REPORT *of the* TEXAS RESIDENTIAL MORTGAGE FRAUD TASK FORCE 2009

Prepared by the Office of the Attorney General

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I. Introduction.

In 2007, the Texas Legislature directed the Office of the Attorney General (the OAG) to establish the state's Residential Mortgage Fraud Task Force (the "Task Force"). TEX. GOV'T CODE § 402.032(a),(b). The Task Force's purpose is to foster strategic, muti-jurisdictional partnerships that will improve state, federal, and local authorities' ability to investigate and prosecute mortgage fraud statewide. TEX. GOV'T CODE § 402.032(b). The Task Force consists of the following officials, or their designees:

- The Attorney General;
- The Consumer Credit Commissioner;
- The Banking Commissioner;
- The Credit Union Commissioner;
- The Commissioner of Insurance;
- The Savings and Mortgage Lending Commissioner;
- The presiding officer of the Texas Real Estate Commission; and
- The presiding officer of the Texas Appraiser Licensing and Certification Board.

TEX. GOV'T CODE § 402.032(c).

A. The Residential Mortgage Fraud Task Force.

Since its creation in 2007, the Task Force met several times. An important benefit of these meetings was the development of a multi-agency communications network. This network has been -- and will continue to be -- helpful to law enforcement agencies across the state for several reasons.

First, the Task Force attendees were afforded the opportunity to learn about other agencies, services various agencies offer to consumers, and resources that are available to help track, investigate, prosecute, and – ultimately - reduce mortgage fraud in Texas. Also, this network was not limited just to Texas state agencies; other entities with jurisdiction over mortgage fraud – such as the Federal Bureau of Investigation (FBI), the Dallas County District Attorney's Office, the Texas Department of Housing and Community Affairs and the Department of Housing and Urban Development's Office of the Inspector General – were invited to participate and interact with the Task Force.

The benefits of a law enforcement network became apparent almost immediately. For example, Special Agent Chris Day, a Dallas-based FBI agent, previously spearheaded the creation of what has been called the North Texas Mortgage Fraud Working Group (North Texas Group). The North Texas Group is an informal collection of law enforcement agencies with jurisdiction over residential mortgage fraud that is hosted by the FBI's Dallas office. Members of the Task Force have attended these meetings and formed solid working relationships with authorities throughout North Texas. These relationships have already resulted in the joint state and federal prosecution of at least one residential mortgage fraud scheme.

Second, the Task Force allowed the member-agencies to discuss shared challenges. The greatest challenge, obviously, is funding. But there are others.

One of the challenges is the need for an established residential mortgage fraud training curriculum. In Texas, criminal mortgage fraud investigations and prosecutions are largely handled by local police departments and prosecuted by local District Attorneys. However, the general consensus among the Task Force was that law enforcement officials at every level of government would benefit from mortgage fraud-specific training.

Finally, the Task Force discussed ways to expand the scope of their collective inquiries to encompass areas that involve less-traditional environments for mortgage-related fraud. These discussions led the Task Force to consider expanding the scope of its network to include other, non-Task Force-member agencies (such as the Texas Department of Housing and Community Affairs), and to consider other, less-traditional environments where different less recognized permutations of mortgage fraud may occur.

B. The Extent and Impact of Mortgage Fraud.

Mortgage fraud continues to be a problem throughout American communities. According to the FBI, mortgage fraud is one of the fastest-growing white collar crimes in the United States.[1]

To develop this report, the Task Force relied heavily on information developed by the Financial Crimes Enforcement Network (the Network). This Network reports that the volume of Suspicious Activity Reports (SARs)[2] that describe suspected mortgage loan fraud increased 44 percent over the previous period for the 12 months ending June 30, 2008. By comparison, all other SARs increased by only 9 percent. During this period, mortgage loan fraud was the third most reported activity in SARs[3]. This disturbing trend is illustrated further in the chart below, which describes the number of SARs reporting mortgage loan fraud in 12 month-intervals from July 1, 2002 to June 30, 2008.

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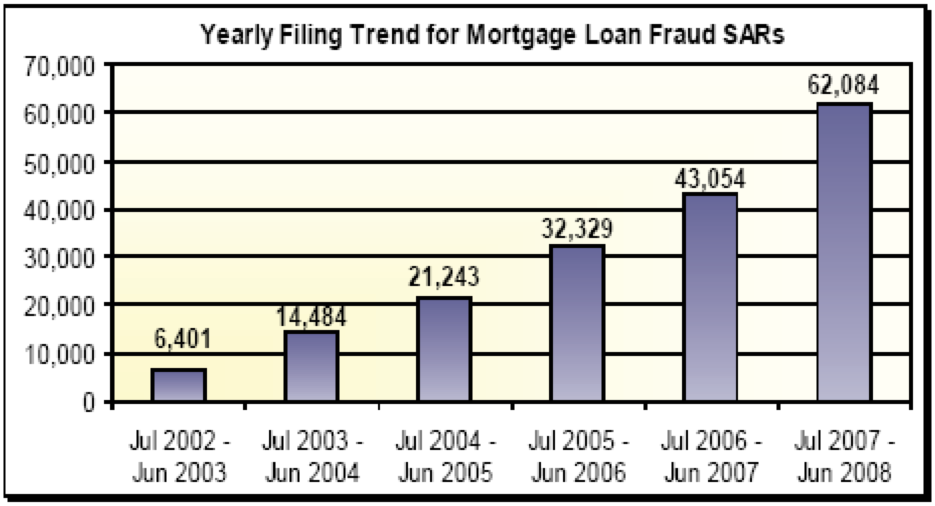
[1] *MORTGAGE FRAUD OPERATION "QUICK FLIP"*. FBI National Press Office. Press Release. 14 December 2005. http://www.fbi.gov/pressrel/pressrel05/quickflip121405.htm

