Mortgage Fraud News: November/December 2008

2008 Mortgage Fraud Trends

2008 has been a foreboding year in the area of mortgage fraud: increased levels of mortgage fraud in new originations, a new wave of foreclosure-related frauds, ground-breaking investigative feats, and numerous prosecutor successes.

While originations have slowed during the stalled credit markets of 2008, various experts are reporting that fraud discovered in new applications has increased. The Mortgage Asset Research Institute reports that data submitted by subscribers reveals a 42% increase in incidence of new origination mortgage fraud for the first quarter of 2008, compared to the same period one year prior. In addition to a year-over-year increase, Interthinx reports a 3.66% increase between second quarter 2008 and third quarter 2008 in new applications containing “critical risk” indicators of mortgage fraud. In November, the Financial Institutions Crime Enforcement Network released their latest statistics on Suspicious Activity Reports (SARs) for mortgage fraud. Filings for suspicious activity suggested that mortgage fraud increased 39.31% for the six month period ending June 30, 2008, compared to the corresponding six month period in 2007. (SARs are reported to the FBI, and are the impetus of many of the FBI’s mortgage fraud investigations.)

Lenders have reported a spike in income and asset misrepresentation with the re-emergence of fully documented loan files. Additionally, unsold inventory has caused many sellers (especially sellers of new construction and condominium conversions) to offer financial incentives (pre-paid principal and interest payments, pre-paid rents for investor-purchasers, pre-paid homeowners’ association dues, etc.) to lure would-be purchasers into contracts. These sellers frequently increase sales prices and obtain artificially high appraisals in order to persuade lenders into financing inflated loan amounts. Buyers soon discover that they owe more on these properties than the properties are worth, and an increased rate of foreclosures contributes to depressing property values even further.

As reported in October, mortgage fraud perpetrators have found foreclosure rescue scams, short sale schemes and “buy and bail” tactics to be lucrative avenues for turning illegitimate profits. (See https://www.efanniemae.com/utility/legal/pdf/fraudnews/mortgagefraudnews1008.pdf.) Recently, sources have reported an alarmingly high rate of “flipping” of short sale acquisitions: a concurrent or immediate re-sale of the property that was acquired at a pre-foreclosure bargain price facilitated through a lender’s agreement to take a loss. Closing agents representing the profitable flip transaction have expressed frustration at the fiduciary breach involved in reporting the profitable sale to the lender taking a loss, and have recommended that lenders granting short sale approvals require that the escrow instructions condition that any immediate transfers of the property occurring subsequent to the short sale transaction be reported to the lender who approved the pre-foreclosure sale.

Incidence is not the only dynamic of mortgage fraud that is increasing. Early in the year, the FBI undertook the largest multi-agency mortgage fraud sweep in history. (See https://www.efanniemae.com/utility/legal/pdf/fraudnews/mortgagefraudnews0708.pdf.) In its Operation Malicious Mortgage, the FBI undertook a concentrated effort in cracking down on perpetrators of mortgage fraud resulting in headlines across the country. The FBI has continued to aggressively pursue mortgage fraud investigations throughout 2008, and is now participating in 43 multi-agency mortgage fraud task forces and working groups, as well as the Department of Justice's national mortgage fraud working group.

Finally, prosecutors have won countless hard-fought legal victories in 2008, not least of which was the July sentencing of a notorious fraud perpetrator responsible for organizing a $15 million fraud affecting 80 properties in Atlanta's West End neighborhoods in 2001 and 2002. The investigation of Kevin Wiggins' mortgage fraud scheme started with concerns expressed by residents of the neighborhood being ravaged by foreclosures resulting from Wiggins' fraudulent transactions. The neighbors banded together with law enforcement, government agencies, prosecutors, and financial institutions to form the grassroots organization known as GREFPAC (Georgia Real Estate Fraud Prevention and Awareness Coalition). GREFPAC has been used as a model by mortgage fraud task forces and working groups in many other parts of the country. Wiggins was sentenced to 8 years, 4 months in federal prison, 3 years supervised release, restitution in the amount of $6,477,164, and 200 hours of community service. (See http://www.usdoj.gov/usao/gan/press/2008/07-29-08.pdf.)

Fannie Mae partners with a wide variety of industry groups, with law enforcement, and with our customers in mortgage fraud detection and prevention efforts. If you have any questions or suggestions about this information, please contact Fannie Mae's Mortgage Fraud Program or your Customer Account Manager.

