

NATIONWIDE MORTGAGE e-ALERT[©]

(9-24-12)

CALIFORNIA PASSES SB 1069 - NO DEFICIENCY JUDGMENT ON A REFINANCE OF PURCHASE MONEY LOAN EXCEPT AS TO NEW MONEY ADVANCED ABOVE THE AMOUNT REFINANCED

FACTS

Amends CCP Section 590b(c)- **No deficiency judgment** shall lie in any event on any loan, refinance, or other credit transaction (collectively, a “credit transaction”) which is **used to refinance a purchase money loan, or subsequent refinances of a purchase money loan, except to the extent that in a credit transaction, the lender or creditor advances new principal** (hereafter “new advance”) which is not applied to any obligation owed or to be owed under the purchase money loan, **or to fees, costs, or related expenses of the credit transaction.** Any new credit transaction shall be deemed to be a purchase money loan except as to the principal amount of any new advance. For purposes of this section, any payment of principal shall be deemed to be applied first to the principal balance of the purchase money loan, and then to the principal balance of any new advance, and interest payments shall be applied to any interest due and owing. The provisions of this subdivision shall only **apply to credit transactions that are executed on or after January 1, 2013.**

MORAL

So if a borrower refinances a purchase money second deed of trust and there is a foreclosure, no deficiency allowed to extent new money advanced and then only to new money. **HOWEVER,** only to loans after January 1, 2013.

IF YOU ARE A CORPORATION OR LLC IN CALIFORNIA BE CERTAIN TO KEEP UP YOUR STATE TAXES AND REGISTRATION OR YOU MAY NOT FILE OR DEFEND A LAWSUIT

FACTS

The following are facts that can keep you from defending or prosecuting a lawsuit.

1. A corporation that is suspended for nonpayment of taxes cannot sue or defend a lawsuit in California. (*R&TC §23301 et seq*) *The corporation cannot even appeal or renew a judgment entered in its favor before suspension.* This also holds true for an out of state company suspended in its own state and by that state law lacking capacity to sue or defend and trying to bring or defend litigation in California. E.g. If Nevada suspends a corporation and Nevada law holds that the corporation cannot sue or defend in Nevada, that corporation cannot sue or defend in California. The corpora-

tion can be revived by paying all back taxes and penalties but any contracts entered into while suspended can be voided by the other parties to the contract. (*R&TC §§23304.1, 23305, et seq.*)

2. A corporation in California can be suspended for not filing its annual statement of information. This can have the same effect as not paying the taxes.
3. Foreign corporations wanting to do business in California must obtain a “certificate of qualification” from the Secretary of State. (*Corp.C. §2105*) The corporation may file but may not maintain a lawsuit until qualified. (*Corp.C §2203(c)*). However, it still can defend a lawsuit.

MORAL

Check your corporation or LLC annually to be sure it is active.

OWNER OF PASADENA, CALIFORNIA MORTGAGE COMPANY GETS NINE YEARS IN PRISON FOR MORTGAGE FRAUD-HIS TWO SIBLINGS FROM LAS VEGAS, NEVADA ARE ALSO SENTENCED

FACTS

On September 21, 2012, EDUARDO RUIZ, 33, OF SANTA ANA, CALIFORNIA and owner of PREMIER ONE LENDING, a Pasadena mortgage brokerage firm was sentenced to 108 months in federal prison for participating in a mortgage fraud scheme that obtained more than \$30 million in loans. In addition to the prison term, Judge Carter ordered him to pay \$5.7 million restitution.

Ruiz has been in custody since March, when a federal jury found him guilty of conspiracy and mail fraud related to his operation of Premier One Lending, a mortgage brokerage firm. The evidence presented during a three-day trial showed that while operating **Premier One Lending in 2005 and 2006, Ruiz and other Premier One employees fraudulently obtained more than 100 loans from lenders in Los Angeles and Orange Counties.**

As part of the scheme, **Ruiz and his employees prepared mortgage loan applications that inflated borrowers’ income—OFTEN BY AS MUCH AS 10 TIMES OVER THEIR TRUE INCOME.** Ruiz and other Premier One employees also obtained phony bank statements and CPA letters, which they provided to the lenders in support of the bogus income figures.

According to witnesses that testified in trial, many of the borrowers did not speak English and did not realize that their income had been inflated. As a result of the scheme, the borrowers obtained large mortgage loans that they were unable to make payments on. More than 20 loans went into foreclosure, causing lenders to sustain millions of dollars in losses.

Judge Carter sentenced two others involved in the scheme. **RUIZ’S SIBLINGS—GILMA RUIZ, 36, AND FRANCISCO RUIZ, 26, BOTH OF LAS VEGAS, NEVADA,** both of whom were recruited to help in the scheme and prepare fraudulent bank statements—received sentences of two years and 18 months, respectively.

The investigation into the Premier One fraud scheme was part of Operation Inflated Income, an initiative by the Federal Bureau of Investigation, IRS-Criminal Investigation, and the United States Postal Inspection Service that **targeted mortgage brokers who fraudulently obtained loans by inflating the borrowers' income and assets and supporting those bogus claims with fake supporting documents.** (usattydca92112)

MORAL

Note the loans are 2005 and 2006. Note also that this week alone we have FORTY from California indicted and/or convicted and this isn't even all of them. Then you have the 51 from North Carolina below. Remember, I said about 100 per week. And now I think that estimate is low. Probably more than two hundred per week are being indicted and/or convicted nationwide. Well, if someone needs counsel here or elsewhere we can recommend them.

