



**ANNUAL BOARD REPORT
FISCAL YEAR 2022-2023**

REAL ESTATE FRAUD PROGRAM

**Stephen M. Wagstaffe,
District Attorney**

**Sean Gallagher, Chief Deputy
Bill Massey, Chief Inspector**

Pursuant to California Government Code § 27388(d), the District Attorney's Office would like to report the progress our office made in deterring, investigating, and prosecuting real estate fraud crimes in our County during the 2022-2023 Fiscal Year.

Preliminarily, we wish to extend our sincere thanks to the Board of Supervisors for continuing to approve the \$3 recording fee that funds the important work of our Real Estate Fraud Unit (hereinafter "REF Unit"). We would also like to thank the Recorder's Office for their diligence in implementing the collection of the recording fees, as well as the Controller's Office for their hard work in maintaining the Real Estate Fraud Prosecution Trust Fund.

Update on the Real Estate Fraud Unit

The 2022-2023 Fiscal Year marks the sixth full year that our REF Unit has operated with funding from the \$3 recording fee. The Board of Supervisors authorized us to use those funds to cover the salary and benefits of a 100% full time Inspector dedicated to the investigation of real estate fraud cases, as well as 30% of an experienced Deputy District Attorney's salary and benefits.

Since its inception, our REF Unit's expenses have far exceeded the funds disbursed to us through the recording fee, with our Office's general budget paying the difference between the funds received and our program expenditures. Typically, this difference amounts to between \$130,000 and \$140,000. During the 2021-2022 Fiscal Year, we were fortunate that more real estate documents were recorded with the Recorder's Office, leading to a larger collection of recording fees for disbursement to our office. As a result, our Office's general budget paid a difference of around \$106,105.81 between our actual expenses and funds received through the recording fee.

For the 2022-2023 Fiscal Year, the personnel expenses of our REF Unit totaled \$294,645.70. Funds collected during the 2022-2023 Fiscal Year will not be disbursed to our Office until after the approval of this Annual Board Report. However, we expect that our expenses will, once again, exceed the funds received through the recording fee.

Since our REF Unit began, Inspector David Wilson served as our REF Inspector, but retired in August 2022 after over 40 years in law enforcement. While Inspector Wilson's retirement dealt a bittersweet blow to our REF Unit, we are excited to welcome Inspector Jonathan Collum as the new REF Inspector. Inspector Collum has been a law enforcement officer for over eight years. He comes to us with an extensive background in fraud investigations with the City and County of San Francisco at both the Controller's Office and District Attorney's Office. Inspector Collum jumped right into the work of the REF Unit, taking complaints from our community members, opening several new investigations, and authoring search warrants.

The formation of our REF Unit has enabled us to focus more fully on these important cases. Over the course of our Unit's first six fiscal years, we believe we have proven our

dedication to fighting real estate fraud, protecting our community, homeowners, ethical and hardworking realtors, as well as banks and lenders. We take great pride in our achievements so far and look forward to continuing our ongoing cases and investigations. Our REF Unit always looks for ways to improve our processes and always welcomes suggestions.

Open Court Cases

During the 2022-2023 Fiscal Year, our REF Unit handled numerous open court cases. Going into the fiscal year, our Office already had five real estate fraud cases in court. In addition, our REF Unit filed two new cases, bringing the total number of court cases to seven. Two of our REF Unit's cases went to Jury Trial during the 2022-2023 Fiscal Year, with our REF Prosecutor spending a combined total of 38 days in trial. She also attended over 20 additional court hearings in our REF Unit's cases.

We would like to provide an update on on-going cases we discussed in last year's Annual Board Report.

Defendant J. L. [docket # NF433910A]

- Defendant J. L. owned a home in Alameda County for years. He then purchased a second home in Redwood City. He attempted to refinance the Redwood City home by claiming it was owner-occupied. We alleged that J. L. submitted false documents to two lending companies to support his claim that he lived in Redwood City and not in the Alameda County home. One such document was a lease agreement showing he rented the Alameda County home to his cousin. Our REF Inspector interviewed the cousin, who said the signature on the lease agreement was not his and he never leased J. L.'s Alameda County property.
- In last year's Annual Board Report, we reported that we were in the middle of a Jury Trial that had been placed on hold due to the trial Judge's medical emergency. This year, we completed the trial in October and November 2022, successfully obtaining convictions on two felony counts of Mortgage Fraud, along with two additional felony offenses unrelated to real estate fraud. He was sentenced in December 2022, placed on probation, and ordered to serve six months in the county jail.
- Defendant J. L. was also ordered to pay restitution to one of the mortgage companies he defrauded. He is scheduled to begin participating in the County's Restitution Court in August 2023. This specialty court seeks to collect as much restitution as possible by requiring defendants to regularly report their income and expenses, adhere to a strict payment plan set by the Court, and to make regular court appearances to track their progress.

