



**Office of the District Attorney  
Alameda County**

Pamela Y. Price  
District Attorney

AGENDA \_\_\_\_\_ September 19, 2023

September 1, 2023

Honorable Board of Supervisors  
County of Alameda  
1221 Oak Street, Suite 536  
Oakland, CA 94612

**SUBJECT: RECEIVE AND REVIEW DISTRICT ATTORNEY'S ANNUAL  
REPORT ON REAL ESTATE FRAUD PROSECUTIONS**

Dear Board Members:

**RECOMMENDATION**

Receive and review the District Attorney's annual report on Real Estate Fraud prosecutions pursuant to California Government Code § 27388(d).

**SUMMARY/DISCUSSION**

California Government Code § 27388(d) requires the District Attorney to provide an annual report to the Board of Supervisors. The purpose of the report is to detail the work of the District Attorney's office in deterring, investigating, and prosecuting real estate fraud crimes.

The District Attorney hereby submits its annual report on real estate fraud prosecutions for Fiscal Year 2022-2023 and requests the Board receive and review that report.

**FINANCING**

This request does not result in an increase in net County cost in current or future years.

**VISION 2026 GOAL**

The Real Estate Fraud Program meets the 10x goal pathway of a **Crime Free** County in support of our shared vision of **Safe and Livable Communities**.

Sincerely,

DocuSigned by:

*Pamela Y. Price*

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PAMELA Y. PRICE

District Attorney



# Office of the District Attorney Alameda County

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District Attorney  
alcoda.org

## **Report by the Alameda County District Attorney Real Estate Fraud Prosecution Trust Fund**

**July 1, 2022 – June 30, 2023 (FY 2022-2023)**

### **Introduction**

California Government code § 27388(d) requires the district attorney to provide an annual report to the Board of Supervisors. The purpose of the report is to detail the work of the district attorney's office in deterring, investigating, and prosecuting real estate fraud crimes. This report is made pursuant to California Government Code § 27388(d) and is provided to the Alameda County Board of Supervisors to highlight the work of the Alameda County District Attorney's Real Estate Fraud Unit (hereinafter "the Unit") for Fiscal Year 2022-2023 (hereinafter "FY 2022-2023").

### **Summary**

The Unit is devoted to the investigation and prosecution of real estate fraud in Alameda County. The Unit currently consists of eight employees: three Deputy District Attorneys (two work part-time); three District Attorney Inspectors (whose sole duty is to actively investigate cases involving real estate fraud); one forensic accountant; and one victim advocate.

In FY 2022-2023, The District Attorney claimed \$2,034,532 against the Real Estate Fraud Prosecution Trust to cover the operating expenses of the Unit.

In FY 2022-2023, the Unit actively investigated thirty-nine (39) new complaints of various types of real estate fraud and charged seven cases. The Unit also undertook twenty-one (21) investigations and prosecutions that were held over from the previous fiscal year.

Based on research conducted and evidence gathered by the Unit, we have given extra attention to Real Estate Fraud committed against elders and dependent adults. We continue to work with the County Social Service Agency, Adult Protective Services, and the F.A.S.T. team (Financial Abuse Specialist Team), who respond to financial crimes against elders and dependent adults.

### **Investigation and Prosecution of Real Estate Fraud**

The Unit consistently and aggressively manages its resources to deter, investigate, and prosecute Real Estate Fraud crimes. Prevention has been a key focus of the Unit since

2018. Members of the team are committed to community outreach to educate and increase awareness of common real estate fraud scams to prevent victimization.

The Unit is a “vertical” prosecution unit, meaning the Unit handles all cases from initial referral, through investigation, charging, prosecution, and recovery of restitution for victims or civil compensation. Each case involves a team comprised of a prosecutor, a sworn investigator, a victim advocate, and, when appropriate, a forensic accountant/examiner. A typical real estate fraud case can require hundreds of hours to investigate, research, and prosecute, and many involve thousands of pages of discovery.

Below is the typical cycle of a real estate fraud case:

- 1) **Referral:** Outside referrals come in from the public, law enforcement agencies, the Recorder’s Office, and other community-based organizations. All referrals are initially reviewed by the Deputy District Attorney who leads the Unit to determine whether a full investigation is warranted. If it is determined that the alleged conduct does not constitute a crime or an unfair business practice or that there is some legal barrier to pursuing the matter, such as the expiration of the applicable statute of limitations, the referral generally will not proceed forward to a full investigation. In such cases, a letter is sent to each complainant with an explanation of why the case is not proceeding to a full investigation. If appropriate, the California Department of Real Estate or Adult Protective Services may offer some additional assistance outside of the court process. Cases that are determined to be viable are assigned to a DA Inspector for full investigation.
- 2) **Investigation:** Once assigned for a full investigation, the DA Inspector begins the process of interviewing victims and witnesses, gathering evidence, both informally and via search warrants, and writing investigation reports.
- 3) **Charging:** When the investigation is complete, one of the Unit’s Deputy District Attorneys will review the case for possible charges.
- 4) **Prosecution and Conviction:** After criminal charges have been filed, the Deputy District Attorney prosecutes the cases in court. Our goal is always to seek a just sentence upon conviction in every case and to recover complete and full restitution for every victim. Sometimes it takes months or even years to filter through the court system. We often insist that the defendant prepay full or partial restitution as a precondition to the entry of a plea bargain to ensure that the victim is made whole. The recent amendment to Penal Code section 1203.1(a) which reduced the maximum period of probation from five to two years for felonies makes it more difficult for victims to collect full restitution from financial abusers before the end of their probationary period. At the end of the two years any outstanding restitution that is owed to the victim becomes a civil judgment. At that point the victim would have to hire an attorney to enforce the judgment. Since Penal Code section 1203.1(a) was enacted, the Unit has spent much more