[2] The purpose of SARs is to allow financial institutions that are subject to the regulations of the Bank Secrecy Act (the "BSA") to report known or suspected violations of law or suspicious activity to the appropriate authorities. SAR narratives consist of free text summaries of suspicious activity.

[3] "Filing Trends in Mortgage Loan Fraud: A review of Suspicious Activity Reports Filed July 1, 2007 through June 30, 2008." Financial Crimes Enforcement Network



Source: "Filing Trends in Mortgage Loan Fraud: A review of Suspicious Activity Reports Filed July 1, 2007 through June 30, 2008." Financial Crimes Enforcement Network. Page 7.

The Network reviewed over 1,700 SARs to reach its conclusions about the increased levels of mortgage fraud, as well as additional trends and patterns. These SARs were reviewed to determine the types of activities and participants that were reported in the narratives in an attempt to derive additional information about the perpetrators of mortgage fraud. The table below categorizes suspected fraudulent activities identified in the narratives.

ACTIVITIES REPORTED IN SAMPLED SAR NARRATIVES		
Activity	No. of SARs	% of Sampled SARs
Misrepresentation of income/assets/debts	761	43.02%
Forged/fraudulent documents	496	28.04%
Occupancy fraud	255	14.41%
Appraisal fraud	232	13.11%
ID fraud	180	10.18%
Straw buyers	100	5.65%
ID theft	61	3.45%
Flipping	48	2.71%

Source: "Filing Trends in Mortgage Loan Fraud: A review of Suspicious Activity Reports Filed July 1, 2007 through June 30, 2008." Financial Crimes Enforcement Network. Page 7. http://www.fincen.gov/news_room/nr/pdf/20090225a.pdf

Below is a chart that illustrates SARs-reported fraudulent activity by the alleged participant/perpetrator.

REPORTED FRAUDULENT ACTIVITY BY PARTICIPANT

Participant	*Misrepresentation of income/ assets/debts*	*Forged/ fraudulent documents*	*Occupancy Fraud*	*Appraisal Fraud*	*Straw buyers*	*ID Fraud*	*ID Theft*	*Flipping*
Appraiser	47 (6.18%)	16 (3.23%)	42 (16.47%)	215 (92.67%)	25 (25%)	1(less than 1%)	3 (4.92%)	48 (100%)
Borrower	663 (87.12%)	412 (83.06%)	179 (70.20%)	91 (39.22%)	69 (69%)	171 (95%)	25 (40.98%)	28 (58.33%)
Builder	1 (less than 1%)	1(less than 1%)	1 (less than 1%)	4 (1.72%)	0	0	0	2 (4.17%)
Correspondent Lender	15 (1.97%)	4 (less than 1%)	3 (1.18%)	4 (1.72%)	2 (2%)	3 (1.67%)	0	1 (2.08%)
Insider (loan officer)	3 (less than 1%)	11 (2.22%)	4 (1.57%)	6 (2.59%)	3 (3%)	1 (less than 1%)	1 (1.64%)	1 (2.08%)
Investor	47 (6.18%)	5 (1.00%)	51 (20%)	22 (9.48%)	11 (11%)	1 (less than 1%)	0	7 (14.58%)
Mortgage Broker	488 (64.13%)	338 (68.15%)	158 (61.96%)	113 (48.71%)	66 (66%)	72 (40%)	39 (63.93%)	33 (68.75%)
Realtor	9 (1.18%)	4 (less than 1%)	4 (1.57%)	6 (2.59%)	4 (4%)	0	3 (4.92%)	3 (6.25%)
Seller	12 (1.58%)	8 (1.61%)	20 (7.84%)	26 (11.21%)	21 (21%)	0	0	14 (29.17%)
Settlement Services (includes attorneys and notaries)	12 (1.58%)	9 (1.81%)	4 (1.57%)	6 (2.59%)	4 (4%)	1 (less than 1%)	1 (1.64%)	2 (4.17%)

Source: "Mortgage Loan Fraud: An update on Trends based Upon an Analysis of Suspicious Activity Reports.." Financial Crimes Enforcement Network. Page 11. *http://www.fincen.gov/news_room/rp/files/MortgageLoanFraudSARAssessment.pdf*

SARs were reviewed because, in many instances, SARs have helped law enforcement initiate or supplement investigations into money laundering or terrorist financing activities. Information provided in SAR forms also presents the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) with a method of identifying emerging trends and patterns associated with financial crimes. This information further helps law enforcement detect and prevent the flow of illicit funds through our financial system.[4] Further, the information about trends and patterns is vital to the allocation of law enforcement resources. It also provides valuable feedback to financial institutions. The fact that mortgage fraud is becoming increasingly reported in SARs is a strong indication that mortgage fraud is becoming increasingly prevalent, is more of a concern for mortgage lenders and deserving of more attention from policy makers and law enforcement agencies.

