



TONY RACKAUCKAS
ORANGE COUNTY DISTRICT ATTORNEY

ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE
401 CIVIC CENTER DRIVE WEST • SANTA ANA, CA 92701 (714) 834-3636

August 5, 2009

Honorable Patricia Bates, Chair
Orange County Board of Supervisors
333 W. Santa Ana Blvd., 5th Floor
P.O. Box 687
Santa Ana, CA 92702-0687

RE: Annual Report, Real Estate Fraud Prosecution Program

Dear Supervisor Bates:

Please find attached the Annual Report on the Real Estate Fraud Prosecution Program for Fiscal Year 2008/2009 which is required by Government Code section 27388. As you can see, the program approved by this Board on 2/20/09 is off to an excellent start. The Orange County District Attorney's Office is committed to aggressive prosecution of those involved in fraud schemes involving real estate that victimize Orange County residents.

Sincerely,

Tony Rackauckas
Orange County District Attorney

Attachment

TR:ru

**FISCAL YEAR 2008-2009 REAL ESTATE FRAUD REPORT
ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE
(Government Code § 27388)**

Narrative Assessment of the Program 2008 2009

Summary: On 2/10/09, the Orange County Board of Supervisors authorized collection of a \$3.00 fee on certain recorded real estate transactions to be used for the prosecution and investigation of real estate fraud. The Orange County Clerk-Recorder began collecting the fee on 4/13/09. Funds were placed in a trust account, to be apportioned by the Orange County Real Estate Fraud Prosecution Trust Fund Committee created pursuant to the terms of Government Code section 27388. The funds may only be used for investigation and prosecution of real estate fraud and cannot be used for any other purpose.

The period from April 13, 2009 to June 30, 2009 is the subject of this report. This time frame represents a start up period for the program. The Real Estate Fraud Unit in the Orange County District Attorney's Office began to take shape and foundations were laid for a successful effort in Orange County. The program includes building cooperative relationships with the Orange County Association of Realtors and other professional realtor groups as well as representatives of the title, escrow and appraisal industries. Attorneys and investigators who were to be assigned to the unit received specialized training and began to review/investigate cases in preparation for the start of the 2009/2010 fiscal year. As expected, referrals of suspected real estate fraud began to pour in including a flood of calls related to fraud involving foreclosure rescue and loan modification. By the end of the fiscal year, there were 154 ongoing investigations, 11 filed cases and 1 conviction.

At the beginning of Fiscal Year 2009/2010, the Orange County District Attorney's Office Real Estate Fraud Unit became fully operational with 2 attorneys, 2 investigators and a paralegal in place. The high initial number of cases and referrals highlights the need for the program. Outreach efforts included a collaborative effort with industry stakeholders such as the Orange County Association of Realtors (OCAR) and the Orange County Fair Housing Coalition (OC -HOPC). The Orange County District Attorney's Office is cooperating with state, federal and local law enforcement agencies to vigorously combat real estate fraud in Orange County and meets regularly with members of real estate fraud units in neighboring counties.

Actions of the Trust Fund Committee

The Trust Fund Committee had a first meeting in late June, 2009 and appointed Santa Ana Police Chief Paul Walters as the law enforcement representative on the Trust Fund Committee for a one year term ending June 30, 2010. The Trust Fund Committee issued an application including guidelines and deadlines for any law enforcement agencies that wish to apply for funding under the program. The Trust Fund Committee will be reviewing those applications pursuant to the criteria of the statute. The applications explained and handed out at a meeting of the Orange County Chiefs of Police Association in early July 2009. The Trust Fund Committee will meet again to review applications and apportion available funds pursuant to the criteria in Government Code section 27388. Funds collected during fiscal year 2008/2009 will roll over and be apportioned by the trust fund committee at a subsequent meeting.