GRANITE BAY, CALIFORNIA MAN CHARGED WITH MORTGAGE FRAUD

FACTS

On September 20, 2012, in a federal grand jury in Sacramento returned a six-count indictment charging **RYAN WILLIAM COSTO, 37, OF GRANITE BAY,** with mail, wire, and bank fraud, as well as making false statements to financial institutions, all in connection with various schemes to defraud lenders, United States Attorney Benjamin B. Wagner announced.

According to the indictment, **Costo falsely overstated his income and financial assets while applying for three separate loans: a \$1.95 million loan from CitiMortgage Inc. for a Granite Bay residence; a \$3 million loan from Washington Mutual Bank for another Granite Bay residence; and a \$1.35 million loan from Bank of America for a 1945 North American P-51 D Mustang classic aircraft.**

The indictment alleges that Costo not only made false statements about his income and various bank and stock account balances on the loan applications but also caused various false and fraudulent account statements and tax returns to be given to the lenders in order to procure the loans. As a result of the fraud, lenders reported aggregate **losses of over \$3 million.**

The maximum statutory penalty for each violation of mail, wire, and bank fraud is **30 years in prison,** a fine of twice the monetary gain or loss, and a three year term of supervised release. The maximum statutory **penalty for each false statement violation is 30 years in prison,** a \$1 million fine, and a three-year term of supervised release.

The allegations in the indictment are mere accusations, and the defendant is presumed innocent until and unless proven guilty beyond a reasonable doubt in a court of law. (usaattycaed92012)

MORAL

Remember how long I have been preaching the federal prosecutors and federal agents were in California with a vengeance. Well look at this and all just in the Sacramento area! The Los Angeles area has been under attack for some time. I await more indictments from Nevada. We represent some that are accused of mortgage fraud here and in other states such as Nevada. It behooves anyone involved with bad mortgages such as these to see their attorney BEFORE federal agents even begin visiting them. Much can be done to protect you and seriously mitigate issues if you see your attorney before federal agents see you. If you would like to discuss the matter with me, then by all means call me.

MURRIETA, CALIFORNIA COUPLE SENTENCED FOR MORTGAGE FRAUD

FACTS

A Murrieta husband and wife, **JOE DANIEL CODY, 43, and ANGELA LYNETTE CODY, 43** were sentenced to prison terms this week for their role in a mortgage fraud scheme that saw them take equity out of Inland homeowners' property and bilk victims out of more than \$1 million.

Joe Daniel Cody, 43, was sentenced Monday, Sept. 17, in U.S. District Court in Riverside to **63 months in prison** and three years of supervised release. **His wife, Angela Lynette Cody, 43, received a 48-month** sentence, three years supervised release and was ordered to pay more than \$1 million in restitution.

According to the IRS, **between May 2003 and June 2006**, the couple **ran All Fund Mortgage out of their Murrieta home**, offering refinancing services that promised homeowners lower monthly mortgage payments if they agreed to "temporarily" sell their homes to predetermined buyers. The Codys, in fact, used straw purchasers with whom they were associated and paid between \$1,000 and \$25,000 to function as loan recipients to acquire properties that the defendants wanted, according to prosecutors.

Many of the homeowners ended up losing title to their homes. Usually no payments were made to lenders after the equity was taken out of the homes. Most homes ended up in foreclosure. (*prent92312,murptch92112*)

MORAL

I would like you all to notice the number of fraud cases for this week alone in California and also note that this does not include those still under investigation by the FBI and IRS among other agencies. More indictments will follow.

RAMONA, CALIFORNIA REAL ESTATE AGENT SCHEDULED TO BE SENTENCED IN DECEMBER 2012 STILL ALLOWED BY STATE LAW TO PRACTICE REAL ESTATE

FACTS

TERESA ROSE, 57, a Ramona real estate agent who will be sentenced in early December for her admitted role in a mortgage fraud scheme is still allowed by state law to practice real estate. **She pleaded guilty in May 2012** to acting in a conspiracy that federal authorities said involved inflated home prices, fraudulently obtained mortgages and kickbacks. Until Rose's sentencing is final, she can still list homes, show them to clients and sell them, according to officials with the California Department of Real Estate, widely known as DRE. The agency regulates real estate license holders.

State law allows the Department of Real Estate to suspend, revoke or deny a license if the license holder enters a guilty plea to or is convicted of a felony. However, the agency cannot by law act until the conviction is final and the time for an appeal has passed.

Generally, the right to appeal comes after sentencing, the law states. If the defendant doesn't file an appeal, the sentencing is considered final.

Rose's record with the Department of Real Estate shows she's licensed and has no disciplinary action against her. Following her conviction, she left Coldwell Banker Country Realty in Ramona and now hangs her license with licensed broker Jonathan Patrick Mann, who lists a Laguna Beach address, public records show. Rose has at least seven Ramona listings under Mann's brokerage, based on listing information.

