

Three Years of the Western PA Mortgage Fraud Task Force

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Just when I started thinking the Western Pennsylvania Mortgage Fraud Task Force was slowing down, since I hadn't seen any press releases in a while, the Department of Justice announced that the task force was going strong on its third anniversary. The U.S. Attorney for the Western District of PA, David Hickton, announced the filing of charges against 14 individuals in seven different mortgage fraud schemes on February 4, the anniversary of the formation of the task force. The seven schemes alleged in the actions announced on that date alone involve approximately 320 separate properties and \$75 million dollars in fraudulent loans.

The defendants charged included several real estate investors, including a former client of mine, mortgage brokers, another closing attorney whom I know, and even a bank employee. The defendants are from all over Western PA, from Pittsburgh to Washington, New Castle to Cranberry, Wexford, McKeesport, Clairton and Elizabeth. The companies the individuals charged either owned or worked for include Mortgage Brokers Lender's Corner, S & P Mortgage, Alico Mortgage, U.S. Funding Partners, Pittsburgh Home Loans, Riverside Mortgage, and Beaver Financial Services. Owners or employees of other types of companies were among those charged, including real estate investing companies Easy Realty Solutions and MCM Consulting and Management, closing agent Absolute Settlement Services and contractor Bleaker Street Construction.

On January 18, a grand jury returned a 17 count indictment against Harry Anthony, who allegedly operated or was affiliated with Absolute Settlement services, MCM Consulting and Management, and Bleaker Street Construction. The fraud alleged includes fraudulent loan applications overstating income, payments to the construction company falsely represented to be for repairs, maintenance or construction costs, forged checks, forged documents, and false invoices for renovation work.

Also on January 18, a separate grand jury returned four indictments against five more individuals in addition to five other individuals who previously pled guilty and one other awaiting trial in connection with mortgage fraud charges stemming from the operations of Pittsburgh Home Loans and Riverside Mortgage. This scheme overall is alleged to have involved over a

hundred separate properties and millions of dollars in loans. The alleged fraud involved purchases by indicted investors George Kubini and Dov Ratchkauskas of post foreclosure properties, which were then resold at overstated prices to buyers who could not legitimately qualify for the loans they received.

Indicted mortgage brokers Rhonda Roscoe and Rochele Roscoe, together with others who have previously pled guilty to the charges, allegedly submitted false loan applications which overstated income and assets. Those applications were further supported by appraisals by previously indicted appraiser Jason Moreno, against whom charges are still pending for submitting fraudulent appraisals overstating the value of the properties. Also indicted on the 18th was former bank employee Bartholomew Matto, whom it is alleged provided some of the fraudulent verifications of bank deposits which falsely supported the information in loan applications that borrowers had enough money in the bank to make down payments. Former bank manager Crystal Spreng pled guilty to verifying some such deposits, and has already been sentenced. Completing the fraudulent transactions were fraudulent settlement statements and other closing documents for the loan closings prepared by, among others, closing agent Karen Atkinson and Attorney Daniel Sporrer, who have already pled guilty and are awaiting sentencing for their roles in the transactions.

On February 1, formal “informations” were filed by the U.S. Attorney charging Gilbert Fischer and Jason Dull with wire fraud in connection with their company Lender’s Corner. Two former loan officers for that company, Dean Ackinclose and Jason Lewis, previously pled guilty to wire fraud conspiracy and are awaiting sentencing. The Lender’s corner fraud included false loan applications overstating borrowers’ income, assets and employment status, supported by false bank records and pay stubs.

Also on February 1, a grand jury returned a superseding Indictment against real estate investor James Platts of Easy Realty Solutions, mortgage broker Deean Haggerty of S&P mortgage, and Cranberry real estate attorney Bernard Flugher. Counts of that indictment include mail fraud, mail fraud conspiracy and money laundering. The alleged fraud includes submission of false rent verifications and bank balances for borrowers, depositing funds to borrowers’ accounts to falsely show borrowers had the money for down payments, and false settlement statements showing down payments when none were made. The settlement statements also reflected payments

to satisfy improperly filed liens or “lis pendens” against the properties being sold.