time handling restitution hearings and monitoring restitution payments to make sure that our victims receive as much restitution as possible before probation ends.

- 5) **Victim Support:** Our victim advocate keeps victims apprised of the status of their case, helps them to obtain relief in the form of protective orders, and directs them to other services. She also actively refers victims to Adult Protective Services, Legal Assistance for Seniors, Housing and Economic Rights Assistance, and other community-based organizations.
- 6) **Restitution:** Following conviction, the Unit continues to monitor repayment by the defendants through regular restitution progress reports.

### **Factors Driving Real Estate Fraud in Alameda County**

The types of real estate fraud cases we see are quite diverse. One recent scam that we are making efforts to alert the public to targets people who are in escrow to buy a home. The home buyer receives a spoof email purporting to come from the escrow agent instructing the home buyer to wire funds to an account controlled by the perpetrator. Our office plans to produce a public service announcement to alert the public to this scam and others perpetrated via spoof emails.

Many real estate fraud crimes are accomplished through forged real estate documents filed with the County Recorder in an attempt to fraudulently obtain an interest in real estate. Others occur when a person who provides services to the victim gains the victim's trust and convinces them to sign documents that give the perpetrator control over the victim's properties.

### **Highlights of Our Program During FY 2022-2023**

#### 1. FinCEN (Financial Crimes Enforcement Network)

FinCEN is a bureau of the U.S. Department of the Treasury which collects financial transaction data and disseminates that data for law enforcement purposes. The Unit received access to the FinCEN database during FY 20-21. Access to this database has allowed us to gather information related to potential real estate fraud perpetrators and cases in Alameda County. Our Deputy District Attorneys review thousands of reports that are required to be filed under the BSA related to financial crimes

#### 2. Collaboration with Other Agencies

The Unit routinely assists local law enforcement agencies, including the FBI, to investigate suspected real estate fraud within the county's jurisdiction. The Unit's lead Inspector trains detectives who investigate real estate fraud cases. He writes investigative plans and provides search warrant templates to law enforcement agencies throughout the county.

In December, one of the Deputy District Attorneys in the Unit joined the California District Attorneys Association's Anti-Money Laundering and Illicit Finance Committee to

ensure the Unit had access to collaboration opportunities with state agencies and other county DA's.

### 3. Community Engagement

Our Real Estate Fraud Hotline serves as a valuable resource for Alameda County residents who believe that they have been victimized. The hotline is answered by Alameda County District Attorney's Office administrative staff who refer residents to the appropriate DA or DA Inspector. During FY 22-23 The Unit fielded hundreds of calls from Alameda County residents and concerned citizens who either believed that they or a loved one were victims of real estate fraud or who wanted information on how to prevent real estate fraud. We also kept in constant communication with the victims of our investigations and charged cases.

On 9/29/22, our victim witness advocate, along with a volunteer, attended and staffed a booth at the Senior Health Faire at the Oakland Zoo. Approximately 100 people attended and received informational materials on consumer fraud, real estate fraud, and other scams.

One of our Deputy DAs did a presentation on real estate fraud scams on 10/26/22 at the Senior Resources Fair at the Northbrae Community Church.



DDA Ken McCormick speaking to seniors about real estate fraud scams.

## **Resolved Cases**

### **PEOPLE v. ANDREA AMDOTTA SMITH and MATTHEW STEVEN GARDNER (resolution as to one co-defendant)**

Pastor B. knew Co-defendant Smith from church functions. Smith gave B. a book she wrote about investing in real estate and told him she could arrange loans for people who need money to close real estate deals. Starting in January 2018 Smith convinced B. to invest in several deals. Later Smith introduced B. to her business partner, Gardner, and identified him as Warren Buffet's nephew. Gardner told B. he needed \$80,000 to close a deal, and if B. gave Gardner \$80,000, he would return the initial \$80,000 plus a \$240,000 return in 20 days. Smith said if B. was not paid the money owed to him, her insurance would pay \$500,000 to ensure payment to B. B. wired \$80,000 to the account of one of Smith's businesses on April 3, 2018. Smith transferred \$40,000 to Gardner's father. In November and December 2018, Smith repaid B. a total of \$20,000 and the balance remains unpaid.

Co-defendant, Matthew Gardner entered a no contest plea with conditions that he testify against Smith and that he pay restitution in the amount of \$40,000. If he complies, he will be admitted to probation.