Rose is one of four people that federal investigators say were involved in a scheme to inflate real estate prices, obtain mortgages fraudulently and skim more than \$1.5 million in kickbacks. The probe found that the defendants failed to pay the mortgages on the 16 properties identified in court records and they eventually went to foreclosure.

Investigators said the scheme involved more than \$11 million in home loans. More than \$1.5 million of that was skimmed and hundreds of thousands of dollars were earned through commissions and fees, government officials said. In all, lenders suffered about \$5 million in losses.

Rose was an agent at Coldwell Banker Residential Brokerage at the time. She faces one count of conspiracy to commit wire fraud and to launder money. Her **maximum sentence is five years in prison** and a fine of up to \$250,000. Her sentencing is set for Dec. 3, 2012. *9sdutr92212*)

MORAL

Oddly enough if you Google the name "teresa rose realtor ramona" as of September 23, 2012, you will pull up a website that shows her picture and still at Coldwell Banker Country Realty notwithstanding the DRE website has her listed as licensed to Jonathan Patrick Mann as her broker.

SEVEN INDICTED IN SACRAMENTO, CALIFORNIA FOR MORTGAGE FRAUD

FACTS

On September 14, 2012 a federal indictment was unsealed charging seven people, including a Ventura man, with running a multistate Ponzi scheme and related mortgage fraud activities that prosecutors said cost investors and lenders a combined \$17 million.

The years long investigation resulted in the **ARREST OF LAWRENCE LELAND LOOMIS, 55**. He and his **FATHER-IN-LAW, JOHN HAGENER, 76**, were charged with operating a fraudulent, California-based investment fund that cost more than 100 investors more than \$7 million.

Loomis and five other defendants are also charged in a 50-count indictment with costing lenders \$10 million in losses through two mortgage fraud operations. One of those charged, Peter Woodard, 54, is from Ventura, authorities reported.

Prosecutors said all three frauds were operated through **LOOMIS WEALTH SOLUTIONS**, which was based in California and also worked with investors in Illinois, Washington and elsewhere from **2006 through 2008**.

Loomis and Hagener were charged with bilking investors through a program called **Naras Funds in 2007 and 2008**. The indictment said Loomis encouraged investors to tap their home equity and retirement accounts to buy shares in the funds and to help purchase residential real estate.

He and his father-in-law allegedly promised 12 percent annual returns and said the funds were guaranteed, but the indictment claims the men used investors' money to pay themselves, their companies' operating expenses, and to prop up the scheme by paying later investors with money from earlier victims.

Loomis and Hagener had court appearances on September 14, while the others were to appear later.

Loomis and a real estate appraiser, Darren Fehst, 44, of Halifax, Nova Scotia, are also charged in connection with a mortgage fraud scheme in which Loomis is accused of paying Fehst thousands of dollars to overstate appraisals so properties could be sold for inflated prices.

Loomis and four others also are *charged with buying about 200 properties in Arizona, California, Florida and elsewhere while falsifying the sales prices* and costing lenders about \$10 million.

Those others are **WOODARD OF VENTURA; MICHAEL LLAMAS, 27, OF TRACY; JOSEPH A. GEKKO, 43, OF YORBA LINDA; AND DAWN C. POWERS, 42, OF LINCOLN**.

All are charged with mail and wire fraud. Each fraud charge carries a maximum possible sentence of 20 years in federal prison (*ventstr91412*)

MORAL

Note the investigation goes back to 2006 over eight years ago. Rumor is the investigation took over four years. So be aware of this. AND remember they are innocent until proven guilty in a court of law.

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NINE MORE INDICTED IN SACRAMENTO, CALIFORNIA FOR MORTGAGE FRAUD

FACTS

A federal grand jury returned four indictments on September 13, 2012, charging nine individuals with mail fraud and bank fraud in connection with a mortgage fraud scheme involving the purchase of at least 19 homes.

The first indictment (docket # 2:12-cr-00327 WBS) charges **SVETLANA DUBINSKY, 48, OF BOCA RATON, FLORIDA; SERGE DOUBINSKI, 29, OF SAN FRANCISCO; AND ZINAYDA CHEKAYDA, 49, OF ANTELOPE, CALIFORNIA.**

The second indictment (2:12-cr-00328 JAM) charges **VOLODYMYR DUBINSKY, 53, FORMERLY OF FOLSOM, CALIFORNIA; LEONID DOUBINSKI, 47, FORMERLY OF COPPEROPOLIS, CALIFORNIA; EDWARD KHALFIN, 55, OF SAN MATEO, CALIFORNIA.; AND ROBIN DIMICELI, 50, OF BRENTWOOD, CALIFORNIA.**

The last two indictments charge **DIANA WOODS, 55, OF CITRUS HEIGHTS, CALIFORNIA, AND KORY SCHMIDLI, 34, OF LINDEN, CALIFORNIA** (docket #s 2:12-cr-00329 LKK, 2:12-cr-00330 GEB).

