



Mortgage Fraud

MBA Non-Prime Conference

June 8-10, 2005

Mortgage Fraud

- Mortgage fraud is defined as material misrepresentation - the giving of false information that deceives or misleads a lender into extending credit beyond the limits of what would normally be extended if the facts were known.
 - Mortgage Fraud Perpetrated Against Residential Mortgage Lenders (MBA)

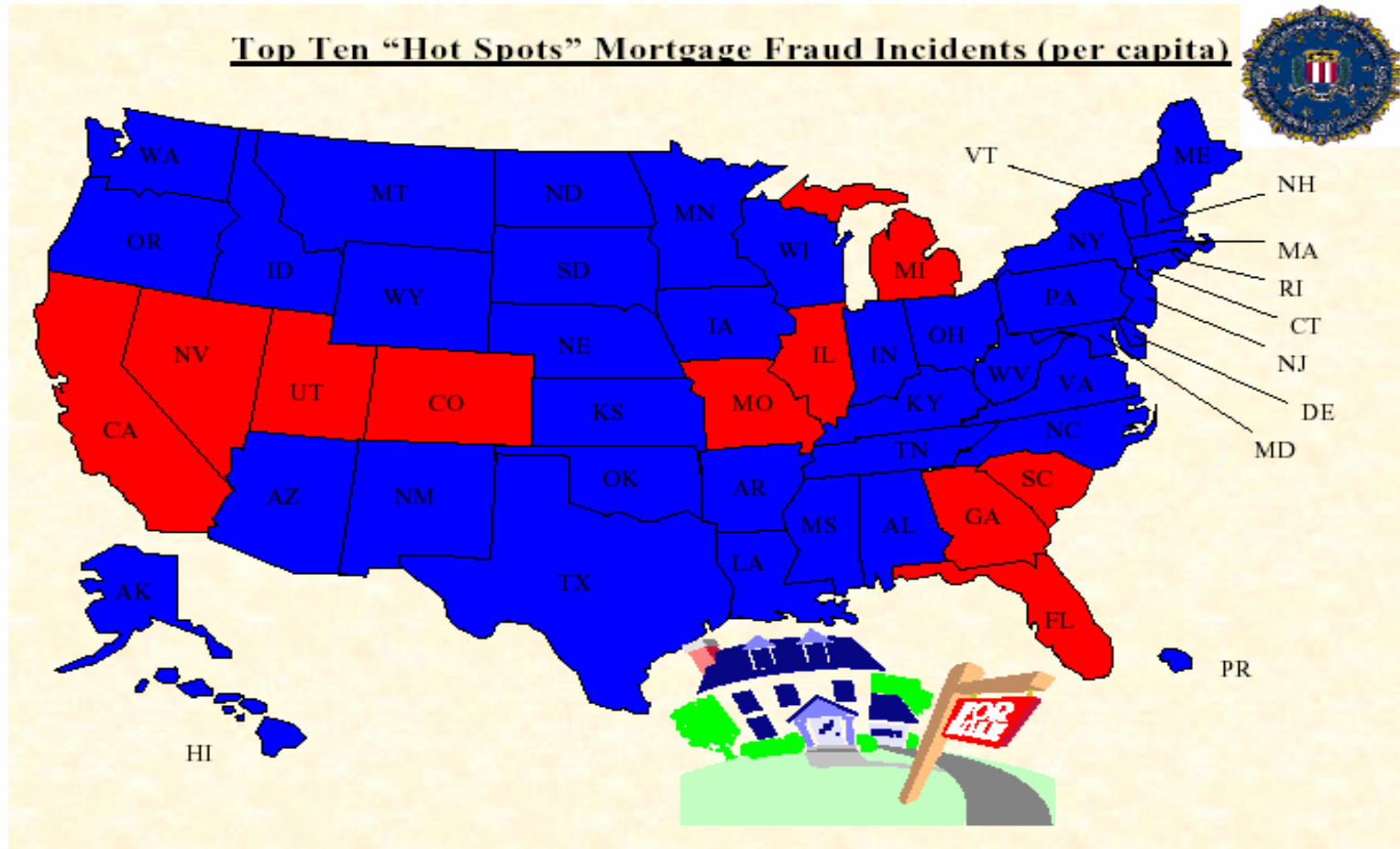


FBI Financial Crimes Report

- The number of suspicious activity reports to the FBI nearly tripled in 2004
 - 2003 = 6936
 - 2004 = 17,127



26 states have significant mortgage fraud problems



FBI Financial Crimes Report

- 80% of fraud losses involve industry insiders
 - appraisers, accountants, attorneys, real estate brokers, mortgage underwriters/processors, settlement/title company employees, mortgage brokers, loan originators and other mortgage professionals



Despite all the sources . . .