[4] Guidance on Preparing A Complete & Sufficient Suspicious Activity Report Narrative. http://www.fincen.gov/statutes_regs/files/sarnarrcompletguidfinal_112003.pdf

II. Updates on Progress from Each Task Force Member

A. The Office of the Attorney General.

The Office of the Attorney General has been involved in multiple efforts to combat mortgage fraud in Texas. With respect to specific cases, as of May 29, 2009, the OAG has received 368 inquires regarding mortgage fraud. Citizens' inquiries accounted for 216 of these inquiries. State agencies and law enforcement accounted for most of the remaining complaints. No further investigation was needed on 129 of these inquiries, because after reviewing the case, the inquiry was deemed to be something other than a criminal mortgage fraud matter. Because the OAG lacks original criminal jurisdiction to prosecute mortgage fraud, complaints received by the OAG are many times referred to local District Attorneys. To date, the OAG has forwarded 89 complaints to 14 local prosecutors.

Mortgage fraud is at least partly responsible for the increase in foreclosures that Texas has experienced in recent months. The OAG has been actively pursuing every option available under Texas law to help curtail foreclosures across and deter those who might take advantage of hard-working Texans.

On the national front, OAG has been actively involved with the State Foreclosure Prevention Working Group since its inception. Together with other state Attorneys General and banking regulators, the OAG has worked to encourage the 20 largest servicers to make a systematic, across-the-board examination of sub-prime and "Alt-A" loans in their portfolio, contact borrowers who may be in imminent risk of default, and modify loans to make them affordable in the long term. The OAG has worked to obtain data from these servicers to measure the success or failure of their efforts.

On the state level, the OAG has emphasized consumer education and assistance. For example, the OAG's website publication, "Avoiding Home-Buying Pitfalls and Scams," provides Texans with specific guidelines about the home-buying process and helps them identify "foreclosure rescue" scams, equity stripping schemes, and other pitfalls to avoid. Likewise, "Coping with Rising Mortgage Payments" counsels homeowners having trouble as mortgage payments rise; "Fighting Mortgage-Related Scams" warns about the of dangers that may lie in the mortgage process. The OAG has also given consumers direct access to live assistance through its "1-800" hotline number.

The OAG has also actively used the civil and criminal courts to protect Texans from unlawful foreclosures and other mortgage-related scams. The OAG has brought legal actions to address predatory and deceptive lending, mortgage fraud, and a host of "foreclosure rescue" scams, as well as obtaining criminal indictments against a mortgage fraud ring. A few examples are set forth below.

1. Civil Suits Involving Alleged Fraud.

State v. Abell Mediation

Abell Mediation, Inc., an Arizona-based business (Abell), sent out cards to homeowners who were facing foreclosure proceedings. Abell represented to these consumers that its organization could stop the foreclosure process for a $900 - $1,200 fee. Abell further stated on its website that if Abell could not come up with a plan to prevent foreclosure, Abell would provide a partial refund of the homeowners' money. The plans Abell developed were, for the most part, nothing better than the consumer could have achieved on his/her own by simply calling the mortgage company. In addition, some of the plans were worse than plans already reached by the homeowners acting on their own.

The OAG filed suit against Abell on December 13, 2007. An Agreed Temporary Injunction was entered on January 28, 2008. The OAG then took a judgment against Abell which prohibits all defendants from engaging in this type of conduct in Texas, and provides for $750,000 in restitution, $500,000 in civil penalties, and $250,000 in attorneys' fees.

State v. James King, et al

James Lanier King, Edward Charles Gray and nine other defendants orchestrated a complex residential real estate scheme by using forged and backdated signatures on fraudulent deeds and trusts. King targeted properties owned by the recently deceased, filed a "labor contract with trust deed" on the residence, and falsely claimed that his company, K&W Industries, was performing foundation repair, mold treatment or other repair work for the homeowner. To complete the scheme and obtain fraudulent titles, King would forge and backdate the owners' signatures by several years, thereby indicating that the homeowners had executed the deeds prior to their deaths. Through the falsified deeds, King established a claim to the homeowner's property when the bill for the non-existent repair work went unpaid. Within weeks after filing the bogus deed with the Harris County Clerk's Office, King would convey and sell the property to his cohorts or to unsuspecting third parties.