According to the indictments, two brothers, Volodymyr Dubinsky and Leonid Doubinski, built, developed, and sold real estate in Carmichael, Sacramento, and Copperopolis. As the real estate market declined, **the brothers recruited family members, employees, and associates with good credit to act as straw buyers** for residential properties. Licensed mortgage broker Khalfin and licensed real estate salespersons Dimiceli and Woods assisted in the scheme by submitting the loan applications for the straw buyers. They allegedly prepared and submitted applications to lenders that falsely stated the straw buyers' income, assets, and intent to occupy the homes as their primary residences. The straw buyers included Dimiceli, Woods, Svetlana Dubinsky, Serge Doubinski, Chekayda, and Schmidli.

If convicted, the defendants face a maximum penalty of **30 years in prison and a \$1 million fine.**

The allegations in the indictment are mere accusations and all persons are presumed innocent until and unless proven guilty beyond a reasonable doubt in a court of law. (*usattyedca91912*)

MORAL

Notice how family and friends were allegedly used. Additionally, the prosecutors are now more and more indicting the straw buyers.

SACRAMENTO, CALIFORNIA BANK EXECUTIVE CONVICTED OF MORTGAGE FRAUD AFTER FIRST JURY COULD NOT CONVICT-THIS MAKES SEVEN OUT OF SEVEN. ONE IS CONVICTED FOR VIOLATING RESPA

FACTS

JOEL BLANFORD, 44, OF SAN RAMON, HAS BEEN FOUND GUILTY BY A FEDERAL JURY IN SACRAMENTO ON SIX COUNTS OF MAIL FRAUD STEMMING FROM A COMPLEX MORTGAGE FRAUD SCHEME IN THE CENTRAL VALLEY.

“We have now **convicted seven people, including two bankers, two mortgage brokers, a real estate investor, and two straw purchasers**, who participated at different levels of a complex loan origination mortgage fraud scheme involving numerous real estate transactions in the Stockton area,” says U.S. Attorney Benjamin Wagner.

FROM ABOUT APRIL 2003 THROUGH OCTOBER 2005, Mr. Blanford, while working as a sales representative for **LONG BEACH MORTGAGE**, a wholesale subprime lender and former subsidiary of **WASHINGTON MUTUAL INC.**, participated in a scheme to defraud his employer, trial testimony showed.

He earned compensation based on the volume of loans processed by Long Beach Mortgage. The evidence established that **he paid a loan coordinator in cash and checks to falsify documents, provide false verification of borrowers’ employment or professional licensing status**, and to turn a blind eye to fraudulent representations contained in loan applications and other documents submitted to Long Beach Mortgage.

For the three years of the scheme before he was caught, Mr. Blanford received, before taxes and payroll deductions, more than \$1 million in commissions and other compensation from Long Beach Mortgage. Between April 2003 and October 2005, he paid the loan coordinator more than \$50,000 in checks alone.

An earlier trial of Joel Blanford, in May 2012, resulted in a hung jury. The jury verdicts NOW followed a seven day retrial.

Sentencing is scheduled before U.S. District Judge William Shubb on Dec. 10. The maximum penalties for mail fraud affecting a financial institution is **30 years in prison and a fine of up to \$250,000**, or twice the value of the gain or loss, whichever is greater.

Six other defendants have been sentenced for crimes arising out of this mortgage fraud scheme. **WILLIAM T. BRIDGE, 41, OF SAN FRANCISCO, AND HIS BROTHER PAUL BRIDGE**, were loan brokers who paid illegal kickbacks to a loan coordinator at Long Beach Mortgage **between 2003 and 2006**. William T. Bridge pleaded guilty to tax evasion charges, admitting that in each of those tax years, he derived more than \$10,000 from criminal activity involving fraudulent loans funded by Long Beach

Mortgage on houses purchased in Sacramento and Stockton. **PAUL BRIDGE PLEADED GUILTY TO A VIOLATION OF THE REAL ESTATE SETTLEMENT PROCEDURES ACT.** Both brothers testified at the trial of Mr. Blanford.

JOHN NGO, 27, OF DUBLIN, PLEADED GUILTY to lying under oath before a federal grand jury. Between **September 2001 and May 2006**, while working as a Senior Loan Coordinator at Long Beach Mortgage, he received in excess of \$100,000 in checks and bank transfers from a mortgage broker in order to ensure that fraudulent loan applications were processed and funded. In September 2007, Ngo testified falsely under oath before a federal grand jury investigating the mortgage fraud scheme in the San Joaquin County area that the broker had not given him any money. Ngo also testified at the Blanford trial.

IFTIKHAR AHMAD, 36; MANPREET SINGH, 24; AND JOSE SERRANO, 44, ALL OF STOCKTON, were indicted on October 25, 2007 for mail fraud in connection with a property flipping scheme involving inflating home values. Messrs. Ahmad and Serrano were also charged with money laundering. **Between 2003 and 2005**, the defendants engaged in a mortgage fraud scheme primarily in the Stockton area. Mr. Ahmad, through **I & R INVESTMENT PROPERTIES**, fraudulently sold 10 houses to straw buyers, obtaining in excess of \$1.5 million.

All three pleaded guilty to felony offenses. The mortgage loans on the properties involved in the scheme were arranged by the Bridge brothers, through Long Beach Mortgage.