Community Outreach & Real Estate Advisory Board

District Attorney Tony Rackauckas and attorneys from the Orange County District Attorney's Office have met with industry stakeholders such as realtor associations, title companies, escrow groups and professional appraisers for the purpose of selecting an Advisory Board consisting of professionals in the real estate industry who can advise the program about conditions in the industry and provide input on current suspected fraud schemes. There has been a great deal of support for this idea and many volunteers. Once the funding process is completed, this committee will be selected and meet quarterly with the Orange County District Attorney's Office Real Estate Fraud Unit and meeting minutes will be forwarded to the Trust Fund Committee.

Community outreach efforts have already begun. Orange County District Attorney Tony Rackauckas speaks regularly on the subject and there have been at least 6 presentations by members of the OCDA Real Estate Fraud Unit to civic and professional groups around the county. Efforts are underway to cooperate with the Orange County Association of Realtors (OCAR) to produce several public service announcements. Brochures will be produced in multiple languages warning consumers about real estate fraud schemes and these brochures will be made available at community housing offices and through realtors around the county. The Orange County District Attorney's Office Consumer Fraud Hotline has fielded calls from victims and shortly a downloadable complaint form and dedicated hotline number will be available on the District Attorney website.

The Orange County District Attorney's Office is cooperating with the United States Attorney, California Attorney General's Office and the Federal Trade Commission in an ongoing effort to reduce the enormous amount of fraud associated with the loan modification industry. Several Southern California based loan modification boiler room operations were shut down in July 2009. Fraud in this industry has reached epidemic proportions as distressed homeowners are lured by false promises to pay their last dollars in upfront fees to foreclosure or modification "specialists" who cynically allow the houses to be foreclosed without providing the assistance or services.

Significant Cases and Ongoing Investigations

People v. Chen et. al. – Defendants operated Western Escrow w/ branch offices in Huntington Beach, Anaheim and Westminster. Employees were hired to solicit Spanish-speaking individuals into a mortgage transaction that later turned into an identity theft/ straw-buyer scam to purchase properties and acquire mortgage loans fraudulently. Between 2005 and 2007, defendants obtained 47 fraudulent loans totaling in excess of \$17 million on 35 properties. Case was filed in June 2009 and is pending in Superior Court.

People v. Veltre – Defendant brokered loans on residential real estate and had his investor victims fund these loans. Veltre employed a variety of schemes including selling loans to more than one investor, re-financing without permission and theft of loan payout funds payments. Losses were in excess of \$3 million. Case was filed and is pending in Superior Court.

People v. Helsing – Non licensed broker solicited hard money investors to invest in second Deeds of Trust from credit risky borrowers. He pocketed the lenders' money and paid out "interest" from non-existent loans while pocketing the remaining principal (Ponzi scheme). Losses were in excess of \$2.5 million. Case was filed and is pending in Superior Court.

Ongoing investigations into loan modification fraud mills – Search warrants have been issued on multiple locations that relate to investigations involving suspected loan modification and foreclosure rescue scams in which victims pay upfront fees so that someone will negotiate loan modifications or other rescue relief on their behalf. The mills don't follow through or refund money and victim loses home to foreclosure. Some employ attorneys or real estate brokers to convince regulators that they operate legitimately. Several under investigation have recently had cease and desist orders filed against them by various regulatory bodies. Profits from loan modification fraud is substantial with millions of dollars in transactions.

Ongoing investigations into rental schemes – Currently there are many schemes involving foreclosed homes including scams in which foreclosed homes are fraudulently rented. When the house is sold from bank foreclosure, new owners often find renters with leases living in their new home. Both are victims in this fraud scheme.

Identity theft involving fraudulent recordings – There are a significant number of investigations in which unsuspecting victims, often the elderly who own their homes and have lots of equity, are victimized by those who fraudulently forge paperwork and obtain loans on a residence or transfer title. The victim often does not know about the transfer and finds out only when they are trying to sell or re-finance. The Clerk-Recorder is working with the OCDA Real Estate Fraud Unit to quickly refer suspected cases of fraudulent recordings for investigation and is using a pilot notification system so that victims are aware of these fraudulent transactions earlier.