There are several other victims of Smith, and Gardner has agreed to provide honest testimony against her as part of his plea deal.

### **Examples of Cases Under Investigation During FY 22-23**

1. Referral from citizen, complainant. The case involves a complicated real property securities fraud of multiple properties in Pleasanton area. Losses could be in the millions. We are partnering with the FBI in this investigation.
2. Referral from Adult Protective Services. Alleged victim signed a Power of Attorney form giving alleged perpetrator (who appears to be the victim's caregiver) control over her affairs.
3. Referral from citizen. Alleged perpetrator purportedly fraudulently signed a Grant Deed as the 'attorney in fact' for the past owner without her knowledge.
4. Referral from the Alameda Co. Treasurer/Tax Collector Office. At issue is whether suspect forged his deceased mother's signature on Quitclaim Deeds.
5. The suspect impersonated lawyers and allegedly forged the signatures of two judges in an attempt to gain interest in various properties throughout the Bay Area. Additionally, the suspect filed false and fraudulent documents with the County Recorder's Office to further the scheme. Some of the suspect's writings are consistent with those of a "sovereign citizen."

### **Examples of Active Filed Cases**

6. Referral from citizen, brother of victim. Def. falsely filed documents at the Recorder's Office asserting she was married to victim at the time of his death. She subsequently sold the property, denying the asset to the heirs designated in victim's estate planning. For the arraignment on the Information, defendant failed to appear and the

court issued a \$100k warrant for her arrest. Now the defendant has been rearrested, and the trial is set for 7/10/23.

7. Referral from Alameda Co. Office of the Auditor Controller. After a mechanics lien foreclosure civil trial, victim lost his home in San Leandro. Once the lien was paid off in foreclosure, there was an excess of funds. The County of Alameda Office of the Auditor-Controller holds, and publishes on the internet, the unclaimed funds awaiting the owner to claim the funds. It is alleged that defendant submitted fraudulent affidavits and fraudulent identification portraying himself as victim to claim the funds. It also alleged that defendant attempted the same fraudulent scheme with a different victim. The defendant is charged with multiple felonies for grand theft, attempted grand theft, identity fraud, offering false or forged documents, etc. Mr. Taylor's case remains in a Bench Warrant status.
8. This case was brought to the attention of the justice partners through the Financial Abuse Specialist Team (F.A.S.T.). After the elderly victim hired the defendant from an advertisement on Craigslist to conduct work on the victim's roof, the defendant ingratiated himself with the victim and quickly gained her trust. At the time the defendant was hired, the victim owned six different properties in the area and had considerable wealth. The defendant proceeded to take over the victim's finances, while at the same time gaining his contractor's and real estate licenses. Eventually, the defendant sold many of the victim's properties, submitting fraudulent invoices during the escrow process. Because of the defendant's actions, he gained close to \$400,000 from the victim. The defendant has been arraigned on the eight count felony Complaint and the matter is set for a pretrial hearing.
9. The defendant recorded numerous false and fraudulent documents at the County Recorder's Office in an attempt to gain title to the elderly victim's property. In addition to filing the false paperwork, defendant directed a burglary of the victim's residence and continued to harass the victim in violation of a restraining order. After the first case was charged, the defendant was released on her own recognizance with an order prohibiting her from filing additional paperwork at the Recorder's Office without permission from the judge. Despite the judge's admonishment, the defendant filed additional fraudulent documents regarding the victim's property at the Recorder's Office. Thus, a new additional felony case was filed against the defendant. A bench warrant remains outstanding.

### Accounting of Funds

#### FY 2022-2023

##### Amount of Funds Received and Expended

Beginning Trust Fund Balance:	\$10,454,862
Real Estate Document Fees Collected:	\$992,678
<b>Total Program Revenue:<sup>i</sup></b>	<b>\$11,447,540</b>
<b>Total Program Expenses:</b>	<b>\$2,034,532</b>
<b>Ending Fund Balance:</b>	<b>\$9,413,008</b>

### **Goals for FY 2022-2023**

Although the global pandemic and subsequent court closure significantly impeded our efforts to advance criminal cases, we successfully investigated and prosecuted cases throughout the fiscal year. Our Inspectors and Deputy District Attorneys are working together to thoroughly investigate prospective cases that come to our attention. Likewise, our Victim/Witness Advocates will continue to provide support and resources to complainants and victims of real estate fraud and scams. We continually work alongside law enforcement officers, Adult Protective Services, Empowering Aging (Ombudsman), and the Treasurer-Tax Collector's Office to provide innovative solutions to tackle the problem of Real Estate Fraud. We always alert the public when new scams manifest throughout the country or in California. Our goal is to use as many forms of communication as possible to prevent as many of these crimes as possible. During the next fiscal year, the Unit will increase its community outreach and online efforts to educate and provide even more services and referrals to the community than was possible during the height of the pandemic. We will also continue our efforts to ensure that victims receive restitution for the harms they suffer.

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<sup>i</sup> This number represents the fund balance at the beginning of the fiscal year plus the recording fees received during the fiscal year.