

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: District Attorney *SL*

BOARD AGENDA # *B-4

Urgent Routine

AGENDA DATE September 1, 2009

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of the Real Estate Fraud Prosecution Trust Fund Annual Report Covering Fiscal Year 2008-2009.

STAFF RECOMMENDATIONS:

1. Accept the report of the District Attorney's Office regarding Real Estate Fraud Prosecution Trust Fund pursuant to California Government Code section 27388, sub-sections (d)(1) and (d)(2).
2. Approve the continuation of this program and current funding levels in the 2009-2010 Fiscal Year.

FISCAL IMPACT:

The 2009-2010 proposed budget includes funding for the Real Estate Fraud Prosecution program in the amount of \$334,303 in appropriations and estimated revenue received from a fee charged for certain real estate documents filed within the County. These funds must be used solely for the purpose of investigation and prosecution of real estate fraud. Supplemental funding was approved by the Board of Supervisors to cover funding shortfalls created by the real estate market downturn.

BOARD ACTION AS FOLLOWS:

No. 2009-572

On motion of Supervisor Grover, Seconded by Supervisor Chiesa
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: Monteith

Abstaining: Supervisor: None

- 1) X Approved as recommended
- 2) _____ Denied
- 3) _____ Approved as amended
- 4) _____ Other:

MOTION: REMOVED FROM THE CONSENT CALENDAR AND PLACED ON NON-CONSENT FOR DISCUSSION AND CONSIDERATION

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval of the Real Estate Fraud Prosecution Trust Fund Annual Report Covering Fiscal Year 2008-2009.

DISCUSSION:

The Central Valley, and Stanislaus County in particular, is at the heart of the real estate industry meltdown. Over the past thirty-six (36) months, real estate prices have plummeted and foreclosures have increased at a geometric rate. The cause of a substantial portion of this problem is fraud. Homes were obtained using fraudulent income statements, inflated appraisals, straw buyers and other methods of obtaining loans that the homeowner ultimately could not afford. This resulted in an overly inflated market that eventually collapsed under its own weight.

Now we find that "foreclosure specialists" are promising to save houses by stopping the foreclosure process and renegotiating the mortgage for the consumer. Most of these "foreclosure specialists" are scam artists who take up-front money from unsuspecting homeowners and then perform no work for them. Once the homeowners realize it was a scam, their house payments are just that much further behind and they are in a much worse position than they were before.

Most real estate fraud cases are extremely complex and require a great investigative effort and prosecutorial preparation and expertise to adequately prosecute. Many of these cases involve multiple jurisdictions, multiple victims and multiple defendants. They require the review of thousands of pages of bank statements and real estate documents. They include victims from outside the area who were victimized by defendants in Stanislaus County and include defendants from outside the county who victimize Stanislaus County residents.

The Real Estate Fraud Unit is currently staffed with one prosecutor and 2 investigators. The unit is the primary investigative unit for real estate related fraud cases in Stanislaus County. The members of the unit work closely with other state and federal investigative and prosecution authorities. The unit staff are members of the Northern California Real Estate Fraud Task Force and the FBI's San Joaquin Valley Mortgage Fraud Task Force. These task forces include multiple state jurisdictions and federal agencies. It is the goal of the Real Estate Fraud Unit to educate the public in order to help prevent real estate fraud and to vigorously prosecute those who commit these crimes against the citizens of Stanislaus County.

General Statistics

For the fiscal year 2008-2009, the REF unit had sixty-four (64) ongoing investigations. For the same time period the unit worked on fifty-one (51) new or ongoing referrals. Investigations differ from referrals in that they are defined as any case in which this office conducts an initial criminal investigation or follows up on another agency's criminal investigation and which it is believed will lead to criminal charges being filed.

During the fiscal year, the District Attorney filed nine (9) new cases representing seventy-five (75) new victims. There was a carryover of cases from fiscal year 2007-2008 of ten (10) cases representing twenty-five (25) victims. These carryover cases and the new cases represent a total of nineteen (19) open prosecutions with one-hundred-two (102) victims. The total

DISCUSSION CONT:

aggregate monetary loss suffered by victims in cases filed or currently under investigation during the fiscal year 2008-2009 was forty-one million five-hundred-ninety-seven thousand six-hundred and twenty-seven dollars (\$41,597,627.00).

