TESTIMONY TO THE FINANCIAL CRISIS INQUIRY COMMISSION
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Distinguished Members of the Commission, thank you for the opportunity to speak with you about the Department of Justice's mortgage fraud enforcement efforts in South Florida. I am pleased to be here to assist you in your fact-finding process.

As you know, the mission of the Department of Justice and of all the U.S. Attorney's Offices across the country is to enforce our nation's laws by investigating, prosecuting, and punishing those who commit crimes, including financial crimes and frauds. In this context, the Department of Justice and the U.S. Attorney's Office for the Southern District of Florida have waged an aggressive campaign to help stem the tide of mortgage fraud that has tarnished our communities and our nation. But our prosecutorial efforts, no matter how aggressive and focused, are defined and limited by our role in the justice system. In the mortgage fraud arena, our role is to bring to justice those who have committed or have conspired to commit fraud. Unfortunately, that often means that the fraud has already been committed and the harm has already been done by the time we become involved. Still, we believe that our prosecutions, and the resulting punishment, help prevent fraud by deterring others from committing similar crimes in the future.

Despite our District's increased scrutiny and continually rising prosecutions, mortgage fraud continues to be a serious problem in South Florida. Earlier in the decade, South Florida benefitted from tremendous growth during the real estate boom. As a result, however, we were hit particularly hard by the market's eventual fall. In 2009, for example, the Miami-Fort Lauderdale metropolitan area was ranked by RealtyTrac, Year-End Metropolitan Foreclosure

Market Report among the top ten U.S. metropolitan areas for foreclosure rates, with 1 out of every 14 homes facing foreclosure proceedings. In addition, Fannie Mae ranked Florida Number 1 in loan origination fraud in 2008 and Number 3 in 2009. And according to FINCEN, California and Florida led the nation in the number of mortgage fraud loan subjects reported in Suspicious Activity Reports, called SARs, for 2009. In fact, for 2009, 42% of all mortgage fraud subjects reported in SARS came from Florida and California. In addition, the Mortgage Asset Research Institute, commonly known as MARI, has ranked Florida Number 1 for mortgage fraud – for four straight years, since 2006.

Mortgage fraud is insidious. It can rob homeowners of the roof over their head, their savings and security. Recent figures estimate nationwide mortgage fraud losses for 2009 at approximately $14 billion. In addition to staggering losses, our cases reflect that mortgage fraud breeds other crimes. For example, we see from our cases that proceeds of crime are being laundered through investments in commercial and residential real estate. We continue to see mortgage fraud tied to other serious crimes, such as identity theft, money laundering and credit card fraud, to name a few. The use of the Internet and related technology to receive and process loan applications is increasing. We have even had a case of attempted arson by a mother and son team of public adjusters who were hired to torch a house believed to be in foreclosure, so they could file a fraudulent claim and split the insurance proceeds with the home owner. [U.S. v. Alvarez, Case No. 08-21012-CR-King].

Our criminal prosecutions confirm that the perpetrators of mortgage fraud have infiltrated every level of the loan industry -- from straw buyers who pose as legitimate purchasers, to corrupt mortgage brokers and appraisers, to complicit title agents, attorneys and bank loan officers. And we are aggressively prosecuting everyone, up and down the line.

To address the mortgage fraud problem in South Florida, in September 2007, the USAO announced its Mortgage Fraud Initiative. Then in June 2008, we built upon the success of that Initiative, and created a Mortgage Fraud Strike Force, comprised of experienced federal prosecutors, and state and local agents, officers, and financial analysts dedicated exclusively to investigating and prosecuting mortgage fraud cases.

Using this model of federal, state and local cooperation, law enforcement is working together, efficiently and quickly sharing information and focusing on common goals: to ferret out illicit financial activities, make criminals accountable, and increase confidence and promote integrity in the system. Among those agencies leading the effort are the Federal Bureau of Investigation, the U.S. Secret Service, U.S. Postal Inspection Service, Federal Deposit Insurance Corporation, U.S. Department of Housing and Urban Development - Office of Inspector General, Florida Office of Financial Regulation, and the Miami-Dade Police Department.

