

Posted on Sun, Jan. 14, 2007

Mortgage fraud's new super sleuths

Local cases show how feds are getting more agile as they pursue the fast-growing crime.

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The Kansas City Star

Mortgage fraud is being called the country's fastest-growing white-collar crime.

It costs lenders more than \$1 billion a year and has turned increasing numbers of federal agents into experts on real estate paperwork. These days, they quickly crack cases that once took years to work, experts say.

Two Kansas City politicians recently learned just how quickly.

The very day last fall when then-Jackson County Executive Katheryn Shields and her husband signed paperwork selling their home, an FBI agent notified them they were the targets of a criminal investigation involving the sale.

The documents purportedly showed that the \$475,000 house they purchased in 1999 somehow was worth a \$1.2 million mortgage in 2006.

Agents also wrapped up an investigation of City Councilwoman Sandra McFadden-Weaver just months after she unsuccessfully tried to refinance a \$400,000 Lee's Summit home. According to prosecutors, McFadden-Weaver had purchased it even though she had no plans to live there or make payments.

By contrast, the largest previous high-profile case in this area, involving a Belton real estate investor, took years to develop.

Shields, who is campaigning to be Kansas City's mayor, and McFadden-Weaver have pleaded not guilty to conspiracy and wire fraud charges and have denied all wrongdoing. Shields, a Democrat, said she was the target of "political terrorism" by appointees in the Republican Bush administration. McFadden-Weaver said she innocently was trying to help a needy acquaintance in a real estate transaction.

Though these high-profile defendants cast new light on mortgage fraud, it already was a regular docket item in Kansas City and in federal courthouses throughout the country.

Mortgage fraud occurs when somebody lies or misrepresents a fact on a statement that a lender uses to make a loan. Banks and mortgage lenders generally are the prime victims when loans are not repaid, but the fallout from a large-scale scam also can devastate individual investors, who sometimes must file for bankruptcy.

Communities also suffer when swaths of properties sucked into a scheme go vacant and deteriorate as they fall into foreclosure.

Estimates of mortgage fraud losses vary widely, but experts said trend lines pointed up. Although schemes can prosper during good times — such as the recent mid-decade boom when as much as \$2.5 *trillion* in mortgage loans were made each year — they also can flower as the market cools.

"Fraud is always most prevalent when the market is at its worst," said Shana Sowles, president of the Kansas Association of Mortgage Brokers and vice president of Person to Person Mortgage in Overland Park. "You have more desperate players."

Rachel Dollar, a West Coast lawyer whose mortgage fraud blog is widely read in the financial industry, has closely watched the Kansas City area the last few years. The charges against Shields and McFadden-Weaver reflect how agile federal investigators have become in pursuing cases, she said last week.

"I used to see indictments coming four or five years after the fraud," she said, "but now we're seeing them within a year."

A fraud 'hot spot'

Although mortgage fraud has interested investigators and prosecutors for some time, the crime's increasing prominence has focused their attention sharply in the past four years.

Mortgage fraud reports nearly doubled between 2003 and 2004, according to a Treasury Department study in November of "suspicious activity reports" filed by banks and other heavily regulated financial institutions.

That increase continued a longer-term trend that saw a 1,411 percent jump in reports between 1997 and 2005.

Testifying before a Senate committee last month, FBI director Robert S. Mueller III estimated the loss to lending institutions at more than \$1 billion a year. Others called this a conservative estimate because much of the mortgage industry was not required to report fraud.

"We're in our infancy in being able to quantify the problem," said Corey Carlisle, senior director for government affairs at the Mortgage Bankers Association. "It's a big problem that we all need to take seriously."

Observers see the impact far beyond financial balance sheets.

Two years ago, fraud in Atlanta had gotten so bad that honest appraisers found it impossible to estimate what homes in some neighborhoods were worth. Real estate agents stopped listing homes in those areas.

Legislators finally made Georgia the first state to enact a law specifically criminalizing mortgage fraud and allowing scam artists to be charged with racketeering.

In recent years, authorities nationally have ranked Missouri as one of the top 10 "hot spots" for mortgage fraud, per capita, in the country.

Federal prosecutors in Kansas City have alleged more than \$50 million in fraudulent loans in cases filed since 2004. The FBI counts a Kansas City conviction as one of its most significant successes in the national fight against mortgage fraud.

Belton real estate investor Brent Barber purchased about 300 properties, bought inflated appraisals for them and obtained straw purchasers, who were paid \$2,000 for participating. After the straw purchasers made no loan payments, the properties went into foreclosure. By then Barber had the mortgage proceeds.

In October, Barber was sentenced to more than 12 years in prison and ordered to pay \$11.2 million in restitution. He had been indicted in 2004 for deals dating back to the late 1990s.

By contrast, charges in McFadden-Weaver's case came just months after the home she purchased went into foreclosure.

Dollar described Shields' case as a classic "closing table bust," in which investigators swoop in to kill the deal just minutes after the final paperwork has been signed.

Toward solutions

The surge in cases in recent years has led investigators, regulators, lawmakers and industry groups to consider a number of solutions.

Many think that existing fraud statutes are adequate, but four states — New Jersey, Utah, Oklahoma and Colorado — are considering laws that would make mortgage fraud a specific crime, in part to spur more local enforcement.

In Kansas City, FBI agents have become regular speakers at real estate seminars. Their appearances educate industry professionals about what law enforcement is looking for and also generate occasional leads for investigators to follow.

State regulators also are considering steps to take. Janet Carder, executive director of the Missouri Real Estate Commission, said she and other state officials were considering how to uncover the occasional bad actors who were industry insiders, all of whom had to report at some level to state regulators.

"We're trying to figure out how to connect the dots between the real estate licensees, the real estate appraisers and the financial institutions, and that's not easy," Carder said.

Ultimately, though, the real estate industry must work harder to weed out fraud, and consumers must become better educated about complicated, but legally critical, paperwork they are signing.

John Fougere, a spokesman for the Missouri attorney general's office, said if you don't understand what you're being asked to sign, ask more questions until you're comfortable.

"Take that extra step," Fougere said. "You would be amazed at the amount of grief you can save yourself."

How to avoid fraud

The Kansas Association of Mortgage Brokers offers these tips to consumers to avoid committing mortgage fraud inadvertently:

- *Verify that the mortgage company is properly licensed in the state. For Kansas, go to www.osbckansas.org, the state banking commission. For Missouri, go to www.missouri-finance.org, the Missouri Division of Finance.*
- *Thoroughly read all documents provided by your mortgage company. Question anything that might appear out of order.*
- *Do not sign the loan application if you aren't comfortable with the information typed on it. Remember, any misrepresentation on the application could result in civil or criminal penalties.*
- *While the loan is being processed, question anything that appears out of the ordinary.*
- *At closing, read everything thoroughly. Don't sign if you're uncomfortable with any of the information represented. Review the final loan application to see if there is any incorrect information that might affect your approval, such as an investment property marked as your primary residence or your income is significantly incorrect.*

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