The defendants also conducted an unlawful mortgage foreclosure scheme that stripped the equity out of fraudulently obtained homes. Gray offered to help homeowners prevent foreclosure, convincing homeowners to pay him $350 a month and temporarily transfer title to him. In exchange, Gray promised to return the home to them after their payments totaled $1,500. Gray persuaded the unsuspecting homeowners to execute a deed of trust, which granted a lien to Gray's company, with another defendant's business serving as trustee. Gray had the victim sign a warranty deed after falsely promising them that signing the deed would transfer the home back to them. The warranty deed actually transferred the home to another defendant, Erik Lamont Campbell, who used the home's equity to pay off the property.

The OAG filed suit in May, 2008, and obtained a TRO and a temporary injunction, ordering Defendants to cease their illegal activities. The case is still pending.

State v. Southern Residential LLC

Southern Residential is a Houston company (Southern Residential). Homeowners were told to send one month's mortgage payment overnight mail to Southern Residential, and in exchange Southern Residential guaranteed they could prevent foreclosure. Homeowners were told not to speak with the mortgage lender and were not kept informed by Southern Residential what progress (if any) Southern Residential made on their behalf. Many homeowners who sent money to Southern Residential lost their homes to foreclosure or had to sell their home or file bankruptcy.

The OAG obtained a temporary restraining order and a contested temporary injunction. The OAG ultimately settled the case via an Agreed Final Judgment and Permanent Injunction that prohibits all defendants from engaging in this type of conduct in Texas and required them to wind down the files currently open with Texas consumers within 60 days. The judgment also provides for $1,500,000 in restitution to injured consumers; $250,000 in civil penalties; and $250,000 in costs and attorney fees.

2. Criminal Actions Involving Alleged Fraud

As with many criminal issues, the OAG's prosecutorial authority is heavily dependent upon local officials. The OAG must have a local district or county attorney's permission either to initiate a prosecution or provide assistance in one that is led by the local official. The OAG, working in conjunction with local law enforcement, recently obtained two convictions in mortgage fraud-related cases. These cases are described below.

State v. Marriott.

According to testimony that was elicited at trial, Lynn and Kandy Marriott, through their business, One Way Home and Loan (OWHL) enticed customers to buy manufactured homes by offering a quick process and a low down payment. The Marriotts routinely submitted altered loan applications to loan officers. When the loan officer returned the application and stated the reasons it could not be approved, the Marriotts would either adjust the document so it could be approved, or they would take the documents to an entirely different loan officer.

Numerous OWHL employees testified that they assisted Kandy in the mortgage fraud, and many employees testified about the extent of this fraud at trial. These employees asserted that Kandy was in control of the day-to-day operations of OWHL and instructed the employees on how to prepetrate the fraud. One of the prosecution's witnesses, a former OWHL employee, further testified that Kandy knew about the fraud, that Kandy taught her how to manufacture and alter documents to close a real estate deal, including cutting and pasting information from legitimate documents to create fraudulent ones. Several buyers testified about information and documents that were contained in their files that were clearly fraudulent, as well as the impact that Kandy's fraud had had on them, their families and their credit.

All told, the Marriotts regular business practice was to commit fraud. As a result of the Marriotts mortgage fraud scheme, various former buyers lost their house and are unable to obtain another home. Further, the scheme resulted in HUD, which backed he loans, losing millions of dollars.

State v. Hayes.

According to the 88-paragraph indictment, Karen Hayes of Kemp, Texas falsified supporting documents involving the sale of manufactured homes. Evidence showed she tampered with buyers' rent payment verification statements, monthly expense reports, and Social Security Administration benefits data, among other items.

According to investigators, the defendant illegally forged homebuyers' signatures and inaccurately completed customer loan applications. Court documents filed by the state indicate that the defendants' conduct was intended to ensure that unqualified home buyers loans were approved by mortgage lenders.

The scheme involved predominantly low-income purchasers whose residential loans were guaranteed by HUD. As a result, when the unqualified buyers defaulted on their home loans, their mortgage lenders did not suffer financial losses. Instead, HUD – and therefore taxpayers – covered the default costs. Investigators believe the defendants' scheme cost taxpayers more than $3 million.

The multi-county criminal conspiracy was uncovered by Cpl. Mark Nanny of the Corsicana Police Department. Cpl. Nanny engaged HUD officials and the FBI's Dallas Office, which later referred the case to local authorities and the OAG.

The OAG's Criminal Prosecutions Division is leading the prosecution in this case. However, it is important to note that the investigation and prosecution of this case has been assisted by several other law enforcement agencies, including: the Kaufman County Criminal District Attorney's Office, the FBI and the HUD Office of Inspector General, as well as representatives from Navarro, Henderson and Ellis counties.

B. Office of Consumer Credit Commissioner.

The Office of Consumer Credit Commissioner ("OCCC") has continued as an active member of the Texas Residential Mortgage Fraud Task Force. We have provided briefings about our agency's activities to task force members, as well as, received and shared pertinent information with these members.

OCCC examiners have attended mortgage training meetings conducted by the America Association of Residential Mortgage Regulators and the National Association of Consumer Credit Administrators. The agency exam staff has conducted 111 mortgage examinations thus far during FY'09. Pursuant to the Nationwide Cooperative Protocol for Mortgage Supervision, the OCCC has coordinated with other state mortgage regulators in conducting multi-state examinations.