William Bridge was sentenced in April 2010 to **21 months in prison and was ordered to pay \$1,056,700 in restitution.** Paul Bridge was sentenced in August 2010 to **36 months of probation.** John Ngo was sentenced in September 2010 to **nine months in prison.** Iftikhar Ahmad was sentenced in February 2011 to **36 months in prison and was ordered to pay \$382,750 in restitution.** Jose Serrano was sentenced in November 2008 to **15 months in prison and ordered to pay more than \$219,000 in restitution.** Manpreet Singh was sentenced in February 2009 to **60 months of probation and ordered to pay \$163,500 in restitution.** (*usattycaed91912*)

MORAL

Noticed two things: 1- *A conviction for violating RESPA. Makes you want to consult us to verify no RESPA violation, right?* 2-*Some of these loans go back to 2001. ELEVEN YEARS AGO.* Seems like Sacramento is a very hot place this time of year.

CALIFORNIA ATTORNEY GENERAL INDICTS FOUR MORE FOR MORTGAGE FRAUD

FACTS

On September 20, 2012, Attorney General Kamala D. Harris announced the arrest of four suspects who have been charged with securities fraud, conspiracy and elder abuse for operating a Ponzi scheme that bilked dozens of investors of over \$2.3 million.

The arrest declaration **ALLEGES THAT GOLD COUNTRY LENDERS, A REAL ESTATE COMPANY IN GRASS VALLEY**, engaged in a pattern of theft and fraud-related crimes for more than eight years. Investor funds were used to make interest payments to earlier investors or for projects in which the company's owner had a financial interest.

PHILIP LESTER, 65, AND ELLEN LESTER, 65, WHO ARE MARRIED, surrendered to custody on Thursday in Riverside County, and Susan **LAFERTE, 58, AND JONATHAN BLINDER, 58, WERE ARRESTED ON THURSDAY IN NEVADA COUNTY**.

Philip Lester, CEO of Gold Country Lenders, and Laferte, the firm's CFO, are being **charged with 66 felony counts of elder abuse, securities fraud and conspiracy**. Laferte is Philip Lester's sister. They were booked at the Riverside County Jail and the Nevada County Jail, respectively, with bail set at \$600,000 each.

Ellen Lester is being charged with two felony counts of conspiracy and securities fraud and was booked at the Riverside County Jail with bail set at \$50,000. Blinder is charged with four felony counts of securities fraud and was booked at the Nevada County Jail and was released on bail.

From **January 2003 to June 2011, Gold Country Lenders sold securities on specific real estate development projects**, promising investors annual returns of 8 to 12 percent. These investments were supposedly secured by a first or second deed of trust on the property. In fact, some of the promised deeds of trust were never recorded, while others were recorded but subordinate to other loans, or were diluted by the repackaging and overselling of shares.

The arrest affidavit alleges that investors were not told that Philip Lester had a partnership interest in some of the development projects he sold to investors, or that some of the land targeted for development had significant toxic waste issues. Many of the victims are elderly and had known and trusted the defendants for many years.

Unbeknownst to investors, their investment funds were used to make interest payments to earlier investors or for purposes other than the development project they had invested in. For example, victims' funds were diverted to purchase and operate the Auburn Valley Country Club, a prestigious golf course and clubhouse where the Lesters resided.

Agencies that assisted in serving arrest warrants include the Grass Valley Police Department, the Nevada County Sheriff's Office, the Riverside County Sheriff's Office and the **DEPARTMENT OF CORPORATIONS**. (*caag92112*)

MORAL

You may ask why I am highlighting the Department of Corporations. It is to remind everyone that all the government agencies including the DRE and the DOC are cooperating with state and federal prosecutors and law enforcement when in the course of their investigations or audits they believe criminal fraud may have occurred. So if you are scheduled for an audit or have had one and any findings indicate fraud, I suggest you contact us now to determine what the exposure may be as opposed to later when you might find out the hard way

MASSACHUSETTS REAL ESTATE ATTORNEY CONVICTED OF MORTGAGE FRAUD

FACTS

On September 20, 2012, MARC D. FOLEY, 46, a real estate attorney formerly operating a real estate practice in Needham, Massachusetts was convicted in a Boston federal court on charges of wire fraud and money laundering in connection with fraudulent mortgage loans.

Marc D. Foley, 46, was **convicted by a jury on 33 counts** of wire fraud and five counts of money laundering.

Evidence presented during the **seven-day trial** showed that in **December 2006 and January 2007**, Foley participated in a scheme **to defraud six mortgage lenders in connection with \$4.9 million in real estate loans for the purchases of 24 condominium units** in Dorchester. The evidence showed that when Foley and an associate acting under his direction closed the loans, documents sent to the mortgage lenders falsely represented that funds ranging from \$9,300 to \$39,000 had been collected at the closings from the borrowers. In actuality, the borrowers made no down payments and paid no funds at the closings. Foley entered into an undisclosed agreement with the seller to subtract from the seller's proceeds all the funds that were reported to the lenders as coming from the borrowers and that Foley used various other means to conceal from the lenders that the borrowers had provided no funds for the purchases.

United States District Judge Richard G. Stearns scheduled sentencing for November 27, 2012. Foley faces up to **20 years in prison**, to be followed by three years of supervised release, and a \$250,000 fine on each of the wire fraud counts. He also faces up to **10 years' imprisonment**, three years of supervised release, and a fine of \$250,000 on each money laundering count (*usattyma92012*)

MORAL

Four years of high school, four years of college, three years of law school. 11 years of formal education. Then sitting and taking the state bar exam. You wonder what makes a person do it with that much formal education and a professional license.