Our Mortgage Fraud Strike Force has yielded substantial results. As of September 10, 2010, we have prosecuted 401 mortgage fraud defendants, at all levels of the mortgage process, responsible for almost half a billion dollars in fraud ($493,399,033 million). In February 2008, before the formation of our Task Force, the number of mortgage fraud defendants charged was 55, and they were responsible for $76 million in fraudulent loans. More recently, the Financial Fraud Enforcement Task Force, established in November 2009, has helped to shed a national spotlight and renewed multi-agency emphasis on mortgage fraud investigations and prosecutions.

In mid-June of this year, Attorney General Eric Holder and members of the Financial Fraud Enforcement Task Force announced the results of a nationwide mortgage fraud effort, aptly named *Operation Stolen Dreams*. This national take-down, organized by the interagency

Financial Fraud Enforcement Task Force, culminated in charges against 1215 mortgage fraud defendants, 485 arrests, and an estimated loss amount of $2.3 billion in fraudulent mortgage loans. In South Florida, from March 1, 2010 to June 17, 2010, *Operation Stolen Dreams* resulted in charges against 86 mortgage fraud defendants and the issuance of approximately $76 million in mortgage loans, all based on fraud.

One of the local cases we announced during *Operation Stolen Dreams* -- though not the largest in terms of the amount of the fraud -- was certainly one of the cruelest schemes and one that highlights the fact that mortgage fraud is not a victimless crime. In U.S. v. Antoine, Case No. 10-20430-CR-Lenard, a purported “investment manager” and a mortgage broker targeted immigrants in the local Haitian-American community. These defendants advertised in local radio spots, offering to provide purported immigration services and assistance with other government programs to needy immigrants. Instead, the defendants abused their clients’ trust and stole their personal indentifying information, including names, social security numbers, and driver’s licenses, and used that information to commit mortgage fraud. Armed with the stolen identities, the two defendants fraudulently applied for and obtained mortgage loans to purchase various properties in the victims’ names – all without the knowledge or consent of the victims. To complete the fraud, the defendants later prepared and executed phony quit-claim deeds transferring title from the victims’ identities to themselves. Thereafter, friends and family of one of the defendants would live in the properties until the defendants could flip the properties or the property fell into foreclosure.

Another case, U.S. v. Ramos, Case No. 10-20438-CR-Middlebrooks, involved 11 defendants, including a mortgage broker, a real estate broker, a loan processor, and eight straw buyers, all of whom were being paid for allowing the use of their names to commit mortgage fraud. In this scheme, which involved 15 properties and defrauded nine separate lenders, the defendants obtained more than $11.2 million in loans, most of which ultimately went into foreclosure after various flips.

Similarly, in U.S. v. Medina, Case No. 09-21028-CR-Lenard, 13 defendants, including a loan officer, a title agent, a recruiter, and paid straw buyers, caused the lender to issue $16.9 million in mortgage loans for the purchase of 12 high-end properties, including multiple units at a luxury condominium building on Brickell Bay Drive in Miami and single family homes in Coral Gables, all based on fraudulent documentation. The fraud resulted in losses of $9.7 million to the lender.

Some of the more common mortgage fraud schemes occurring in these cases include:

1. Illegal Property Flipping – where property is refinanced or resold after purchase, usually from a complicit straw buyer, for an artificially inflated price.

2. Straw Buyers – where individuals are unwittingly used or (more often) allow themselves to be used to buy property in order to conceal the identity of the true owner. The straw buyer never intends to live on the property or make mortgage payments, and is typically compensated for the use of his/her identity and credit. False financial information is usually provided in the loan application process.

3. Foreclosure Fraud – where vulnerable owners, fearing foreclosure, are defrauded into transferring title to their property in the hopes of resolving their debt issues, only to lose their homes unwittingly.

4. Exploitation of Home Equity Lines of Credit – where fraudsters, frequently using stolen identities, obtain credit by securing multiple lines of credit on a single property and quickly cashing out the equity from the property.

5. Double HUD-1 Statements – where the title agent creates two sets of HUD-1 Settlement Statements, one with an inflated purchase price (which is provided to the lender), and a second with the actual lower purchase price (which is provided to the seller).

6. Shot Gun Sales – where the organizer takes out multiple loans with multiple lenders nearly simultaneously, each lender being unaware that other lenders are lending money on the same property. The organizer steals the loan proceeds and allows the property to fall into foreclosure.