The OCCC has received 129 mortgage complaints this fiscal year; with loan modifications and foreclosures being the primary complaint topics.

The OCCC has also been participating in weekly teleconference calls coordinating the implementation of the S.A.F.E. Act and the development of the National Mortgage Licensing System. The 81st Texas Legislative Session has passed legislation allowing Texas to comply with the implementing provisions of the S.A.F.E. Act and National Mortgage Licensing System.

C. The Texas Department of Banking.

The Department supervises 328 state-chartered banks. Texas state banks hold a relatively small percentage of mortgages in their loan portfolios, and they have not been involved in a material number of mortgage fraud cases, although the Department has referred fifteen (15) complaints of mortgage fraud to the OAG.

Despite the relatively small number of referrals, the Department has nevertheless been proactive in alerting banks to their responsibilities for complying with the Residential Mortgage Fraud Act (Act). For example, Banking Commissioner Randall S. James held meetings in thirteen cities around Texas to discuss current issues, including the Residential Mortgage Fraud Act. The Department also published an article on mortgage fraud in a semi-annual report issued by the Department to all state banks and trust companies, as well as the Legislature, various state agencies and other interested parties.

The Department also educated each state bank in Texas about its obligation to require its loan applicants to sign a notice of penalties, provide a sample notice form and report mortgage fraud. Finally, the Department has entered into an information sharing agreement with the OAG.

The Department believes that the Residential Mortgage Fraud Act would be strengthened if it were amended to cover interim construction financing of owner or investor type arrangements, along with permanent financing of residential mortgages on investor owned properties. The Department believes that these changes would address the majority of issues it encounters with respect to mortgage fraud.

D. Texas Credit Union Department.

The Texas Credit Union Department, participated in the meetings of the Task Force, as well as at least one interim hearing on the issue of residential mortgage fraud. Although the credit unions in Texas have reported little or no mortgage fraud, the Department has nonetheless added information about the issue to its annual training of examiners. In addition, member complaints about a credit union are now more closely scrutinized for potential mortgage fraud. The Department has committed to coordinate with the Task Force in general, and the OAG in particular, should an examination or member complaint reveal potential mortgage fraud.

E. Texas Department of Insurance.

The Texas Department of Insurance (TDI) has established a mortgage fraud investigation team in response to HB 716. The team consists of three full time employees (FTEs) in the Fraud Unit tasked with investigating reports of suspected fraud committed by persons or entities regulated by TDI, including: escrow officers, title insurance agents, title insurance companies and fee attorneys.

TDI works collaboratively with the Office of the Attorney General and other task force agencies by participating in task force meetings, sharing reports of suspected fraud that may fall under these agencies' jurisdiction, and exchanging ideas on the best course for pursuing mortgage fraud.

During a January 2008 TDI Fraud Unit training conference, mortgage fraud investigation and prosecution training was afforded to federal, state and local law enforcement, as well as insurance industry investigators (SIUs). TDI's Title Division and Fraud Unit staff have made themselves available for consultation with all of the task force agencies, and are often sought out for their knowledge and expertise in investigating mortgage fraud.

The following FY 2008 TDI statistics relate to allegations of suspected mortgage fraud received and mortgage fraud criminal cases referred for prosecution:

- 70 reports of suspected mortgage fraud received.
- 62 reports of suspected mortgage fraud forwarded to other members of the Texas Residential Mortgage Fraud Task Force.
- 8 reports opened into criminal investigations.
- 9 persons indicted for fraudulent acts associated with mortgage fraud.
- 4 persons convicted for fraudulent acts associated with mortgage fraud and sentenced to a total of 75 years incarceration; court ordered restitution in the amount of $623,000.00.

F. Texas Department of Savings and Mortgage Lending.

With the continued uncertainties in the mortgage and financial markets, the Texas Department of Savings and Mortgage Lending (the Department) has again seen a decrease in the number of state-licensed mortgage brokers and loan officers from approximately 19,000 individuals last September to our current population of over 14,000 individuals. Pending legislation may have a significant impact on the Department's future licensee population. C.S.H.B 10, known as the Texas Secure and Fair

Enforcement for Mortgage Licensing Act of 2009 (S.A.F.E.), would expand licensing requirements to include employees of registered mortgage bankers and other individuals who are currently exempt from licensure. The S.A.F.E. Act would require residential mortgage loan originators to participate in the National Mortgage Licensing System and Registry, a system mandated by recent federal law that issues a unique personal identification number to each loan originator. While the full impact of the expanded licensing requirements remains to be seen, early estimates indicate that at least an additional 5,000 individuals may be brought under the Department's jurisdiction.

