b>	<b>\$ 350,400.79</b>	Beginning cash balance plus total revenue minus total expenses