



STATEMENT

OF

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The Miami-Dade Police Department (MDPD) has always actively handled mortgage fraud cases; even before they became endemic. Mortgage fraud cases were received and investigated by MDPD Economic Crimes Bureau (ECB) investigators whenever they were reported. Such cases were prosecuted under the State of Florida grand theft statute. However, in 2006, ECB investigators realized that reports of mortgage fraud were on the rise. ECB personnel kept an eye on this emerging trend and consulted with other law enforcement agencies to determine if they had noticed a similar increase in reports of mortgage fraud within their jurisdictions. Much to their surprise, they discovered a trend that appeared to be nationwide in scope.

Upon discussing this trend with law enforcement personnel from the State of Georgia in 2007, ECB personnel learned that they had instituted a new State law targeting mortgage fraud in an effort to contain the growing trend. ECB personnel obtained a copy of the Georgia statute and presented it to the Office of Mayor Carlos Alvarez with a request to champion the creation of a similar statute in the State of Florida.

Subsequently, the 2007 session of the Florida Legislature adopted and passed Florida Statutes Section 817.545, Mortgage Fraud. The Governor signed the bill into law which became effective October 1, 2007. The Mortgage Fraud Statute created a felony of the third degree for mortgage fraud and provides that a person commits the offense of mortgage fraud if, with the intent to defraud, the person knowingly:

- Makes any material misstatement, misrepresentation, or omission during the mortgage lending process with the intention that the information will be relied upon by a party in the mortgage lending process.
- Uses or facilitates the use of any material misstatement, misrepresentation, or omission during the mortgage lending process with the intention that the information will be relied upon by a party in the mortgage lending process.
- Receives any proceeds or any other funds in connection with the mortgage lending process that the person knew resulted from such misstatement, misrepresentation, or omission.
- Files with the clerk of the court for any county in Florida a document involved in the mortgage lending process which contains a material misstatement, misrepresentation, or omission.

The law also provides that any mortgage fraud violation is considered to have been committed in the county in which the real property is located or in any county in which a material act was performed.

Concurrently, MDPD Command Staff were briefed on the alarming increase in mortgage fraud reports that were being received at the ECB in 2007. MDPD

Command Staff and Mayor Carlos Alvarez reacted by creating the Mortgage Fraud Task Force (MFTF). The MFTF is a public/private partnership created to reduce mortgage fraud and prevent victimization of individuals and businesses through effective education, legislation, regulation, law enforcement and prosecution.

The Task Force consisted of an executive board that was responsible for policy, decision making, vision, and direction. The executive board consisted of political figures, public sector leaders, business leaders, law enforcement professionals, and prosecutors.

The task force had five (5) separate committees; each committee is responsible for an important portion of the mortgage fraud task force mission.

1. Law Enforcement Committee – this committee is responsible for the detection, investigation, apprehension and prosecution of mortgage fraud subjects and enterprises.
2. Legislative Committee – this committee was responsible for enhancing current laws, creating new laws and ordinances. All these efforts are in furtherance of the MFTF mission.
3. Regulatory Committee – this committee was responsible for enhancing and enforcing regulations on all parties involved in the mortgage transaction.
4. Business Partnership Committee – this committee was responsible for the creation and transmission of effective business practices to enhance cooperation with law enforcement and the various professions involved in the mortgage transaction. This Committee was comprised of banks, title insurance companies, realtors, appraisers, and mortgage brokers.
5. Education Committee – this committee was responsible for creating public awareness through printed literature, newspaper articles, and television reports. The committee was championed by elected officials and media representatives.

The MFTF was one of only a few created throughout the United States. However, the uniqueness boasted by the MFTF is the public/private partnership fostered. The mortgage fraud epidemic cannot be solved by law enforcement alone. A concerted global effort to attack mortgage fraud on all levels must be undertaken. The MFTF changed the way business is done, prevent those who have defrauded from ever being able to do so again, educate the public to prevent victimization, and swiftly arrest and prosecute violators of mortgage fraud.