In the Department's 2008 report, we noted that our investigation division typically receives and reviews approximately 1,000 complaints against mortgage brokers, loan officers, and mortgage bankers in any fiscal year. While our complaint intake for the current fiscal year indicates that the number of incoming cases will be substantially similar to prior years, we have noticed a significant change in how the Department receives information. Previously, most of the cases received by the Department were submitted by consumers involved in some phase of the mortgage loan process. For the current fiscal year, nearly 20% of all incoming cases have been received as a result of improved cooperative efforts between members of the Task Force. The Texas Department of Insurance alone has referred over 100 cases to the Department this fiscal year to date, a significant increase to the approximately 25 cases referred during the prior three year period. The cases referred by TDI are generally evidenced by Suspected Insurance Fraud Reports, issued in connection with private mortgage insurance company put backs. Currently, 37 of these cases are pending the completion of an investigation, and 2 cases have been referred to the Department's legal division for enforcement actions. The remaining 66 complaint cases were closed for lack of jurisdiction, insufficient evidence, or because the licensees had expired, surrendered or been revoked.

Another trend the Department has witnessed over the past year involves an increase in the number of companies advertising and offering loan modification, loss mitigation, or foreclosure rescue services to Texas homeowners. The Mortgage Broker License Act requires licensure for those individuals and entities engaging in such services. The Department has increased its outreach efforts to these providers to inform them of licensing expectations, and we have several ongoing investigations involving unlicensed providers. While many of these companies appear to be offering valuable services, some unscrupulous operations have preyed upon vulnerable homeowners who find themselves in jeopardy of losing their homes to foreclosure.

Through our licensing efforts, outreach programs, enforcement actions, and participation on the Texas Residential Mortgage Fraud Task Force, the department remains committed to promoting a healthy mortgage lending environment in the state of Texas.

G. Texas Real Estate Commission.

The Texas Real Estate Commission (TREC) is the regulatory and licensing agency for Texas real estate brokers, salespersons, and inspectors, residential service companies and timeshare developers. TREC has jurisdiction to investigate and impose administrative penalties on a person who engages in an activity for which a real estate license is required without first holding the proper license.

As a Task Force member, TREC has participated in and cooperated with other Task Force members as well as provided assistance to state and federal law enforcement agencies. Since the establishment of the Task Force, the Enforcement Division of TREC has developed separate procedures to review complaints against licensees or those suspected of conducting unlicensed real estate brokerage activities when alleged activity may involve mortgage fraud. When appropriate, complaints may be opened for confidential investigation. Complaints and information obtained as a result of an investigation are shared with the OAG and may be brought to the attention of law enforcement agency(s). If it appears a person involved in the suspected fraudulent activity is also a licensee under the jurisdiction of another Task Force member, the complaint and information are forwarded to that member.

Cases involving mortgage fraud are complicated and the evidentiary burden required of TREC at an administrative hearing is difficult to sustain. Suspicion of mortgage fraud is not always a part of the initial complaint. During fiscal year 2008, several of these types of cases were closed by TREC when a licensee failed to timely renew their license. In such instances, TREC's Task Force representative has referred these cases and information to the OAG and other appropriate agencies. To date during fiscal year 2009, the Commission was able to resolve more of these types of cases due to the increase in staff attorneys resulting, in part, the termination of a late renewal application, 2 Commission orders against unlicensed persons to cease and desist the business of a real estate broker and assessment of administrative penalties, 1 Commission order revoking a real estate license, 1 case pending the outcome of a hearing before the State Office of Administrative Hearings, and 3 notices of violations pending. There are more cases currently under investigation by the Commission. In several cases, the Commission has brought these to the attention of federal law enforcement.

The Task Force has provided TREC the ability to fully cooperate and participate with other Task Force members and law enforcement agencies by clarifying TREC's right to maintain confidential information for investigative purposes related to law enforcement. This ability has facilitated communication to and from this agency related to suspected mortgage fraud and TREC's participation in other work groups whose purpose is to share information. In part, the Task Force has contributed to the mission of TREC to assist and protect consumers of real estate services, thereby fostering economic growth in Texas.

H. Texas Appraiser Licensing and Certification Board.

The Texas Appraiser Licensing and Certification (TALCB) is charged with regulating licensed and certified real estate appraisers in Texas in accordance with state and federal law. Tex. Occ. Code Chpt. 1103 (the Texas Appraiser Licensing and Certification Act) and 12 U.S.C. § 3331 et. seq. (the “Financial Institutions Recovery, Reform, and Enforcement Act of 1989" or "FIRREA"). Under federal law, TALCB is regularly monitored by the Appraisal Subcommittee ("ASC") to ensure compliance with federal requirements regarding real estate appraisers used in conjunction with federally related transactions. A requirement of the ASC is that TALCB operate an effective complaint resolution process, addressing and resolving complaints in no more than one year absent special, documented circumstances.

With the enactment of HB 716, TALCB took on the additional responsibility of participating in and cooperating with the statutorily created Mortgage Fraud Task Force, and providing requested assistance to state and federal law enforcement and prosecutorial agencies under HB 716's amendments to Tex. Penal Code § 32.32. Roughly a two years into the process of implementing the provisions of HB 716, TALCB has seen a significant increase in the number of cases at the regulatory level, many of which involve complicated matters or suspected mortgage fraud. TALCB's ability to address its cases on a timely basis has been hampered by requests for assistance from law enforcement under Tex. Penal Code § 32.32. As of June 3rd, 2009, TALCB had received 220 complaints in FY 2009 or 16 more cases than in FY 2008, 17 of which have involved requests for assistance from prosecutors and/or other agencies. Since enactment of HB 716, TALCB has received a total of 38 such requests for assistance. When FY 2009 began, TALCB had 297 cases open of which 153 were over a year old. As we approach the close of FY 2009, TALCB has 330 open cases of which 38 are more than 1 year old.

