



County of Monterey

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 23-677

August 29, 2023

Introduced: 8/16/2023

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

a. Receive and accept the Annual Real Estate Fraud Report for Fiscal Year (“FY”) 2022-23 submitted by the District Attorney’s Office in accordance with California Government Code section 27388, subdivision (d).

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Receive and accept the Annual Real Estate Fraud Report for Fiscal Year (“FY”) 2022-23 submitted by the District Attorney’s Office in accordance with California Government Code section 27388, subdivision (d).

SUMMARY:

The District Attorney’s Office hereby submits its Annual Real Estate Fraud Report for FY 2022 - 23 for the Board of Supervisors to evaluate the District Attorney’s Office’s effectiveness in investigating, prosecuting, and deterring real estate fraud.

DISCUSSION:

The District Attorney’s Office received 22 real estate fraud referrals during FY 2022-23. These referrals came from multiple sources, including local police agencies, private sector professionals, and Monterey County residents. They demonstrate that real estate fraud continues to pose a risk to Monterey County homeowners and residents. The new referrals involved a variety of alleged fraud schemes, including the recording of fraudulent deeds, the fraudulent transfer of real estate, timeshare-related fraud, usurious “hard money” loans, mortgage loan fraud, unlicensed real estate activity, and elder abuse pertaining to the transfer of real estate. Finally, in FY 2017-18, the San Francisco Division of the Federal Bureau of Investigation (“FBI”) and the Monterey County District Attorney’s Office announced the creation of a new task force, the Monterey County Financial Crime Task Force (“MCFCTF”), whose mission is to identify, investigate, and prosecute individuals engaged in financial crimes, including real estate fraud. Throughout FY 2022-23, the FBI and the District Attorney’s Office have continued to work together in identifying and investigating new cases of real estate fraud on a greater scale. All cases identified in this report that were jointly investigated by the MCFCTF are marked with an asterisk (*).

New Referrals & Ongoing Investigations

Of the 22 new referrals, all 22 required investigations beyond customary file review, background checks, and legal research to analyze whether a local or statewide action may be brought that can be proven beyond a reasonable doubt, if criminal, or by a preponderance of the evidence, if civil. These cases require the investment of considerable investigative resources, including the preparation and execution of search warrants on financial institutions, homes, and

places of business, before the District Attorney can make charging decisions. Financial documents obtained in real estate fraud matters typically require analysis of the flow of funds by the District Attorney's Accountant III to determine the nature and extent of the fraud.

Prosecutions Filed in FY 2022-23

During FY 2022-23, the District Attorney's Office did not charge new criminal cases.

Ongoing Filed Real Estate Fraud Cases

The following filed cases are ongoing. Please see below for filed cases that resolved during FY 2022-23.

- ***People v. Kirsten Johnson***: The People filed a complaint alleging 10 felonies ranging from forging real estate deeds and filing false documents to grand theft and perjury. Specifically, Ms. Johnson forged two deeds transferring a house and condo from a victim to Ms. Johnson. Ms. Johnson filed those fake deeds with the Monterey County Clerk-Recorder. Later, she used her fraudulently obtained title to market the properties, stealing hundreds of thousands of dollars from an unsuspecting victim who believed he was buying a house. Ms. Johnson used those stolen funds to purchase a variety of assets, including another house. The People filed a "seize and freeze" motion pursuant to the "Aggravated White Collar Crime" provisions under Penal Code section 186.11, which allowed the People on behalf of the victims to preserve assets. This preservation included the placement of a *lis pendens* upon property Ms. Johnson purchased following the false sale. The Court granted a temporary restraining order, and the people are pursuing a preliminary injunction to preserve these assets until the end of the case, when they will be liquidated to fund restitution on behalf of the victims. A resolution of this case would also allow the victim's title to be properly restored pursuant to Penal Code section 115(e). Ms. Johnson has a prior conviction for forgery. A jury trial was set in this case for July 10, 2023 and a resolution is expected in the next Fiscal Year.
- ***People v. Julian Martinez; People v. Louis Howard; People v. Harmony Donaldson; People v. Stefanie Sockwell; People v. Keith Wongus; People v. Princeton Massey; People v. Matthew Humphreys***: On November 30, 2021, the People filed two misdemeanor charges against each of the ten Defendants affiliated with International Escapes. The People allege that Defendants advertised themselves as working for RCI Travel when in fact they were not affiliated with the popular travel provider. Further, Defendants claimed they could help get timeshare owners out of their timeshare deeds, an act that requires a license in California. All but three Defendants failed to appear, and the cases against those that appeared have resolved (see below). Warrants have been issued for the arrest of those that failed to appear should they come back to California.

