**COUNTY OF ORANGE**

**OFFICE OF THE DISTRICT ATTORNEY**

**REAL ESTATE FRAUD PROSECUTION ANNUAL REPORT (FY 2016/2017)**

**I. County Clerk-Recorder**

In FY 2016/17, the Orange County Clerk-Recorder's Office collected $1,769,972 for the Real Estate Fraud Prosecution Trust Fund from a $3.00 recording fee on real estate documents specified in Section 27388 of the California Government Code. The Clerk-Recorder receives a

5% administrative fee and has continued to support real estate investigation and prosecution

efforts. Two notable areas are courtesy notices sent out for any change of title recordings as well as strong staff efforts to refer suspicious recorded documents directly to the Orange County District Attorney (OCDA) for review. The Clerk-Recorder also has a website providing educational materials to the public on real estate fraud.

**II. Staffing**

The OCDA Real Estate Fraud Unit includes the following positions:

• 3 Deputy District Attorneys

• 3 District Attorney Investigators

• 1 Paralegal

• Partial use of Clerical staff and a Forensic Accountant

**III. Program Highlights**

The OCDA Real Estate Fraud Prosecution Unit continues a commitment to successfully identify, investigate and prosecute those who engage in fraudulent foreclosure relief, loan modification and real estate investment fraud activity. The unit prioritizes the prosecution of those who commit fraud against the County’s most vulnerable victims; our elderly residents. OCDA’s Real Estate Fraud Prosecution Unit is a highly efficient program because the funding helps support both legal and investigative staffs that have significant real estate fraud knowledge and experience. It is specialized knowledge that not every detective at a police agency possesses. This positions the OCDA to both initiate real estate fraud investigations and link legal and investigative staff resources together after receipt of a complaint from the public, rather than having victims report cases to police agencies that may or may not prioritize the investigations because of resource issues. Complaints to OCDA are reviewed by knowledgeable staff to determine the viability of a criminal investigation and to start at the earliest possible stage to investigate. This early-stage interaction helps insure the investigator’s efforts will be more likely to translate into reliable and significant evidence upon which judges and juries can rely. Preservation of evidence results in greater success because OCDA investigators can write, obtain authorization and execute warrants during real estate fraud investigations as well as assist our law enforcement partners in that process. OCDA Real Estate Fraud Investigators authored and obtained judicial approval on eight large real estate search warrants executed at eleven different locations during this review period. The OCDA continues to investigate half of all real estate fraud cases in Orange County. OCDA is better positioned to investigate cases, prosecute offenders and assist those victimized by real estate fraud than the typical law enforcement detective without the specialized knowledge needed in real estate investigations.

**A. Case** **Statistics - FY 2016/17**

A. Number of referrals of suspected criminal real estate fraud to OCDA: 108

 Number of referrals from County Clerk-Recorder: 7

B. Number of investigations received from law enforcement agencies: 23

C. Number of filed criminal cases: 12

D. Number of cases rejected: 72

E. Cases referred to other state or federal agencies: 1

F. Number of convictions: 10

**B. Case Highlights – FY 2016/17**

**Defendant: James Ramsdell**

**Case No:** 16CF1062- 16F01327

**Status:** Plead guilty, awaiting sentencing

**Estimated Loss:** In excess of $40,000

In this case, the defendant was charged with six felony counts of grand theft, one felony count of grand theft from an elder, one felony count of foreclosure consultant unlawful advance fee, one misdemeanor count of loan modification unlawful advance, and a sentencing enhancement for a prior prison conviction of a serious and violent felony (2009 bank robbery from San Diego). Between March 2014, and November 2015, the defendant offered to provide loan modification services to one of six victims. The defendant illegally collected an upfront fee of approximately $920, after the victim received a bank notice of default on her mortgage. At the defendant’s request, the victim wrote multiple checks to complete the loan modification but Ramsdell never performed any services, ultimately, defrauding the victim out of $10,000. The victim submitted a fraud report to the Orange County District Attorney’s Office Bureau of Investigation, who investigated this case and arrested the defendant in April 2016. Investigators determined the defendant ran a similar scam against five other victims, defrauding them out of over $30,000 between September 2014, and May 2015.

