



CONTACT:

Research Section
1000 Technology Drive, Suite 2130
Fairmont, WV 26554
Ph: 877-628-7674
Fax: 304-366-9095
Web: www.nw3c.org

Mortgage Fraud (July 2008)

Mortgage fraud is the intentional misrepresentation of facts by consumers or lending professionals that would cause a financial institution to either fund, purchase, or insure a mortgage loan that the entity would have otherwise denied given the correct information.

How It Happens

Sparked by the boom in the housing market mortgage fraud has significantly risen throughout the nation over the past few years. Once seen as a crime of sophistication mortgage fraud has evolved to include everyday street criminals tied to gang activity as well as highly educated professionals. With the abundance of cash poured into the housing industry criminals found these monies readily accessible by the ease in which information can be obtained in today's world be it through identity theft, simply identifying at risk homeowners, or falsifying documents. As with many types of white collar crime, mortgage fraud also occurs through many different types of elaborate schemes and derivations of tried and true tactics to net the perpetrator a cash windfall.

Air loans

Air Loans are non-existent property loans where there is usually no collateral. Typically broker invents borrowers and properties and then establishes accounts for payments and maintains custodial accounts for escrows. These brokers may also set up an office to verify the false information they have created in order to secure the loans¹

Chunking

In this type of scheme a fraudster promises to show investors how to get rich by investing in the real estate market. These unsuspecting investors have multiple loan applications submitted to various lenders without disclosing the intent to purchase other properties all the while the fraudster has promised to handle the transactions, including leasing of the investment properties. He takes a significant portion of the loan amounts as his fee and never leases the property.²

Double Sales

The filing of property records can take weeks before they are officially registered properly and this is precisely what the mortgage fraud thief is counting on in this scheme. The con artist records a deed, arranges a loan, and before those transactions show up in the computer, they file another deed and arrange another loan for the same property.³

Home Improvement Cons

In this type of scheme a contractor talks the homeowner into making costly or unnecessary repairs. The contractor loans the homeowner money for the job or steers him to a mortgage lender, and has the loan proceeds sent directly to the contractor. When the unsuspecting homeowner fails to repay the loan the subsequent foreclosure enables the contractor to take taking house or part of the sale proceeds from the home.⁴

Property/Land Flipping

"Property is purchased, falsely appraised at a higher value, and then quickly sold. What makes property flipping illegal is that the appraisal information is fraudulent. The schemes typically involve fraudulent appraisals, doctored loan documents, and inflation of the buyer's income."⁵

Nominee Loans /Straw Buyer

The identity of the borrower is concealed through the use of a nominee/straw buyer who allows the borrower to use their name and credit history to apply for a loan. After the loan is approved the fraudster walks away with the loan proceeds.⁶

Silent Seconds

The primary lender believes the borrower has invested his own money in the down payment, when in fact, it is borrowed. The buyer of a property has borrowed the down payment and has failed to disclose the second mortgage to the primary lender. The second mortgage may never be recorded in order to further conceal its status from the primary lender.⁷

Equity Skimming

"An investor may use a straw buyer, false income documents, and false credit reports to obtain a mortgage loan in the straw buyer's name. Subsequent to closing, the straw buyer signs the property over to the investor in a quit claim deed which relinquishes all rights to the property and provides no guaranty to title. The investor does not make any mortgage payments and rents the property until foreclosure takes place several months later."⁸

Foreclosure Schemes

In this type of mortgage fraud con artist appear to be helping individual home owners make it through a tough stretch when they are unable to make mortgage payments consistently but they are misleading these homeowners into believing that they can save their homes in exchange for a transfer of the deed and up-front fees. The subject profits from these schemes by re-mortgaging the property or pocketing the fees paid by the homeowner while the homeowner is left with nothing.⁹

Costs and Statistics

- The Federal Bureau of Investigation has estimated mortgage fraud cost lenders between \$946 million and \$4.2 billion in 2006.¹⁰
- An assessment released by the Financial Crimes Enforcement Network (FinCEN) revealed that suspected mortgage fraud in the United States continues to rise, and has risen 42 percent in the past year based on analysis of Suspicious Activity Reports (SARs) regarding suspected mortgage fraud. SARs concerning mortgage fraud rose to 52,868 reported cases in 2007 from 37,313 reported cases in 2006.¹¹
- The following statistics for mortgage fraud during fiscal year 2007 include 1204 pending FBI Mortgage Fraud investigations. This number is up 47% when compared to fiscal year 2006 and up 176% from fiscal year 2003. Of these 1204 pending investigations, 56% involve losses that exceed one million dollars.¹²

Mortgage Fraud Types				
Fraud Classification	Mortgage Origination Year			
	2007	2006	2005	2004
Applications	60%	60%	65%	65%
Tax and Financial Statements	20%	21%	20%	25%
Verifications of Deposit	26%	21%	18%	16%
Appraisals/Valuations	16%	16%	20%	22%
Verifications of Employment	12%	10%	11%	13%
Escrow/Closing	14%	10%	11%	11%
Credit Reports	9%	12%	8%	9%

¹³ <http://www.marisolutions.com/pdfs/mba/mortgage-fraud-report-10th.pdf>

Mortgage Fraud SARs	
Fiscal Year	SAR Submissions
2007	46717
2006	35617
2005	21994
2004	17127
2003	6936
2002	5609
2001	4210
2000	3245
1999	2934

¹⁴ <http://www.marisolutions.com/pdfs/mba/mortgage-fraud-report-10th.pdf>

Examples/Case Studies

- Kevin G. Wiggins, 41, of Ellenwood who orchestrated a multimillion-dollar mortgage fraud by getting inflated loans for dilapidated homes was sentenced to eight years and four months in federal prison. Wiggins, 41, must pay almost \$6.5 million in restitution to 12 lenders, including Fannie Mae and a number of banks. Wiggins bought 88 houses in Atlanta's West End neighborhoods with the aid of straw buyers who obtained fraudulent loans based on corrupt appraisal information. Many homes were valued at up to \$100,000 more than they were worth. In some many instances the houses were empty shells or finished fronts with other parts of the structure in complete disrepair.