7. Ghost Sales – where the organizer steals the identities of the sellers and conducts the closing by forging the sellers' names. The closing and sale take place without the knowledge or consent of the owners of the properties. The organizer then simply files a change of address form with the Postal Service so the true owner, who usually still lives in the property, has no idea that his property has been mortgaged without his consent.

8. Builder Bailout – similar to a straw buyer flipping scheme, but in this case, it is the developer who pays the straw purchaser and/or finances the purchase of properties within a development to get the properties off the developer's books and make a profit on the sale.

9. Quitclaim Deed Fraud – where a property is illegally quitclaimed from an unsuspecting homeowner to another individual for the purpose of taking title to the property. Since the quitclaim deed accelerates the mortgage payment, the unsuspecting owner is on the hook for the foreclosure of the property and has no title to the property.

We have found that, like in health care fraud, as we investigate and prosecute the mortgage fraud du jour, fraudsters change their methods of operation and develop new schemes in an attempt to stay one step ahead of law enforcement and avoid detection. Although it can be challenging to keep pace with fraudsters given our limited resources, we have become adept at retooling and pursuing evolving fraud schemes. Today's emerging fraud schemes include:

1. Flopping/Short Sale Fraud – during a short sale, a distressed property is sold at less than market value, with the bank losing money on the sale. In this scheme, however, individuals (usually a complicit real estate agent and homeowner/seller) agree to manipulate the short sale offers to induce a lender to accept a lower offer despite the existence of higher price offers. Then, once the short sale closes at the lower price, a pre-arranged straw purchaser will purchase the property at a higher price.

2. Commercial Loan Fraud – similar to traditional straw buyer schemes for residential properties, this type of mortgage fraud is based in part on false statements in the commercial loan application and false supporting documentation, including list of assets, income and collateral of a business applying for a commercial loan.

3. Reverse Mortgage/Loan Modification Fraud – where an institution or individual promises to help an individual in distress, generally an elderly person, in obtaining a reverse mortgage or loan modification of an existing mortgage. The fraudster then charges hidden and exorbitant fees without actually providing any services. In the case of a reverse mortgage, an individual would also attempt to obtain a reverse mortgage on behalf of someone, and keep all of the money obtained from the equity of the original mortgage.

As we proceed, we will continue to discover other emerging schemes. Mortgage fraud, like all fraud, is a crime of opportunity. Open the door to such fraud and someone will walk right through. Along with our law enforcement partners, we are here to help close that door.

Lastly, I would like to stress one point. While prosecutions play an important role in deterring mortgage fraud, prosecutions are by no means the solution to the mortgage fraud problem. We can once again double prosecutions and still not slow down the tide of fraud. Prevention is the real answer. In that regard, private industry, law enforcement and regulators must join forces, communicate, and coordinate, to better prevent the fraud on the front end. That is where the Financial Fraud Enforcement Task Force will have its greatest impact. By educating the industry about emerging frauds, learning from victims at Town Hall-style meetings, educating the public on how to avoid becoming victims of fraud, and spearheading national projects like *Operation Stolen Dreams*, the Financial Crime Enforcement Task Force provides a crucial tool to combat financial fraud. Earlier this month, Assistant Attorney General Tony West of the Civil Division and I, joined by other members of the Financial Fraud Enforcement Task Force, addressed the Hispanic National Bar Association and the National Hispanic Prosecutors Association at their annual convention, with the goal of establishing a mortgage fraud dialogue. The event was very well attended and even better received. In addition, in February 2010, the Miami USAO hosted the first of the FFETF's Town Hall meetings, a mortgage fraud summit, bringing together under one roof home owners, industry leaders, and law enforcement for a frank discussion on the state of mortgage fraud in our community and how we can work together to deter and stop fraud. The goal of this summit was to provide our community with an opportunity to both provide and obtain information about how mortgage fraud affects our neighborhoods and to be involved in the solution. For the law enforcement agencies that participated in the summit, including the FBI, Secret Service, IRS, U.S. Postal Inspection Service, FDIC, HUD-OIG, Florida Office of Financial Regulation, the Florida State Attorney General's Office, and the Florida Statewide Prosecutor's Office, it provided an opportunity to analyze trends, see patterns, and develop creative solutions to address the problem. The Department of Justice believes that strong community outreach and education will prove to be a crucial tool in helping us to combat mortgage fraud.

This concludes my prepared testimony. I am happy to answer any questions that the Commission may have.