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TOTAL OF 51 INDICTED AND CHARGED WITH MORTGAGE FRAUD IN NORTH CAROLINA

FACTS

On September 21, 2012, the Charlotte, North Carolina U. S. Attorney announced nine defendants were charged in the latest takedown in the Operation Wax House mortgage fraud investigation in the Western District of North Carolina.

A second superseding indictment in the Western District of North Carolina **charging six defendants with federal offenses including mortgage fraud conspiracy, bank bribery conspiracy, money laundering conspiracy, and wire fraud** was returned by a federal grand jury sitting in Charlotte on September 19, 2012, and was unsealed **on September 21, 2012** in U.S. District Court. *Three additional defendants were charged separately by criminal bills of information accompanied by plea agreements.*

The mortgage fraud and bank bribery conspiracies alleged in the superseding indictment represent part of an ongoing investigation, Operation Wax House, conducted by the FBI and IRS-CI into mortgage fraud targeting the Mecklenburg and Union County communities of North Carolina's Western District.

According to allegations contained in the charging documents, from about **2006 through about 2007**, a mortgage fraud cell was operating in Union and Mecklenburg Counties in North Carolina, primarily targeting the neighborhoods of Providence Downs South, Woodhall, Chatelaine, Firethorne, Piper Glen, and Stratford on Providence. Operations of the mortgage fraud cell, according to the charges, began when a **promoter would agree with a builder to purchase a property at the "true price."** **The cell would then arrange for a buyer to purchase the property at an inflated price.** In most circumstances, the buyer would agree to purchase the property in his or her own name and sign whatever documents were necessary, in exchange for a hidden kickback. The builder would sell the property at the inflated price, the lender would make a mortgage loan on the basis of that inflated price, and the difference between the inflated price and the true price would be extracted at closing and distributed among the conspiracy, according to the allegations contained in the indictment.

Individuals and entities participating in the alleged mortgage fraud activities included promoters, mortgage brokers, lawyers, real estate agents, builders, and buyers. The bill of indictment also describes a bank bribery conspiracy to bribe a bank insider to provide false verifications of deposit and an embezzlement scheme by **ATTORNEY MICHELLE MALLARD** from her trust account.

The nine defendants bring to a total of 50 the number of individuals charged to date in connection with Operation Wax House. The six charged in the superseding indictment are:

CHRIS T. BELIN, 33, OF SUMPTER, SOUTH CAROLINA, is charged with mortgage fraud conspiracy and money laundering conspiracy. Belin participated as a real estate agent and promoter in the scheme. Status: To report for arrest and initial appearance.

JAMES E. FINK, 42, OF WAXHAW, NORTH CAROLINA, is a builder involved in the scheme and is charged with mortgage fraud conspiracy and money laundering conspiracy. Status: Expected to appear for initial appearance upon a summons.

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JIMMY HITCHCOCK, 41, OF RALEIGH, is charged with mortgage fraud, bank bribery, and money laundering conspiracies. He was a promoter in the scheme. Status: Currently in federal custody pending detention hearing.

MITZI JACKSON, 39, OF CHARLOTTE, A BANK INSIDER, is charged with mortgage fraud conspiracy and bank bribery conspiracy. Status: To appear for initial appearance upon a summons.

MICHELLE V. MALLARD, A/K/A MICHELLE V. CRAWFORD, 45, OF MONTGOMERY, ALABAMA, AN ATTORNEY involved in the scheme, is charged with mortgage fraud and money laundering conspiracies and wire fraud. Status: Scheduled to appear for arraignment upon a summons.

COLEY SCAGLIARINI, 38, OF CHARLOTTE, is charged with mortgage fraud conspiracy and money laundering conspiracy. Scagliarini was a mortgage broker involved in the scheme. Status: Released following arrest and initial appearance.

The **three defendants charged by criminal bills of indictment and who have agreed to plead guilty** to the charges are:

ARKETA BANKS, 31, OF SYLVA, NORTH CAROLINA, a buyer in the scheme, was charged with mortgage fraud conspiracy. Status: To appear for initial appearance upon a summons.

JEFFREY VIEGAS, 38, A BUILDER FROM CHARLOTTE, was charged with bank fraud. Status: To appear for initial appearance upon a summons.

BONNETTE BRADLEY, 44, FROM CHARLOTTE, who participated as a broker in the scheme, was charged with bank fraud. Status: To appear for initial appearance upon a summons.

The mortgage fraud conspiracy charge in the indictment carries a maximum **prison term of 30 years**. The bank bribery conspiracy charge carries a maximum term of five years in prison. The money laundering conspiracy charges carries a maximum term of 20 years in prison and the wire fraud charge carries a maximum term of 20 years in prison. The mortgage fraud conspiracy charge in the bills of information carries a maximum term of five years in prison.

The charges contained in the superseding indictment are merely accusations, and the defendants are presumed innocent unless and until proven guilty. In addition, the guilty plea of any other person is not relevant to the guilt of any indicted person.