Conclusion – The program has had a very successful start in the 2 ½ months that remained in the 2008/2009 fiscal year since the implementation. Recognizing that the fraud associated with the sub-prime mortgage meltdown has negatively impacted the local economy, this program is needed and will be an effective tool in combating real estate fraud.

This report is being submitted pursuant to the provisions of Government Code section 27388(d) which requires an annual report to be submitted by the District Attorney to the Board of Supervisors and the Legislative Analyst's Office before September 1, 2009.

**COUNTY OF ORANGE
OFFICE OF THE DISTRICT ATTORNEY
REAL ESTATE FRAUD PROSECUTION REPORT - FY 2008-2009
(Government Code § 27388)**

I. Case Statistics

A. Number of ongoing referrals: **19**

1. entering FY 2008-2009: Not Applicable*
2. initiated during FY 2008-2009: **19**

(A referral is any real estate fraud matter referred to OCDA that is either likely to be referred to another agency or unlikely to be pursued by the OCDA)

B. Number of ongoing investigations: **154**

1. entering FY 2008-2009: Not Applicable*
2. initiated during FY 2008-2009: **154**

(An ongoing investigation is any real estate fraud matter in which OCDA has either conducted or is conducting an investigation or in good faith believes will be investigated)

C. Number of filed cases: **11**

1. entering FY 2008-2009: Not Applicable*
2. initiated during FY 2008-2009: **11**

D. Number of victims in filed cases: **72**

1. entering FY 2008-2009: Not Applicable*
2. initiated during FY 2008-2009: **72**

E. Number of convictions obtained in FY 2008-2009: **1**

F. Total aggregated monetary loss suffered by victims in cases in which there has been an investigation, filing, or conviction:

1. for cases entering FY 2008-2009: Not Applicable*
2. for cases initiated during FY 2008-2009: Approximately \$100 million

(Estimate includes potential losses reasonably believed to be incurred by victims, banks, industry companies and/or investors relating to fraudulent real estate transactions)

II. Accounting

- A. Ending balance in Real Estate Fraud Prosecution Trust Fund FY 2007-2008:
Not Applicable*
- B. FY 2008-2009 revenues were: \$306,412 (\$306,057 recording fees + \$355 interest income) (April 13, 2009- June 30, 2009)
- C. FY 2008-2009 expenditures were: \$15,327 (April 13, 2009 – June 30, 2009)
- D. Non Real Estate Fraud Prosecution Trust Fund monies used to fund activities in FY 2008-2009: 1 attorney, 2 investigators, paralegal (4/13/09-6/30/09)
- E. Ending balance in Real Estate Fraud Prosecution Trust Fund 2008-2009: \$291,085
- F. Uses to which funds were put: In Fiscal Year 2008-2009, Real Estate Fraud Prosecution Trust funds were not used for expenses associated with either the participation of the Orange County District Attorney's Office or any other Orange County law enforcement agency. The FY 2008-09 carryover balance is earmarked for use in FY 2009-10 to cover program costs. Start up program officially commenced on July 1, 2009.
- G. Was Real Estate Fraud Prosecution Trust Fund money distributed to a law enforcement agency other than the district attorney's office in FY 2008-2009?
Not Applicable*

III. Contact Person

- 1. Elizabeth Henderson – ADA
401 Civic Center Drive West
Santa Ana, CA 92701
Phone: (714) 347-8700
Email: Elizabeth.Henderson@da.ocgov.com
- 2. George McFetridge – DDA
401 Civic Center Drive West
Santa Ana, CA 92701
Phone: (714) 347-8704
Email: George.McFetridge@da.ocgov.com
- 3. Pete Pierce – DDA
401 Civic Center Drive West
Santa Ana, CA 92701
Phone: (714) 347-8708
Email: Peter.Pierce@da.ocgov.com