 **Advantage Escrow Case**

**Defendant(s): Abbadi, Roque, Arias, Santana, Grachen, Rossel & Reyes**

**Case No:** 14CF3028 – 14F09092

**Status:** 4 convictions (by plea to state prison), 1 pending trial, 2 fugitives

**Estimated Loss:** $ 4.9 million stolen from investors

 $ 5.2 million stolen from lenders via false deeds of full reconveyance

 Total: $ 10.1 million

This case involved a sophisticated real estate fraud ring targeting investors and homeowners of distressed properties. Homeowners would be told their homes would be subject to a short sale if they deeded them over to one of the conspirators. The short sales were not negotiated with the lenders but instead false deeds of full reconveyance were filed in County records, falsely reporting that the loans were paid off. Using these false deeds, the defendants then showed investors valid preliminary title reports (which picked as legitimate the false reconveyances). In some instances, defendants would doctor up and submit false preliminary title reports to investors who relied upon them. Recently, one of the defendants was convicted of 34 felony charges stemming from this case with sentencing pending.

**Defendant: Earnesto Vargas**

**Case No:** 14CF0027 – 13F13504

**Status:** Convicted in court trial

**Estimated Loss:** $1,945,000

In this prosecution, the defendant sold, to a single investor, four homes that were not for sale. The true homeowners had no idea their properties had been sold. The defendant was previously convicted in a jury trial of felonies involving real estate transactions and sentenced to five years prison. The defendant was recently convicted in the current case during a court trial and sentencing is pending.

 **High Quality Escrow Case**

**Defendant(s): Arias, Gallardo, Gonzalez & Thai**

**Court No:** 14CF2891-14F09082

**Status:** 2 defendants plead guilty, 1 defendant is a fugitive (warrant outstanding), and 1 defendant is pending jury trial

**Estimated Loss:** $695,000

The defendants were part of a real estate fraud ring that induced investors to purchase homes that were not actually for sale.

**Defendant: Andres Omar Pacheco**

**Case No:** 16CF0857-16F013134

**Status:** Pled guilty; sentenced to state prison

**Estimated Loss:** $522,000

The defendant owned “Signature Escrow” company and embezzled the deposits of multiple victims over a three year period.

**Defendant: Nader Meskin**

**Case No:** 09HF1302 – 09F15536

**Status:** Convicted by a jury; sentenced to 2 years

**Estimated Loss:** $146,600

Defendant Meskin persuaded an investor to make short term, high interest rate loans to be secured by deeds of trust. This security was worthless because the defendant did not own the properties and the deeds were not notarized, so they could not be recorded and act as security. The defendant took the money and disappeared until 2014 when he was located and arrested. In July, 2016 restitution was ordered in the full amount.

**Defendant(s): Centeno, Centeno, Arzate, Valdivia & Rabadan**

**Case No:** 14F09164/14CF4090

**Status:** 120 Counts newly filed

**Estimated Loss:** $490K loss

This case involves “Debt Settlers of America & Foreclosure Prevention Department.” Defendant Carlos Centeno is accused of owning and operating the Foreclosure Prevention Department in Irvine, and co-defendants Ricardo Centeno and Lizeth Arzate are accused of owning and operating Debt Settlers of America (DSA) in Orange, which advertised assistance for the renegotiation of home loans. The defendants are accused of advertising DSA on Hispanic radio stations throughout the state in order to target victims. Co-defendants Hector Valdivia and Susie Rabadan are accused of being office managers and consultants at DSA. Valdivia and Rabadan are accused of knowingly assisting Carlos Centeno, Ricardo Centeno and Arzate in charging and accepting illegal upfront fees from victims for services that they did not provide by collecting and processing loan modification applications. Between December 2009 and December 2012, the defendants are accused of contacting 23 victims and promising them assistance with negotiating their home loans after the victims paid DSA an upfront fee. Carlos Centeno, Ricardo Centeno, and Lizeth Arzate are accused of collecting illegal upfront fees from victims ranging between $2,000 and $2,500 per modification. The defendants are accused of directly collecting several victims’ monthly mortgage payments and depositing them into their personal bank accounts. Between December 2009 and December 2012, all five co-defendants are accused of accepting and depositing illegal upfront loan modification fees and home mortgage payments from the victims into their personal bank accounts totaling over $390,000 and using the money for the payment of personal bills and expenses.

