Proactive Suspicious Activity Report Review Leads to Indictments in "Cash Back" Mortgage Fraud Scheme

In a case started from a review of SARs, a specialized mortgage fraud task force launched an investigation that led to charges against two individuals. In addition to the SAR that initiated the case, another SAR described how the defendant became "very upset" when he learned that a Currency Transaction Report (CTR) would be filed because of a series of transactions. In all, FinCEN records captured many of the scheme's intricate details.

According to the assistant United States attorney who prosecuted the case, the defendants engaged in a scheme to defraud mortgage lenders in connection with residential real property purchases. One of the defendants acted as the recruiter, finding various individuals, including straw and nominal purchasers, to purchase more than 15 real properties. He orchestrated the purchase transactions while the second defendant, through his mortgage company, acted as the broker. Although the buyers provided the defendant with legitimate personal information, he made false representations on the loan applications in regard to income, employment, and intent to occupy the residences. The criminal complaint described in detail the defendants' efforts to defraud lenders through the straw buyers, including controlling all aspects of the purchases and the accounts.

The indictment in the case charged that fraudulent or false representations were made in obtaining 100 percent mortgage financing, including misstatements about the purchasers' monthly income, intent to occupy the property, and existing liabilities. In addition, in each transaction the purchase price was above the true market price of the property. An amount approximately equal to the difference between the purchase price and the true market price was then diverted as "cash back" at the close of each escrow to a bank account for a corporation. As part of the scheme, these credits, which ranged from almost $42,000 to more than $137,000, were concealed from the mortgage lenders by the defendant. The defendant, through his control over the corporation's bank account, used the fraudulently obtained funds for various purposes, including extensive cash withdrawals.

The case began when a SAR review team identified a SAR filed on an associate of one of the defendants. Because the SAR listed mortgage loan fraud as the suspected violation type, the team referred the SAR to a mortgage fraud task force. The filer noted that the associate apparently misrepresented information on loan applications that were not performing. The second defendant acted as the loan agent and broker of record on the loans. Through research, the institution found that the associate had purchased several additional properties, with mortgage loans that totaled at least $450,000 for each purchase. The same title company closed all sales involved in the fraud.

Eventually investigators found several additional SARs, including one with a nine page narrative describing activity on more than 17 individuals and businesses associated with the scheme. Investigators included many of the details described in the SARs in a criminal complaint and in the indictment charging both defendants with fraud.

The losses caused by the defendant's conduct exceeded $2,500,000. The defendants pleaded guilty to mail fraud and structuring currency transactions with a financial institution to evade the filing of CTRs.

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