The names and case numbers of the defendants charged in Operation Wax House are listed below, organized by their alleged role in the scheme.

Attorneys and Paralegals

Crawford/Mallard,	Michelle	3:11cr374
Gates,	Christine	3:09cr100
Norwood,	Kelli,	3:09cr162
Rainer,	Demetrius	3:08cr239/241
Smith, Troy,		3:08cr264

Bank Insiders

Brown,	Jamilia,	3:10cr124	
Eason,	Danyelle,	3:10cr116	
Henson,	Vic.	F.,	3:10cr124
Jackson,	Mitzi,	3:11cr374	
Ramey, Bonnie Sue,	3:10cr124		

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Builders and Sellers

Fink,	James,	3:11cr374
Jackson,	Jennifer,	3:09cr241
Smith,	Kelvis,	3:12cr238
Viegas,	Jeffrey,	3:12cr298
Wood, Gary, 3:09cr208		

Facilitators and Financiers

Hickey,	Denis,	3:09cr103	
McClain,	Landrick,	3:10cr124	
Panayoton,	Sherrill,	3:11cr176	
Taylor,	Alicia	Renee,	3:10cr124
Wilson, Willard, 3:09cr161			

Buyers

Banks,	Arketa,	3:12cr297
Hillian,	Kirk,	3:12cr83
Mathis,	Charles,	3:10cr1
Mobley,	Sarena,	3:10cr124
Richards,	Dan,	3:10cr119
Tyler, Glenna, 3:11cr200		

Mortgage Brokers

Bradley,	Bonnette,	3:12cr299
Clarke,	Linda,	3:10cr120
Flood,	Erica,	3:10cr124
Scagliarini,	Coley,	3:11cr374
Staton,	Walter,	3:10cr113
Woods, Joseph, 3:09cr178		

Real Estate Agents

Belin,	Chris,	3:11cr374
Clark,	Christina,	3:09cr44
Wood, Gary, 3:09cr208		

Notary Public

Willis, Anthony, 3:09cr218

Appraiser

Darden, Clinton 3:10cr108

Promoters

Carr,	Stephen,	3:10cr124
Clarke,	Reuben,	3:10cr120
Coleman,	Gregory,	3:10cr118
Hitchcock,	Jimmy,	3:11cr374

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Jones,	Tyree,	3:10cr230
Marshall,	Michael,	3:07cr283
McPhaul,	Elizabeth,	3:10cr114
Perry,	Kim,	3:10cr25
Phillips,	Rick,	3:10cr115
Sharreff-El,	Drew,	3:10cr124
Sherald,	Kiki,	3:10cr117
Simmons,	Aaron,	3:09cr240
Snead,	Todd,	3:10cr124
Staton, Lisa,		3:10cr113
<i>(usattwenc92112)</i>		

MORAL

I don't know about you. BUT the U.S. Atty said 50 and I count 51. Notice how the prosecutors are coming more and more after the straw buyers?

WASHINGTON STATE SUPREME COURT HOLDS MERS CANNOT FORECLOSE ON HOMEOWNERS AND OREGON MAY SOON FOLLOW

FACTS

The Washington State Supreme Court has ruled unanimously that lenders cannot foreclose on homeowners in the name of the Mortgage Electronic Registration Systems Inc. The Court found the MERS did not meet Washington's definition of a beneficiary and could not foreclose on behalf of a lender that holds the mortgage note.

“Simply put, if MERS does not hold the note, it is not a lawful beneficiary.”

The Oregon Supreme Court is also considering whether MERS can be a beneficiary under Oregon law. The Oregon Court of Appeals ruled in July 2012 that lenders could not use MERS to skirt state law requiring that all mortgage sales be recorded in county offices before launching out-of-court foreclosures. *(oregonlive.com81712)*

MORAL

Only in California does MERS get away with it since the Supreme Court ruled that a Deed of Trust is not a mortgage as defined in the Civil Code!

IN TACOMA, WASHINGTON FORMER VICE PRESIDENT OF PIERCE COMMERCIAL BANK PLEADS GUILTY TO MORTGAGE FRAUD

FACTS

On September 18, 2012 a former senior vice president and loan officer at Pierce Commercial Bank pleaded guilty to a mortgage fraud scheme that resulted in the collapse of the bank. **SHAWN L. PORTMANN, 40**, pleaded guilty to conspiracy to make false statements in loan applications and to make false statements to the Department of Housing and Urban Development (HUD), and one count of making a false statement in loan applications.

Under the terms of the **plea agreement, both Portmann's attorney and prosecutors will recommend a sentence between 10 and 14 years in prison** when sentenced by U.S. District Judge Benjamin H. Settle on January 28, 2013.

Between 2004 and 2008, Portmann and the other defendants conspired to submit false documents within various loan documents and applications. **They falsified information about the borrowers' qualifications as well as their intention to reside in the homes being financed.** Based on a review of a sample of loans, the co-conspirators caused more than 270 loans that contained false and fraudulent documents and information to be funded by Pierce Commercial Bank representing in excess of \$45 million in loan proceeds. More than 100 of these loan files have defaulted, causing in excess of \$10 million in loss to Pierce Commercial Bank, secondary investors and HUD. The indictment details multiple false statements included in loan documents regarding an applicant's employment, income, and intention to reside in the property. *(usattywdwa91812)*

MORAL

Here the prosecutors went back 8 years to loans that occurred in 2004.