Defendant J. H. and Defendant T. M. [docket # 18-SF-014403-A&B]

- Defendant T. M. was a real estate agent, while Defendant J. H. was a real estate investor. Defendant T. M. took the 66-year-old victim out to dinner and purchased several

alcoholic beverages for her. Then, Defendant T. M. had the victim sign a Grant Deed giving her \$1.5 million home to Defendant J. H.'s company, by telling the victim it was a reverse mortgage and she would live in the home until she died. The Grant Deed said that Defendant J. H. gave the victim \$800,000. However, Defendant J. H. had only given the victim \$2,000 and a promise to give her an additional \$498,000 in the future.

- Defendant J. H. personally recorded this false deed at the Recorder's Office. One month later, he sold the property for \$997,000 to another person who then attempted to evict the victim from her home. Five years later, Defendant J. H. still has not paid the \$498,000. However, he paid Defendant T. M. over \$235,000 for her role in the scheme.
- Our REF Inspector worked this case jointly with the Redwood City Police Department. The investigation documents for this case currently exceed 6,900 pages. Defendant T. M. was convicted by plea and sentenced to State Prison in the 2019-2020 Fiscal Year.
- In last year's Annual Board Report, we reported that our REF Unit had frozen over \$25,000 cash and one piece of real property belonging to Defendant T. M. to pay the over \$1.5 million in victim restitution owed to the victims. This fiscal year, our REF Prosecutor oversaw the sale of her real property and disbursement of the proceeds and over \$25,000 cash to the victims.
- Defendant J. H.'s case proceeded to an 18-day Jury Trial in April and May 2023. Unfortunately, the trial resulted in a hung jury with 11 jurors believing him to be guilty of the charged offenses and one hold-out juror. Our REF Unit intends to re-try this case next fiscal year so that he can be held accountable for his actions. We have frozen over \$515,000 cash and approximately 20 pieces of real property belonging to Defendant J. H., which can be applied toward victim restitution upon conviction.

Defendant F. C. [docket # 18-NM-009795-A]

- Defendant F. C. is not a licensed contractor but advertised for contractor-type services. The victim hired F. C. to perform earthquake retrofitting services. The victim alleged that F. C.'s work was of poor quality and asked him to fix it, but F. C. refused. F. C. filed a small claims action demanding payment for his unlicensed work, but the Judge ruled that the victim did not owe F. C. any money. Despite this judgment, F. C. subsequently filed a mechanics lien, claiming under penalty of perjury that the victim still owed him the money that the Court ruled was not owed, affecting title to the victim's house.
- This case was scheduled for Jury Trial in January 2023. Our REF Prosecutor was prepared to try the case and successfully battled numerous last-minute attempts by the defense to postpone the trial. Defendant F. C. ultimately resolved his case by plea.
- Defendant F. C. was convicted of felony Burglary and misdemeanor Unlicensed Contracting, sentenced to serve five months in jail, and ordered to pay over \$13,000 restitution to the victim. Our REF Prosecutor is monitoring his restitution payments to evaluate him for participation for the County's Restitution Court (discussed above).

As mentioned above, our REF Unit filed two new cases this fiscal year.

Defendant A. L. [docket # 22-SF-014724-A]

- Defendant A. L. owned a home in Foster City jointly with his spouse from whom he was in the process of divorcing. Without the victim's permission, Defendant A. L. attempted to sell the home, forging the victim's signature on several documents. The victim discovered the crimes before title to the home transferred.
- In December 2022, we filed 38 felony offenses and obtained a \$350,000 arrest warrant. This warrant remains outstanding.

Defendant N. T. [docket # 23-SF-005274-A]

- Defendant N. T. submitted false or forged documents to multiple real estate and financial brokers, lenders, and investors while attempting to obtain loans secured by real property he owned in San Mateo County.
- In March 2023, our REF Unit completed our investigation, filed 36 felony offenses, and obtained a \$100,000 arrest warrant. The defendant has appeared before the court and the case is currently scheduled for a Conference on August 23, 2023.

Investigations

In addition to our open court cases, our REF Unit has numerous active investigations. During our investigations, our REF Inspector remains in regular communication with our REF Prosecutor to ensure our investigations continue to head toward the courtroom. This regular communication enables our REF Unit to determine early on whether a case warrants the continued expenditure of time and resources, so we can have an impact on real estate fraud involving the largest number of victims.

Going into the Fiscal Year, our REF Unit already had seven open real estate fraud investigations, in various stages and of varying complexity. Additionally, our REF Inspector opened six new cases during the 2022-2023 Fiscal Year, bringing the total number of open investigations handled this year to 13.

Additionally, our REF Prosecutor also provides outside assists to our anti-fraud partners, most-specifically the Contractors State License Board (hereinafter "CSLB"). In the past, several of our REF Unit's cases originated from civilian complaints to the CSLB regarding both licensed and unlicensed contractors. Our REF Prosecutor reviews all cases submitted to our Office by the CSLB to ensure all are screened for real estate fraud.

All of this has kept our REF Unit extremely busy. We consider our REF Unit's first six years a great success. We take particular pride in our accomplishments from the past year and look forward to continuing our important work in the 2023-2024 Fiscal Year.