The third filing on February 1 was a one count information filed against Dean Rodriguez of Alico Mortgage and U.S. Funding Partners. The fraud alleged is that loan applications submitted by Rodriguez falsely represented that borrowers intended to reside in the properties when they did not, as well as overstating income and assets, and that settlement statements falsely showed down payments.

A fourth action on February 1 was a one count indictment returned against Richard Underhill of Pittsburgh, a real estate investor previously convicted of a different mortgage fraud scheme in 2009. Apparently in an effort to finance the payment of the settlement of a civil lawsuit arising from his earlier mortgage fraud, Underhill is alleged to have misrepresented to a bank that he was borrowing money to refinance his real estate business when he planned to use the money to pay the settlement. Additionally, he is alleged to have overstated his income and assets on the loan application, as well as understating his liabilities by failing to disclose the liabilities from the prior fraud scheme.

The final indictment on February 1 was a single count indictment against Richard Staaf who operated mortgage Brokerage Beaver Financial Services. Five other individuals have already pleaded guilty to charges for their roles in the same conspiracy and are awaiting sentencing. Staaf is accused of submitting false appraisals, overstated rent rolls, false invoices for improvements, fictitious leases, fraudulent bank statements and W-2s for borrowers, back dated deeds and fraudulent personal financial statements. He is also accused of providing false closing documents, because settlement sheets and other documents indicated that down payments were made when they were not and that prior mortgages had been or would be satisfied, when they were not.

My articles on this subject are intended to keep unsuspecting real estate investor as buyers or sellers, borrowers or lenders from ending up in trouble, maybe even in blissful ignorance of what they were doing. The following is a repeat of the advice I have given to real estate investors in a previous article on the subject, but bears repeating:

First, do not sign a loan application or any other document related to a real estate transaction in blank, ever. Going along with that, read the applications you are asked to sign “again” at closing, making sure they

match the originals and that all the information on your income, assets and debts is accurate.

Next, make sure that the agreement of sale you sign accurately reflects the transaction, and covers every part of the deal between the buyer and seller. This is even more important in short sale situations. If any part of the deal between the parties is not in the written agreement of sale, the written agreement does not accurately reflect the transaction, and when the written agreement is represented by the parties to the appraiser, bank and recorder of deeds to be the “real” deal, it is fraud.

When you get to closing, make sure the HUD-1 Settlement sheet you sign accurately reflects the price of the property, the money in from the buyer, and the money out to the seller. Make sure repairs or improvements reflected on the HUD really were done, or are being done for the amounts indicated with an escrow set up and approved by the lender. Make sure the checks given and received match the numbers on the HUD. Also make sure the buyer brings his or her own money for the down payment, not money from some other source. If a gift from a parent or other relative is used, make sure the gift is disclosed to the lender.

If the seller is providing financing to the buyer, make sure the price and amount of financing are accurate, that the financing is disclosed on the HUD, and if it is a first, second or third mortgage, that the correct documents are signed and recorded, and the buyer intends to pay and the seller intends to be paid consistently with the forms signed.

If any of the above parts of the transaction don't seem right to you, stop before signing, whether it is the agreement of sale or you are sitting at the closing table. Even if a lawyer, banker or real estate agent at the table says not to worry, everything is fine, trust your gut feeling and have the transaction reviewed by a real estate lawyer not involved in the deal.

Enough lawyers and other mortgage and real estate professionals have been prosecuted and convicted of mortgage fraud that you can't be sure anyone making money from the closing is not involved in the conduct which you think may be fraudulent.

If you don't have the time to get an outside opinion, get everyone who is telling you that there is no problem with the transaction to put that advice to you in writing on their company letterhead, and to sign the writing and give it to you, before you put your signature on the closing documents. If they won't do that, run from the transaction.

Remember, it usually takes the knowing or unwitting cooperation of several people to close a fraudulent transaction, but any one person who has to sign the paperwork as a borrower, buyer or seller can stop it just by saying NO!
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