Real Estate Fraud Civil Settlements and Criminal Convictions

In FY 2022-23, the District Attorney's Office obtained a misdemeanor criminal conviction in one matter, and felony criminal convictions in three actions, all involving real estate fraud, and

all affecting Monterey County residents:

- ***People v. Susan Banks-Peterson***: On January 26, 2022 the People filed two felony charges against Ms. Banks-Peterson for embezzlement and financial elder abuse pursuant to Penal Code section 368(e). The People allege Ms. Bank-Peterson stole over \$50,000 as the trustee for an elderly victim’s trust. Ms. Banks-Peterson is a real estate agent, and was involved in the sale of the victim’s home (which the victim did not consent to). Following the sale of the victim’s home, Ms. Banks-Peterson was appointed as the trustee, and made regular withdrawals for personal expenses from the victim’s trust account. Ms. Banks-Peterson pled to Felony Conspiracy and on February 8, 2023 was sentenced to 180 days in County Jail.
- ***People v. Josie Buchanan; People v. Aaron Haley; People v. Joshua Story***: On November 30, 2021, the People filed two misdemeanor charges against each of the two Defendants above affiliated with International Escapes. The People allege that Defendants advertised themselves as working for RCI Travel when in fact they were not affiliated with the popular travel provider. Further, Defendants claimed they could help get timeshare owners out of their timeshare deeds, an act that requires a license in California. These three Defendants (Josie Buchanan, Aaron Haley, and Joshua Story) appeared to answer the charges against them, and were convicted of one count each of Business and Professions Code section 10139 (practicing real estate without a license). The Defendants received the following sentences:
 - BUCHANAN, Josie: 30 days in County Jail (eligible for community service), a \$10,000 fine, and 1 year probation;
 - HALEY, Aaron: 20 days in County Jail (eligible for community service), and 1 year probation;
 - STORY, Joshua: 20 days in County Jail (eligible for community service), and 1 year probation.

Public Outreach

The District Attorney continues to engage in public outreach for purposes of detecting and identifying real estate fraud in Monterey County. Now in its eighth year, the Tri-county Real Estate Advisory Team (“REFAT”) met twice during FY 2022-23: August 11, 2022 and November 10, 2022. All of these meetings were over Zoom to encourage participation (as travel remains a barrier) but future REFAT meeting will likely be in person. REFAT meetings are organized and chaired by Monterey County District Attorney Jeannine M. Pacioni and are attended by prosecutors and investigators from Monterey, Santa Cruz and San Benito counties. Additional REFAT participants include the employees of the California Bureau of Real Estate, representatives from elected offices, local law enforcement officials and private sector professionals. Each REFAT meeting features a keynote speaker who presents on fraud trends impacting local real estate markets. A roundtable discussion follows.

Legistar File Number: 23-677

Prosecutors assigned to the District Attorney's Office's Real Estate Fraud Unit also continue to be active members of the California District Attorney Associations' Real Estate Fraud Committee, which meets several times per year.

Additionally, members of the Real Estate Fraud Unit, including attorneys and investigators have prepared a presentation on how to detect and protect against real estate fraud. This presentation has been given to residents of a nursing home, as the elderly are acutely vulnerable to fraud.

Additionally, Investigator Justin Bell presented to a group of dozens of business clients, CPAs, and bank officers on detection and prevention of fraud.

The investigation and successful prosecution, criminal or civil, of real estate fraud activity in Monterey County will continue to be resource intensive. The continued availability of revenue from recording fees is critical to the District Attorney's Office's ongoing efforts to deter, investigate, and prosecute real estate fraud cases. To the extent possible, in accordance with Government Code section 27388, subdivision (f), emphasis will continue to be placed on fraud involving the largest number of victims and individuals whose residences are in danger of, or actually in, foreclosure.

Real Estate Fraud Statistics for Fiscal Year 2022-23

New Referrals: 22

Investigations Opened: 22

Joint MCFCTF Investigations: 2

Arrests: 0

Criminal Complaints: 0

Convictions: 4

Civil Judgments and Compromises: 0

Appeals: 1

OTHER AGENCY INVOLVEMENT:

In FY 2022-23, the District Attorney's Office worked closely with various state and federal agencies to investigate and prosecute real estate fraud cases. These agencies included the Federal Bureau of Investigation, the California Department of Real Estate, and the real estate fraud units of other California District Attorney's Offices.

FINANCING:

Total cost of the program was \$534,368 for FY 2022-23. Those costs involved investigation and prosecution activities. Total funds available were \$828,391, resulting in a net county cost of \$0.00.

Revenues

Beginning Balance:	\$ 582,329
<u>FY 2021-22 Income:</u>	<u>\$ 246,062</u>
Total Funds Available:	\$ 828,391

Expenditures

Salaries & Benefits:	\$ 353,270
<u>Supplies & Services:</u>	<u>\$ 181,098</u>
Total Expenditures:	\$ 534,368
<u>Ending Balance</u>	<u>\$ 294,023</u>

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

These efforts provide for increased quality of life for our citizens and overall public safety.

Legistar File Number: 23-677

Mark a check to the related Board of Supervisors Strategic Initiatives

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

DocuSigned by:
Mirco Haag
Prepared by: 85C9BB90EB504D1 Mirco Haag, Deputy District Attorney, Ext. 7713

DocuSigned by:
Bruce Suckow
G. Bruce Suckow, Finance Manager II, Ext. 5259

DocuSigned by:
Jeanine M. Pacioni
Approved by: 9ECC0D9E7A6D4BE Jeanine M. Pacioni, District Attorney, Ext. 5470

Attachments: