

Real Estate Fraud  
San Luis Obispo County District Attorney's Office  
Government Code Section 27388(d)  
Narrative Annual Report for Fiscal Year 2012-13

***INTRODUCTION***

On August 19, 2008, pursuant to Senate Bill 537 (California Government Code Section 27388), the San Luis Obispo County Board of Supervisors approved a surcharge for the recording of certain real estate documents in order to fund the County's Real Estate Fraud Prosecution Trust Fund. This Trust Fund is the revenue source for the District Attorney's Real Estate Fraud Unit. The Unit investigates and prosecutes real estate fraud cases to deter and punish those who would commit real estate-related fraud and to obtain restitution for victims. The Unit also educates the public and real estate professionals about real estate fraud and how it can be identified and prevented.

Historically, virtually all major real estate fraud criminal investigation within our county, after having been referred by the State Department of Real Estate, has been handled by the District Attorney's Office. The San Luis Obispo County Real Estate Fraud Unit consists of a portion of a Deputy District Attorney and an Investigator in that office. The Unit works closely with District Attorney's Victim/Witness staff members and Consumer Fraud Unit staff who deal with large numbers of victims in many of these types of cases. During five recent cases, the Victim/Witness Division utilized the department's website to provide victims with up-to-date case information. The Unit's investigator and prosecutor work cases together vertically, from the initial complaint through the trial and sentencing.

The County Clerk Recorder has been allocated 10% of all fees collected for the County's Real Estate Fraud Unit in order to cover the costs of its administrative workload resulting from the collection of this fee.

The resources provided through the program have allowed the District Attorney's Office to investigate and prosecute real estate-related crimes which otherwise may not have been prosecuted.

This report for fiscal year 2012-13 is provided pursuant to California Government Code Section 27388, subsections (d)(1) and (d)(2).

Statistics for July 2012 through June 2013

| Figure 1<br>Real Estate Fraud Prosecution Program Statistics<br>(2012-13) |                    |             |             |                                  |                                |
|---|--------------------|-------------|-------------|----------------------------------|--------------------------------|
|   | Cases Investigated | Cases Filed | Convictions | Number of Victims in Filed Cases | Total Aggregated Monetary Loss |
| San Luis Obispo County  | 6                  | 2           | 2           | 446                              | \$351 Million                  |

(Counting 2012-13 cases filed, convictions, ongoing prosecutions, and open investigations, but without duplication across those categories.)

**ACCOUNTING**

| Figure 2<br>Real Estate Fraud Prosecution Program Trust Fund Revenues and Expenditures<br>(2012-13) |                             |                     |                         |
|---|-----------------------------|---------------------|-------------------------|
|   | Trust Fund Carry-In Balance | Trust Fund Revenues | Trust Fund Expenditures |
| San Luis Obispo County  | \$580.60                    | \$242,223.60        | \$242,804.20            |

A. Revenues: \$242,223.60

(These represent funds received through the Clerk Recorder's Office for recorded real estate documents which are deposited into the District Attorney's Real Estate Fraud Trust Fund.)

B. Expenditures: \$242,804.20 in salaries and benefits to reimburse for the majority of the real estate prosecution and investigative resources used in FY 2012/13.

| Figure 3<br>Real Estate Fraud Prosecution Program Expenditure Details<br>(2012-13) |                       |                             |                    |
|--|-----------------------|-----------------------------|--------------------|
|  | Salaries and Benefits | Operation and Support Costs | Total Expenditures |
| San Luis Obispo County   | \$242,804.20          | \$0                         | \$242,804.20       |

**OUTREACH**

Over the past fiscal year, the District Attorney's Office continued to utilize several processes to assist the more than 440 individuals victimized by fraud schemes involving real estate. For example, numerous pre- and post-court hours were spent by the attorney, investigators and Victim/Witness staff meeting and corresponding with victims to keep them apprised of upcoming events and address their ongoing concerns regarding pending litigation matters.

Also, for each of the existing cases of Estate Financial, Inc., Real Property Lenders and 21<sup>st</sup> Century, and the new cases of Heritage Lending and Moriarty Enterprises, a separate webpage for each has been created and is maintained on the District Attorney website to provide up-to-date case status, resource information and links. Additionally, a designated “hotline” telephone number and email account linked from the webpage has been implemented and continues to be maintained whereby victims could call in or email with additional questions or to obtain further information.

Over the course of each criminal proceeding, these webpages include information on criminal charges, court rulings and case status, the custody status of defendants, bankruptcy court proceedings, restitution, and the status of sentencing. In addition, Victim/Witness advocates attend all court hearings to connect with victims and inform them of their rights pursuant to Marsy’s Law and other victims’ rights. For the sentencing hearing, advocates also coordinate the victim impact statements by which victims may address the judge.

Throughout these proceedings, extensive asset seizure work takes place to secure and maintain the defendants’ assets for use toward future victim restitution. Following conviction, substantial work with the victims and the Probation Department also goes into pursuing restitution for victims, as well.

**CASE HIGHLIGHTS**

Below are some examples of the cases referred to in Figure 1:

| Figure 4<br>Real Estate Fraud Prosecution Case Highlights |   |                   |
|---|---|-------------------|
| Defendant   | Charges   | Number of Victims |
| Estate Financial Inc.<br>(Karen Guth / Josh Yaguda)       | Corporations Code Violations;<br>Securities Fraud; Embezzlement | 89*               |
| Real Property Lenders<br>(Rod Jarmin / Tammy Jordan)      | Corporations Code Violations;<br>Securities Fraud; Embezzlement | 80                |
| Blue Tea, Inc.<br>(D. Reyes / J. Reyes / P.Navarro)       | Corporations Code Violations;<br>Securities Fraud; Embezzlement | 60                |
| 21 <sup>st</sup> Century Financial<br>(Linda Kennedy)     | Corporations Code Violations;<br>Securities Fraud; Embezzlement | 82                |

|  |   |     |
|--|---|-----|
| Heritage Lending, Inc.<br>(Candy & Rick Wells) | Corporations Code Violations;<br>Securities Fraud; Embezzlement | 35  |
| Moriarty Enterprises<br>(AI Moriarty)          | Corporations Code Violations;<br>Securities Fraud; Embezzlement | 100 |

\*This number represents the victims with whom the District Attorney’s Office has worked directly. However, over 1,700 victims have received orders for criminal restitution in the EFI case.

**CONCLUSION**

The District Attorney’s Real Estate Fraud Unit continues to be extremely busy. During this past fiscal year, two more major real estate fraud cases have been investigated and filed. This is in addition to four of the previously filed real estate fraud cases, where work continues from trial preparation to the pursuit and enforcement of restitution for victims. These six cases alone include in excess of 2,000 restitution-related victims and potential victims. (The intent of the legislature was to have an impact on real estate fraud involving the largest number of victims.) These types of investigations take hundreds of investigative hours before they are completed due to their complexity.