Case Highlights

07-DA-0010

The Defendants, a real estate agent and her son, have been charged with grand theft, forgery, and perjury. They are accused of committing a fraudulent real estate transaction which resulted in the son obtaining ownership of a home that the victims were led to believe they still owned. The victims remained living in the home and making payments before they eventually discovered the fraud.

08-DA-0105

The defendants were both employed by the mortgage division of a large bank. They have both been charged with multiple counts of forgery, grand theft, and filing false financial statements. They are accused of creating false payroll records and other financial documents in order to help their customers qualify for loans that they would not have otherwise been able to qualify for, resulting in commissions, to which they were not entitled, being paid to the defendants.

09-DA-0079

The defendant was a notary public working for a large bank. A request was made to review her notary journals and it was discovered the journals had not been turned over to the County Clerk-Recorder as was required by law when the Defendant's notary commission had expired. The journals were later stolen in a burglary from the notary. The notary has been charged with a misdemeanor violation of the Government Code for failure to comply with the notary regulations.

08-DA-213

The defendants defrauded the victim by filing a fraudulent substitution of trustee and full reconveyance to eliminate a second mortgage for twenty-two-thousand-four-hundred dollars (\$22,400.00) payable to the victim. The defendants filed the fraudulent, notarized, document with the Clerk Recorder. Judge Shaver dismissed charges at the preliminary hearing. His ruling was that the victim had waited too long to file a police report.

08-DA-283

The defendants defrauded lenders by using fraudulent and fictitious documents including loan applications. The defendants worked together to submit false documents including verification of employment in order to obtain residential mortgages that they would not have otherwise been able to obtain. The payments were never made; the defendants kept the money from the loans and allowed the house to go into foreclosure

08-DA-308

The defendant placed ads on Craig's list advertising vacant homes for rent. The defendant did not own the homes nor did he have permission to rent them. The defendant rented in excess of

Approval of the Real Estate Fraud Prosecution Trust Fund Annual Report Covering Fiscal Year 2008-2009.

DISCUSSION CONT:

five homes with this rent skimming scheme. The defendant continued this practice even after being warned by Modesto Police that his conduct was unlawful.

08-DA-325

The defendant solicited approximately thirty-two (32) victims to invest two-million-seven-hundred-thousand dollars (\$2,700,000.00) with him to purchase and develop real estate projects. The defendant used the money for personal gain and furnished victims fictitious documents to give the appearance their investments were secured by real estate. This was a ponzi scheme that eventually collapsed.

08-DA-349

The defendant told approximately thirty (30) investors in approximately ten (10) eastern and southern states that he could facilitate platform trade loans ranging into the billions of dollars. Each developer requested twenty million to two-hundred million dollars (\$20,000,000.00 to \$200,000,000.00) to develop commercial projects such as high rise buildings, golf courses, country clubs and boat marinas in the Florida area. The defendant told investors he required advance fees for property appraisals. The defendant used the developers' money for his personal gain. The defendant told developers that their loans had been approved by several different hard-money lenders. The defendant then told the investors the hard-money lenders withdrew their loan commitments but he was going to obtain new loans from an international banking association. The defendant created this "banking association" and created emails and other document to convince developers of its legitimacy. This defendant is currently sentenced to prison for 5 years 4 months for frauds he previously committed in this county.

POLICY ISSUE:

Acceptance of this annual report pursuant to Government Code section 27388, subdivisions (d)(1) and (d)(2) will demonstrate that Stanislaus County is acting in compliance with the statutory provisions authorizing the formation and use of the Real Estate Trust Fund. The efforts of the personnel in this unit support the Board's priorities of promoting a safe community and efficient delivery of public services.

STAFFING IMPACT:

The Real Estate Fraud Program Unit currently has a full-time Attorney V and Criminal Investigator II positions and a part-time Criminal Investigator authorized. These positions would continue to be authorized for the duration of this program.