**Defendant(s): Lugo-Lainez, Lainez, & Aldana**

**Case No:** 15F00208/15WF1626

**Status:** 15 Counts newly filed

**Estimated Loss:** $115,000

In this case, co-defendants Lugo-Lainez and Lainez are a husband and wife who are accused of stealing the identity of the grandmother of Lugo-Lainez. Between Nov. 7, 2008, and Jan. 1, 2009, they were living with the elderly victim and forged her name on a second mortgage on her home in Garden Grove. Defendant Aldana played a key part in the crime as the public notary, who knowingly submitted and verified the false mortgage documents. The mortgage-loan was for $79,000. Additionally, Lugo and Lugo-Lainez are accused of stealing’s the victim’s identity and personal identifying information in 2014, in order to gain access and control over the victim’s primary bank-account. The two are then accused of stealing over $40,000.00 from that account during the first half of 2014. When the victim stopped receiving bank statements in early 2014, she contacted the bank and discovered the identity theft. She immediately reported the identity theft to the Garden Grove Police Department. The police investigation, assisted by the victim and her daughters, resulted in the discovery of all the earlier crimes.

**Defendant: James Bishay**

**Case No:** [11WF0661](http://daiagy.ocgov.com/Vision_Web/DisplayCaseInfo.do?caseNbr=8267422&personNbr=5861176&src=case_src)/11F15017

**Status:** Convicted by a jury and sentenced

**Estimated Loss:** $2.4 million

This case involved a sophisticated commercial real-estate criminal fraud scheme by the defendant to: (1) record a false recording of (2) a forged “Substitution of Trustee and Deed of Reconveyance,” in order (3) to obtain a multi-million dollar commercial real-estate loan by false pretenses. Defendant Bishay was the sole managing member of Los Alamitos Square L.L.C., and he procured a re-finance loan through Pacific Premier Bank by forging Mr. Said Messiha’s (victim # 1) signature on the “Substitution of Trustee and Deed of Reconveyance” regarding Mr. Messiha’s secured interest in the Los Alamitos property on March 23, 2007. Defendant Bishay subsequently submitted and caused that “Substitution of Trustee and Deed of Reconveyance” to be falsely recorded by the Orange County Registrar Recorder’s Office on March 30, 2007 in an attempt deprive Mr. Messiha of his secured interest. By recording that false “Deed of Reconveyance,” Mr. Messiha lost a secured interest in the real-property for an amount over $1.2 million. Pacific Premier Bank (victim # 2) relied on the false pretenses represented by defendant Bishay in approving the defendant’s re-finance loan request; and, as a result, the bank funded a loan in his favor for $3.125 million in April, 2007. The bank ultimately foreclosed on the real-property, but when it did so, the bank suffered a substantial loss in excess of $1 million. The defense was that the third partner, who had fled the jurisdiction (probably to Canada), was the culprit. The defendant did testify in support of this defense. The totality of the evidence, particularly the documentary evidence, pointed to the defendant’s participation in the crimes. In September, 2016 the trial court sentenced the defendant to five years and eight months in state prison and ordered restitution in the amount of $2.4 million.

**Defendant: Kevin Rasher**

**Case No:** 16CF1377-16F01318

**Status:** In federal custody

**Estimated Loss:** $1.5 million

The defendant is accused of taking over $1.5 million in advance fees from homeowners; telling them he was an attorney working for HUD. He deposited their “trial payments” into his personal “HUD-Making Home Affordable” account. The defendant is accused of utilizing this scheme to victimize 476 individuals.

**Defendant(s): Manori Samarakone**

**Case No:** 16HF1261/16F11166

**Status:** Defendant found guilty by jury

**Estimated Loss:** None

In this case, the defendant suffered a home foreclosure and repeatedly appeared at that home, contacted the new legitimate owners (a retired couple in their 70’s) and insisted the house belonged to her.  She would visit the property on a regular basis, contact the owners and tell them they needed to leave immediately.  She had her DMV address changed to the old foreclosed home location and instructed the US Postal Service to halt delivery of the true owners’ mail.  The elderly couple obtained a restraining order which the defendant violated.  Ultimately, she recorded a false deed, which named her as the home owner.  The assigned deputy prevailed in proving the defendant recorded a false document and violated the restraining order. Though the victims did not suffer great financial loss, the stress and anxiety caused by this defendant impacted their lives significantly. Defendant is currently awaiting sentencing.

**Defendant: James Barker**

**Case No:** 17CF0852-17F00321

**Status:** Active, pending preliminary hearing

**Estimated Loss:** Excess of $200,000

In this case, the defendant posed as an attorney under various aliases and solicited clients by promising to consolidate outstanding debts and/or reduce mortgage payments through loan modifications. The defendant collected money from various clients, but never attempted to negotiate debts nor submit applications on behalf of the clients. When refunds were demanded, the defendant refused to make refunds and laundered the money at JP Morgan Chase Bank. The defendant faces a maximum sentence of 11 years and 8 months in state prison.