- No authoritative statistics are available on the extent or the cost of the mortgage fraud problem.
 - SARS
 - Law Enforcement Investigations
 - Mortgage Asset Research Institute (MARI)



Mortgage Bankers Association

- Issue Paper
- Congressional Testimony
- Mortgage Fraud Summit
 - Protecting the Real Estate Finance System:
Combating Mortgage Fraud Against Lenders
 - 80 Industry Leaders
 - Lenders
 - Appraisers
 - Title Companies
 - Settlement Agents
 - Notaries
 - Brokers



MORTGAGE (DEBT) ELIMINATION SCHEMES



The Schemes

- Homeowners solicited with promises of no more mortgage payments - safely, legally, ethically
- Homeowners pay upfront for services - \$2,000 to \$10,000 and transfer money to trust with providers as trustees
- Provider agrees to rid property of mortgage lien
- Many providers do nothing



Mortgage Elimination

- Package of documents to servicer requiring action
 - Validation of Debt - Impossible
 - Acceptance of bond in lieu of debt
 - Failure to respond = Power of attorney
- Provider executes and records satisfaction of mortgage lien on behalf of lender under 'power of attorney'



After Title is 'Free and Clear'

- Homeowner applies for refinance loan at full value of property
- In recent scheme, 75% of refinance proceeds to be paid to Provider
- Very few, if any, successful refinances – some successful property sales



Status of A Recent Scheme

- **Hallmarks**
 - Operating in at least 26 states
 - Claim over 3,000 mortgages in Program
 - Internet based MLM
- **Recent Developments**
 - North Carolina Attorney General Injunction
 - Utah Criminal Charges



Mortgage Elimination Avoidance

- Servicing Awareness
- Pre-funding Flags
 - Property title in trust
 - Non-purchase loan
 - Recent satisfaction of prior Mortgage
- Due Diligence
 - Review trust documents (trustees?)
 - Review lien satisfaction (power of attorney?)
 - Telephone prior lender
- Title Claim



BEST PRACTICES



Appraisals

Fraud losses increase exponentially when value is inflated

- Verification of appraiser identity
- Review appraisals
- AVMs
- Direct hiring of appraisers



Closing

- Gatekeepers - Settlement agent is last neutral party involved
 - Closing instructions must contain explicit instructions re duties of settlement agent
 - Closing protection letters must be obtained and counter-signed (in states where required)
 - Bundled services = bargaining power



Brokers

- Know who you're doing business with
 - Due diligence on TPOs
 - All individuals involved in transaction
 - Company Principals
 - Loan Officers
 - Processors
 - Annual re-verification



Identity Theft

- Watch credit reports
 - ID Theft Alerts
- Unusual property purchases
 - Out-of-state property purchases
 - Principal residence is state distant from employment
 - Uncharacteristic upgrade or downgrade
 - Flurry of activity
- Attempt contact at previous address or employer from credit report



Particular Recent Fraud Schemes . . .



Frauds on the Upswing

- **Disguised Refinance Transactions**
 - Property transferred within months prior or title information falsified/concealed
 - Vesting on title report
 - AVM
 - Closing instructions require 24-month chain of title
 - Mortgage from private party lender
 - Not arms-length



Frauds on the Upswing

- **False Liens**
 - Settlement Statement payouts for items not contained on title report
 - Liens recorded within 90 days of closing
 - Closing instructions
 - No payments of unrecorded liens
 - No undisclosed payments
 - Payment of any unrecorded lien or lien recorded within 90 days of closing must be independently pre-approved in writing



Changes on Redraw

- Last minute redraw request
- Settlement statement payouts changed
- Approved without review



Frauds on the Upswing

- Flipping, Flipping, Flipping (aka speculation)
 - Continues as significant fraud issue and is often coupled with other fraud types
 - Closing Instructions
 - Disclosure of any concurrent, subsequent or immediately previous transaction or sale within preceding 24 months or involving purchase price increase of over 20%
 - 24 month chain of title
 - Absolute prohibition on lending any property transferred in last 90 days



RESOURCES

- MBA Mortgage Fraud Against Lenders Resource Center

www.mbaa.org/mbafightsfraud/

- Mortgage Fraud Blog

www.mortgagefraudblog.com

(Exclusive provider of News to MBA Mortgage Fraud Against Lenders Resource Center)



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SUBMIT



Rachel M. Dollar, the editor of Mortgage Fraud Blog, represents mortgage lenders nationwide in pursuing civil recovery from the perpetrators of mortgage fraud schemes. She is a frequent lecturer at industry events and teaches in-house seminars for mortgage lenders and investors. Ms. Dollar is licensed to practice law in California and maintains offices in Santa Rosa, California. [Email Ms. Dollar](#)

Mortgage Fraud Blog is sponsored by [Dollar & Graves LLP](#), a Mortgage Banking Law Firm.

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SEARCH

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Wednesday, May 11, 2005

Illinois Appraiser Agrees to Revocation of License

Wiese Enters Into Consent Order with Department

Dennis M. Wiese Jr., Belleville, Illinois, entered into a consent order with the Illinois Department of Financial and Professional Regulation whereby he agreed to a 10 year revocation of his real estate appraiser license. The Department of Financial and Professional Regulation had filed a complaint against Wiese alleging 10 allegedly inaccurate appraisals, performed in 2001 and 2002. The complaint included allegations that Wiese failed to document disrepair in some of the homes which were located in **Decatur and Belleville, Illinois.**

According to the consent order, **Wiese** had a four-year business relationship with **Gary Knox**, 59, Decatur, Illinois. During that time, it was alleged that **Knox** would order appraisals from **Wiese**, providing him with information about the condition of the properties and information about the sales of what he said were comparable properties.

In a separate complaint, the Department of Financial and Profession Regulation has alleged that **Knox** acted as a real estate agent without a license. **Knox** served prison time in the mid-1990s for federal mail and bank



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