Also sentenced in the operation were appraiser Frank W. Astwood, who received three years in prison and was ordered to pay restitution of almost \$4.3 million and Lydia Wiggins Christopher who was sentenced to eight months in prison and eight months of home confinement, and order to pay restitution of \$940,000. ¹⁵

- Emmanuel "Toto" Constant, a former Haitian paramilitary leader was convicted of helping hatch a mortgage fraud scheme that cheated lenders out of \$1.7 million. As part of a plea deal a conspirator in the scheme has admitted/claimed Constant offered to broker deals to buy dilapidated properties and resell them at inflated prices while the proceeds from mortgage loans were divvied up between the participants in the scheme and never repaid. A Brooklyn jury found him guilty of one count of mortgage fraud and six counts of grand larceny. Constant now faces up to 15 years in prison.

- Brenda Rickard, 54, of Montclair, NJ and Jamila Baker³¹, of Queens Village, NY, were sentenced federal prison after orchestrating a \$29 million mortgage fraud scheme. The pair was convicted of conspiracy and six counts of bank fraud last September. Rickard received 10 years and one month in prison and Baker 12 ½ years. The women operated the scheme with the help of at least nine co-conspirators, including five straw buyers who were paid for their signatures. The defendants proceeded to fabricate loan applications and closing documents for million-dollar homes in Cresskill, Alpine and Saddle River to secure mortgages nearly more than double their worth. Restitution was order in the amount of \$12.4 million to be repaid to the victimized lender agencies.¹⁷

The Response/Current Efforts

In response to the growing prevalence of mortgage fraud within the United States the Mortgage Brokers of America (MBA) have taking steps to help foster education and research designed to help there members identify fraudulent activity and avoid the processing of fraudulent loans. One such research effort designed to foster a cooperative atmosphere between lending institutions and insurers is the Mortgage Industry Data Exchange (MIDEX). The MIDEX gives lenders and insurers the ability to research parties and determine if they have submitted or originated fraudulent loans in the past against one of the cooperating member agencies. The group has also begun to hold an annual convention to help promote awareness regarding the damaging effects of mortgage to lending institutions and subsequent neighborhoods.

MBA has also dedicated much of its time in helping law enforcement gain the resources it sorely needs to combat mortgage fraud. In the past year written requests advocating for \$31.25 million over a five year period for the FBI and Department of Justice to increase its role in the mortgage fraud arena were submitted to the House and Senate Appropriations Committees. It is believed that these funds will provide for additional field agents as well as help set up taskforces in selected areas with high incidences of mortgage fraud. In order to help law enforcement at large and reduce the time and resources expended tracking down the right person within a mortgage company to answer their questions the MBA has asked member agencies to designate one individual within each company to handle request from law enforcement.¹⁸

“For More Information” Links

- US Department of Housing and Urban Development - <http://www.hud.gov/>
- Office of Inspector General - <http://oig.hhs.gov/fraud.html>
- IRS Criminal Investigation - <http://www.irs.gov/compliance/enforcement/article/0,,id=98205,00.html>
- FBI White Collar Crime Unit - <http://www.fbi.gov/whitecollarcrime.htm>
- Federal Trade Commission - <http://www.ftc.gov/>
- Federal Consumer Information Center brochure - <http://www.govspot.com/spotlight/consumerinfo.htm>
- Mortgage Fraud Against Lenders - <http://mbafightsfraud.mortgagebankers.org/>
- MARI, Mortgage Asset Research Institute - <http://www.mari-inc.com/>

Maintenance and revisions: Adrian Mascari, NW3C Research Assistant

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Endnotes

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- ³ Mortgage Fraud is the Thing to do now. (2005, Nov 5). *Chicago Tribune*. Retrieved Dec 20, 2005, from <http://www.chicagotribune.com/news/specials/chi-mortgage-1-story,0,5744461.story>
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- ⁵ Federal Bureau of Investigation. *Headline Archives*. Retrieved September 16, 2006, from <http://www.fbi.gov/page2/dec05/operationquickflip121405.htm>
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- ¹² Federal Bureau of Investigation. *FBI 2007 Mortgage Fraud Report*. June 16, 2008, from http://www.fbi.gov/publications/fraud/mortgage_fraud07.htm
- ¹³ Tenth Periodic Mortgage Fraud Case Report to the MBA. (2008, March). *Mortgage Asset Research Institute, Inc.* Retrieved June 16, 2008, from <http://www.marisolutions.com/pdfs/mba/mortgage-fraud-report-10th.pdf>
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- ¹⁵ Georgia man sentenced in mortgage fraud scheme. (2008, July). *CNN Money.com*. Retrieved July 30, 2008, from <http://money.cnn.com/news/newsfeeds/articles/apwire/866faa62c1a4fa601749e9a8e8b9ee20.htm>
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- ¹⁷ Montclair woman and accomplice sentenced to prison. (2008, July) *The Montclair Times*. Retrieved July 30, 2007 <http://www.montclairtimes.com/NC/0/386.html>
- ¹⁸ Eighth Periodic Report Mortgage Fraud Case Report to the MBA. (2006, April). *Mortgage Asset Research Institute, Inc.* Retrieved Sept 16, 2006, from <http://www.mari-inc.com/pdfs/mba/MBA8thCaseRpt.pdf>