On the law enforcement side, MDPD Command Staff assigned 18 law enforcement personnel to the newly created MFTF. The personnel consisted of a lieutenant, three sergeants, a dozen investigators, a Police Financial Investigator, and a Secretary. They were, and continue to be, tasked with handling all the mortgage fraud and real estate fraud cases reported to the MDPD. The MFTF works closely with federal and state law enforcement in their investigation of mortgage fraud cases, thereby increasing the effectiveness of the task force. To date, since the inception of the MFTF on October 1, 2007, MFTF investigators have made 239 arrests and investigated 91 cases to their conclusion. The MFTF also has outstanding arrest warrants for three individuals that could not be located after the investigation concluded. The individuals involved in mortgage fraud cover a broad range of industry insiders including attorneys, real estate agents, mortgage brokers, bank employees, and title agents to more traditional fraudsters that have no legitimate ties to the real estate industry.

MFTF investigators conduct investigations into a myriad of mortgage fraud schemes. However, the most common scheme is the use of two HUD-1 forms. In this scheme, two HUD-1 forms are produced. One form is for the legitimate price and is usually presented to the un-involved seller. The second form is for an inflated price which is submitted to the lender. When the lender provides the funds, the seller is satisfied and the fraudsters then keep the difference of the inflated amount for themselves.

An example of this scheme in which the MFTF arrested the perpetrators involved a property located in Miami Beach. This case involved two sisters, Portia and Doreen Simac. Ms. Portia Simac was the owner of Vista View Mortgage and also a licensed Mortgage Broker. Ms. Doreen Simac was not a licensed mortgage broker but was employed by her sister, Portia. Ms. Doreen Simac acted as the straw buyer in this fraud. The case involved the use of two HUD-1 forms and an over inflated appraisal from a purchase price of \$1,050,000.00 that was fraudulently raised to \$1,400,000.00. These documents were used to defraud the lender, Wells Fargo Bank. The initial sales contract on this case was forged by the subjects, Portia Simac and sister Doreen Simac. The purpose of this over inflation was to cash out approximately \$350,000.00. The Simacs were able to perpetrate this fraud using two different HUD-1 documents: the first HUD-1 had the accurate amount of \$1,050,000 that was provided to the sellers and the second HUD-1 had the inflated amount of \$1,400,000 that was given to the lender, Wells Fargo.

In addition, the loan application which contained Doreen Simac's information had been misrepresented to the bank, by way of stipulating that her salary was greater than what she actually earned. The information was falsified to deceive the lender into believing that Doreen Simac was a qualified buyer.

Portia and Doreen Simac made material misrepresentations to the bank, in order to deceive the lender into approving a loan for a higher amount than what the

property was worth. After an extensive investigation was conducted, the investigator discovered enough supporting evidence for the issuance of an arrest warrant for both subjects - Portia and Doreen Simac in December 2007.

In January 2008, Ms. Doreen Simac was located and arrested and in February 2008, Ms. Portia Simac was arrested. In 2009, Ms. Doreen Simac entered into a plea agreement with the following court mandated disciplinary conditions:

- Enter a plea of guilty as to grand theft of the first degree, the court adjudicated her as guilty, two years of community control, followed by three years of probation.
- Pay investigative cost in the amount of \$3,500
- Perform 100 community service hours at a rate of no less than 8 hours a day.
- Cooperate with law enforcement agencies conducting investigations
- Surrender all licenses issued by the State of Florida within 30 days of the plea
- As a special condition of the plea Ms. Simac shall not work for or as a mortgage broker, real estate agent/company, lending company, title agency, or credit company.

Ms. Portia Simac, the individual who orchestrated the fraudulent deal, remains incarcerated on additional unrelated federal drug trafficking charges. As of this date sentencing has not been set.

This case is representative of the most common mortgage fraud scheme. However, fraudsters are constantly developing new schemes and the MFTF investigators are aware and alert to the possibility of encountering previously unknown schemes. Most recently, MFTF has investigated several "foreclosure rescue" schemes. These schemes mainly consist of having the victim pay the fraudster money upfront while the fraudster promises to work out a favorable reduced rate mortgage for the victim. Needless to say, the fraudster does nothing more than take the victim's money and in many cases, the victim loses his home to foreclosure.

The Law Enforcement Committee of the MFTF continues to monitor the emerging mortgage and real estate fraud trends and the Task Force Private Sector Partners remain available should their service be required to address emerging trends through community education and legislative action.