**C. Program Highlights:**

**Outreach to Law Enforcement and Investigative Professionals**

Training and outreach are important components of successful real estate fraud prosecution. OCDA Real Estate Fraud Investigators are actively engaged in learning new skills and information that enhances their recognition and knowledge of real estate fraud. To that end, OCDA members regularly attend the Orange County Financial Crimes Investigators Association meetings which provide a forum for training and sharing information with others who investigate real estate fraud. Specifically, OCDA Real Estate Fraud Unit Investigators provided training on the subject of “Real Estate Fraud Awareness” for staff at Coldwell Banker, Wells Fargo Bank and Fidelity Bank. OCDA Real Estate Fraud Investigators also attend trainings in specific areas of investigation that are related to or are utilized in real estate fraud investigation. Such topics include search warrant preparation and use of social media in investigations.

**Outreach to Professional Real Estate Groups**

In addition, the OCDA Real Estate Fraud Unit Investigators presented training to the Pacific West Association of Realtors (PACWEST) in Anaheim, California and to local real estate professionals in the City of Brea. Such trainings help professionals identify potential fraud in real estate transactions and learn how and to whom they can report suspected illegal conduct.

**Public Outreach through the OCDA Web-based Real Estate Fraud Complaint Form**

The public can directly report suspected real estate fraud to the OCDA by use of this form located at [www.orangecountyda.org](http://www.orangecountyda.org). Since the last Program report was submitted to this Board, public use of this contact mechanism has risen nearly 20%. Each complaint is logged and reviewed. These complaints are then reviewed by OCDA and viable complaints are investigated or referred to another law enforcement agency for investigation. This direct access to the OCDA helps victims obtain assistance in an efficient and “user-friendly” manner.

**Multi-Agency Interaction and Support**

OCDA continues to maintain a cooperative working relationship with other agencies and entities in efforts to identify real estate fraud and provide assistance to victims. Specifically, the OCDA works with the California Department of Real Estate, the California Attorney General’s Office, the California State Bar and the California State Franchise Tax Board. The positive working relationship established with these agencies helps OCDA better serve the community when responding to reports of abuse.

**Relationship/Cooperation with Fair Housing Organizations**

The OCDA has worked with the Orange County Housing Opportunities Collaborative (OCHOC) to provide both housing education and awareness of issues related to real estate purchase and rental fraud. OCHOC has provided referrals to the OCDA Real Estate Fraud Unit on matters of suspected illegal activity in the real estate industry.

IV. Contact Person:

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**COUNTY OF ORANGE**

**OFFICE OF THE DISTRICT ATTORNEY**

**REAL ESTATE FRAUD PROSECUTION PROGRAM- FUND 12G For the Year Ended June 30, 2017**

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| --- | --- | --- |
| **MONTH** | # **OF TITLES RECORDED** | **TOTAL REVENUES** |
| JULY 2016AUGUST 2016SEPTEMBER 2016OCTOBER 2016NOVEMBER 2016DECEMBER 2016JANUARY 2017FEBRUARY 2017MARCH 201 7APRIL 2017MAY 2017JUNE 2017JUNE ACCRUAL 2017**SUB-TOTAL**PLUS: INTEREST INCOME PLUS: MISC FEES**TOTAL REVENUES *(TO BE REPORTED)***LESS: CLERK RECORDER FEES INTEREST EXPENSE PROSECUTION UNIT EXPENSESLOCAL LAW ENF. AGENCIES ALLOCATION OTHER PROGRAM EXPENSES**TOTAL EXPENSES *(TO BE REPORTED)***CARRY-OVER BALANCE FROM FY 2015-16FY 2016-17 BALANCE**TOTAL FUND BALANCE** | 38,90860,73556,71858,25357,98553,485 49,321 36,970 42,81740,759 40,580 50,4233,037 | $ 116,724.00$ 182,205.00$ 170,154.00$ 174,759.00$ 173,955.00$ 160,455.00$ 147,963.00 $ 110,910.00$ 128,451.00$ 122,277.00$ 121,740.01$ 151,268.25$ 9,111.00 |
| **589,991** | $ **1,769,972.25**$ 5,152.99$ 179.55 |
| $ **1,775,304.79** $ 88,498.61$ 353.18$ 1,803,515.99$ -$ 1,057.08 |
| $ **1,893,424.86**$ 8,912.46$ (118,120.07) - |
| $ (109,207.61) (118,296.32 **8,912.46** |
|  |

**Sources:**

General Ledger (F-GA-05M0I)

Y-T-D Expense Budget To Actual (F-GA-06M01) Y-T-D Revenue Budget To Actual (F-GA-07M01)