**THE INFORMATION CONTAINED HEREIN IS NOT LEGAL ADVICE.
AN ATTORNEY SHOULD BE CONSULTED IF YOU DESIRE LEGAL ADVICE.**

SPEAKERS AND SPEAKING ENGAGEMENTS
Contact Herman Thordsen at 714-662-4990 or 888-667-8529 for
Registration information

DATE:	OCTOBER 3, 2012
TIME:	6-9 P.M.
SUBJECT:	CONSUMER FINANCIAL PROTECTION BUREAU AUDIT PROCEDURES ATTENDEES WILL RECEIVE A CFPB AUDIT MANUAL
LOCATION:	OLD SPAGHETTI FACTORY RANCHO CUCAMONGA, CA
COST:	
SPONSOR:	INLAND EMPIRE CHAPTER, CALIFORNIA ASSOCIATION OF MORTGAGE PROFESSIONALS
COMMENT:	OPEN QUESTIONS FROM THE ATTENDEES INCLUDING FORECLOSURE ISSUES, DEVIANCIES AND DEBT FORGIVENESS TAXATION
REGISTRATION	INLAND EMPIRE CHAPTER-CONTACT DAWN CYCHNER (626) 653-1800

THORSDEN Law Offices is a full service law firm with legal experience of its attorneys spanning over 54 years, the last 22 of which are at the exact same location. 6 Hutton Centre, Suite 1040, Santa Ana, California.

The firm attorneys represent numerous clients in many areas of law including Personal Injury, trusts and wills for asset protection, criminal white collar defense, defending against CALIFORNIA DRE, HUD/FHA and FDIC accusations, copyright and trademark protection, bankruptcy, defending civil suits against loan originators that are sued for repayment of losses on mortgage loans, mortgage fraud defense and general real estate matters. Among others we are counsel to lenders, realtors, mortgage brokers in California and nationally. We are counsel to state trade associations in California, Nevada and Arizona.

Mr. Thordsen is a panel attorney for the Los Angeles Police Protective League, has been a member of the Advisory Board of the Mortgage Banking and Real Estate Appraisal Programs at California State University, Fullerton as well as the California Department of Real Estate Solicitation Task Force Committee and the California Department of Motor Vehicles Anti-Fraud Task Force.

He has been a speaker on HUD audits before the Clark County Bar Association, Las Vegas Nevada and the Nevada Association of Mortgage Brokers Education Committee as well as a guest speaker on mortgage fraud. He has been a guest speaker at the National Compliance Summit held in Las Vegas, Nevada updating the attendees on "Third Party Mark-ups" and the status of employment laws and regulations against brokers, lenders and title companies that misclassify loan officers and others as independent contractors to avoid paying minimum wage and overtime. **He has also been a guest speaker on RESPA issues at the National RESPA Compliance Summit in Las Vegas, Nevada.**

The Firm regularly represents HUD approved mortgagees, real estate brokers, licensees and lenders before licensing agencies such as the California Department of Real Estate, California Finance Lender section of

the Department of Corporations, HUD-FHA Mortgagee Review Board (MRB), HUD Home Ownership Centers and the California Office of Administrative Hearings. This representation includes those charged with violation of federal and state licensing laws, real estate and mortgage laws or the withdrawal of HUD approval and the threat of paying civil penalties or loan indemnification agreements to HUD.

Mr. Magyar is the firm's bankruptcy attorney as well as civil defense of lawsuits. We are able to represent you statewide with the modern electronic filings we have with the Federal Courts throughout the state of California. Mr. Magyar is well versed in defending clients before DRE administrative hearings and federal criminal matters.

We have been successful in representing clients in wage and overtime violation cases before the Division of Labor Standards Enforcement involving wage disputes including minimum wage, overtime and unemployment compensation issues.

Mr. Sean Thordsen earned his undergraduate degree from Vanderbilt University in Nashville, Tennessee. He attended Chapman University School of Law in Orange, California and is a member of the California and Nevada Bar Associations. Sean's area is in Wills and Trusts for asset protection as well as to avoid the long process of probate. He additionally represents our clients in obtaining copyrights and trademarks as well as defending those accused of violating them in federal court. In fact he earned distinction in Copyright and Trademarks at Chapman School of Law in Entertainment Law and Working with Film Makers Clinic. He aids our clients seeking copyright and trademark protection as well as contracts to protect these copyrights and trademarks particularly in the video game areas. He has been an invited speaker at SMU on tax incentives in the video game industry.

If we may serve you please contact one of our attorneys.

Herman Thordsen, Esq.

Jozef G. Magyar, Esq.

Sean Thordsen, Esq.

Our trial lawyer for personal injury cases is Alan Brown a member of the National Trial Lawyers Association. It is by invitation only to the 100 top trial lawyers in each state. We are quite proud of Alan's accomplishment and the fact that we may serve those of you that have been injured that much better.

IF YOU WOULD LIKE TO SUBSCRIBE TO THE NATIONWIDE MORTGAGE E-ALERT, PLEASE SUBMIT THE FOLLOWING INFORMATION TO "LAW

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