The assistance requests tend to originate from prosecutors' need to obtain the specialized knowledge, training, and experience of TALCB's enforcement section staff (including its compliment of certified appraiser investigators) has in reviewing real estate appraisals. Typically these needs and resulting requests arise in connection with ongoing criminal mortgage fraud investigations. Very often, an assistance request ends up involving matters already being investigated by TALCB at the regulatory level. Since these ongoing criminal matters frequently dovetail with pending regulatory investigations, in those instances TALCB has made every effort to harness the benefits of working together towards resolving the regulatory and criminal investigations by cooperation and assistance that bolsters both investigations. As a result, several cases involving unethical appraisal activity have led to license revocations concurrent with criminal indictments, plea agreements, or convictions in state and federal court.

While the bulk of TALCB's involvement in the fight against mortgage fraud has centered on evaluating appraisal reports and providing testimony when required, TALCB has also referred matters it has investigated at the regulatory level for evaluation and, as appropriate, prosecution. To date, TALCB has referred 33 matters to law enforcement or prosecutorial agencies for evaluation. The bulk of these have been to law enforcement or prosecutorial agencies in the greater Houston or Dallas / Ft. Worth metropolitan areas. The remainder has been referred to the Attorney General's Office and a handful of other law enforcement or prosecutorial agencies for possible criminal investigation. Additionally, TALCB has referred cases and information regarding other licensees to the appropriate agencies.

Overall, HB 716 has provided TALCB and the other designated agencies with a vehicle to cooperate in the fight against mortgage fraud. With this dialogue, however, have come additional cases and an increase in workload for TALCB. TALCB expects its caseload and the number of assistance requests to grow, especially since the 81st Legislature recently amended Tex. Penal Code § 32.32 (H.B. 2840) to now specifically reference misrepresentations in real estate appraisal reports. More manpower, additional resources or tools are needed to increase the efficiency and effectiveness of investigations that appear to involve mortgage fraud. One of the tools used to determine the accuracy of appraisal data is the Multiple Listing Service (MLS). Currently, limited service is available to the agency. The availability of MLS data in more areas of the state would enhance and expedite the appraiser/investigators process. Additionally, free access to and copies of county deed records via on-line services or County Clerk's offices would also greatly increase the effectiveness of the agency's response to its new duties under HB 716.

III. Federal and Local Criminal Prosecutions

Law enforcement efforts to address mortgage fraud have not been limited to state actors. Federal and local law enforcement officials have also been engaged in these enforcement efforts. Below are some examples of the cases that have been investigated and prosecuted.

- Brandon Alanzo Crenshaw of Houston, Texas, pleaded guilty to mail and wire fraud conspiracy charges as well as money laundering charges. Crenshaw conspired with others to defraud residential mortgage lenders by misstating facts relevant to the lending decisions over a 3½ year period beginning in late 2003. Crenshaw worked as a loan officer at two Houston-area mortgage brokerage firms -- Motown Mortgage Group and Central Capital Financial Group -- where fraudulent loan applications and other fraudulent documents were prepared to induce mortgage lenders to provide 100% financing for homes the borrower's falsely claimed were to be their primary residences. Crenshaw purchased homes using false and fraudulent information that misstated his assets and liabilities. He also recruited others to do the same.

  Crenshaw acknowledged recruiting individuals to apply for mortgage loans for residences in the Houston area while he served as a loan officer at Motown Mortgage Group and Central Capital Financial Group. The loan applications contained materially false information including employment and income information. False appraisals inflating the price of two properties were also submitted to the lender. Once the loans were funded, Crenshaw received money for his role in these transactions.[5]

[5] *LOAN OFFICER CONVICTED FOR ROLE IN MORTGAGE FRAUD SCHEME* . US Department of Justice - United States Attorney's Office. Press Release. 1 April 2009. http://houston.fbi.gov/dojpressrel/pressrel09/ho040109a.htm

- In March 2009, Alvin W. Byrd, Jr., San Antonio, Texas, was sentenced to 150 months in federal prison for his role in a real estate fraud scheme. According to the Department of Justice's criminal complaint, Byrd agreed to purchase a house at 25307 Mesa Ranch, San Antonio, Texas, for $395,000. The agreement called for the seller to loan Byrd $192,000 to cover closing costs. Byrd convinced the seller that his money was tied up but provided the seller with a post dated check in excess of $325,000 to cover the loan plus additional costs. Unbeknownst to the victim, the check was drawn on a closed brokerage account. Byrd converted the victim's $192,000 check into a cashier's check, then subsequently into five cashier's checks. Byrd used the money to pay a Maryland hotel bill that exceeded $17,000 after he and his wife lived without paying for almost one year; a hotel bill totaling $4,800 he amassed while he and his wife lived in San Antonio; and for a 2006 Hummer for $66,000.[6]

- In April 2009, Everett C. Williams, 48, Corpus Christi, Texas was indicted for wire fraud and money laundering. According to the federal indictment, from April 2003 until August 2004, Williams allegedly made fraudulent representations and statements to two victims in an effort to defraud them. He allegedly falsely promised the first victim he would clear her credit history, assist her in the purchase a residence and invest as partners into real property in Corpus Christi, Texas. As a result, the victim to send more than $400,000 to Williams by private commercial interstate carriers and interstate wire transfers. Williams allegedly falsely represented to a second victim that she would share in several local real estate project, and she more than $140,000 to Williams via numerous electronic wire transfers. Williams is alleged to have used both victims' monies for other purposes without the consent or knowledge of either victim.[7]

- On January 11, 2007, Lawrence Randall Benham, 42, Houston, Texas, was sentenced after pleading guilty to wire fraud and mail fraud involving a financial institution.

  Benham was convicted of devising a mortgage fraud scheme in which he located residential properties for sale and used others as purchasers of the properties for his benefit. Using the borrower's credit and identifying information on loan applications, Benham exaggerated the nominee's financial resources and ability to repay the loans. He also arranged for the nominee borrowers to purchase the properties at prices far in excess of their true value. Benham then directed as much as $1.5 million from the closing on the residential properties to be paid to himself or to accounts he controlled. [8]

[6] *FEDERAL JUDGE SENTENCES SAN ANTONIO MAN FOR FRAUD AND MONEY LAUNDERING SCHEME*. US Department of Justice - United States Attorney's Office. Press Release. 19 March 2009. http://sanantonio.fbi.gov/dojpressrel/pressrel09/sa031909a.htm

[7] Cavazos, Mary Ann. "Corpus Christi man arrested on fraud." *Caller Times*. 30 May 2008. 7 April 2009. < http://www.caller.com/news/2008/may/30/corpus-christi-man-arrested-fraud>.

[8] *HOUSTON MAN SENTENCED IN MORTGAGE FRAUD SCHEME.* US Department of Justice - United States Attorney's Office. Press Release. 11 January 2007. http://houston.fbi.gov/dojpressrel/pressrel07/ho011107.htm

- Glenn C. Hardesty, a long-haul trucker from Nebraska, was bankrupted by a fraudulent real estate investment scheme in Collin County when Mr. Hardesty filed for bankruptcy court protection from creditors in October. He listed $3.28 million in debt – most of it tied to 11 residences purchased in McKinney, Dallas, Plano, Garland and Murphy.

  Court records show that Bryce Lynn Boelman, 41, of McKinney and Allen Lee Lockett, 35, of Frisco used Mr. Hardesty as a "straw borrower" to obtain more than $3.3 million in fraudulent mortgage loans from 10 lenders in seven states. Mr. Hardesty's name went on the deeds as owner of record, and he was left responsible for mortgage payments. Mr. Boelman and Mr. Lockett had told him they would take care of the payments.[9]

- In April 2006, a federal jury in Austin, Texas, convicted Mohammad H. Gharbi of Austin, Texas, of Conspiracy to Commit Mail Fraud, Wire Fraud and Bank Fraud. Gharbi was one of twenty-five individuals indicted in August and November 2004 for his participation in a fraud and money laundering scheme that defrauded federally insured financial institutions and mortgage lenders of more than $15 million.

  The defendants were charged with instituting a real estate flip-for-profit scheme where various properties in Central Texas were bought at or near market value, then sold thereafter to normally unqualified buyers at an artificially inflated price. In so doing, the defendants collected large sums of cash while fraudulently inducing lenders into funding the real estate loans based upon materially false statements, representations and promises provided by the defendants. The defendants knowingly placed the lenders at risk of financial loss for funding unqualified or untruthful borrowers, thus jeopardizing the lender's financial investment in an overvalued real estate asset.[10]

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[9] Lodge, Bill. "Mortgage fraud cases keeping DA's office busy." *Dallas Morning News*. 24 September 2006. 12 February 2007. http://www.dallasnews.com/sharedcontent/dws/news/city/collin/frisco/stories/DN-friscosquaresider_24cco.ART0.North.Edition1.3e4d4be.html

[10] *AUSTIN MAN CONVICTED OF FEDERAL MAIL, BANK AND WIRE FRAUD.* US Department of Justice - United States Attorney's Office. Press Release. 7 April 2006. http://www.usdoj.gov/usao/txw/press_releases/2006/gharbi_conviction.pdf

IV. Conclusion.

Mortgage fraud is a fast-growing crime that harms Texas homeowners, neighborhoods, and lending institutions. The Mortgage Fraud Task Force will continue to serve as a network through which state agencies share information, work collaboratively, and combat mortgage fraud.

By improving communication among state and federal regulatory and law enforcement agencies, authorities can better understand, investigate, and prevent mortgage fraud schemes. The Task Force has set the stage for more open communication and candid dialogue between the various agencies. The Task Force meetings have proved very beneficial, and members will continue working cooperatively to reduce criminal conduct.