



SIGTARP

OFFICE OF THE SPECIAL INSPECTOR GENERAL
FOR THE TROUBLED ASSET RELIEF PROGRAM

ADVANCING ECONOMIC STABILITY THROUGH TRANSPARENCY, COORDINATED OVERSIGHT AND ROBUST ENFORCEMENT

FOR IMMEDIATE RELEASE

Tuesday, August 6, 2013

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FOUR SENTENCED TO PRISON FOR CALIFORNIA-BASED MORTGAGE MODIFICATION SCHEME

WASHINGTON, DC – The Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP) today announced that on July 29, four California men were sentenced for defrauding hundreds of victims in a real estate scam that included fraudulently collecting upfront fees for loan modification services and sending fake letters with mortgage servicer logos offering home loan modification assistance. Victim losses in the case are estimated to be in excess of \$130,000.

“While our country was in economic turmoil, the defendants, over a several year period, used lies and false promises of guaranteed mortgage modifications through HAMP to take advantage of hundreds of distressed homeowners struggling to save their homes from foreclosure,” said Christy Romero, Special Inspector General for TARP (SIGTARP). “Holding out false hope, they took upfront fees from victims and did little to no work on their behalf. Mortgage modifications through HAMP can never be guaranteed. Today’s sentencing should stand as a warning to anyone involved in exploiting TARP’s housing programs. SIGTARP and our law enforcement partners will aggressively pursue offenders and hold violators accountable for their crimes.”

Defendants

Jacob John Cunningham, 26, and John D. Silva, 28, both from Irvine, Calif., pleaded guilty May 8, 2013, to one felony count each of conspiracy to collect illegal upfront fees and conspiracy to commit theft by false pretenses.

Cunningham and Silva have been sentenced to eight months in jail and five years formal probation, during which they are prohibited from engaging in loan modification or loan consulting practices. The defendants have jointly paid \$40,000 toward restitution and will be ordered to pay additional restitution in an amount to be determined at a later hearing.

Justin Dennis Koelle, 23, Costa Mesa, Calif., pleaded guilty May 8, 2013, to one felony count each of conspiracy to collect illegal upfront fees and conspiracy to commit theft by false pretenses. He was sentenced to nine months in jail; five years of formal probation, during which he is prohibited from engaging in loan modification or loan consulting practices; and ordered to pay restitution in an amount to be determined at a later hearing.

Dominic Adam Nolan, 32, Irvine, Calif., pleaded guilty May 8, 2013, to one felony count of conspiracy to collect illegal upfront fees. He was sentenced to six months in jail; five years of formal probation, during which he is prohibited from engaging in loan modification or loan consulting practices; and ordered to pay restitution in an amount to be determined at a later hearing.

Andrew Michael Phalen, 26, Mission Viejo, Calif., pleaded guilty June 4, 2012, to one felony count each of conspiracy to collect illegal upfront fees and conspiracy to commit fraud. He was sentenced to one year in jail; five years formal probation, during which he is prohibited from engaging in loan modification or loan consulting practices; and ordered to pay restitution in an amount to be determined at a later hearing.

Circumstances of the Fraud

Between January 2009 and March 2012, Cunningham, Koelle, Phalen, Nolan, and Silva created numerous fraudulent loan modification businesses including CSFA Home Solutions, Mortgage Solution Specialists, Inc., CS & Associates, National Mortgage Relief Center, NMRC, NMRC Inc., N.M.R.C. Inc., Allied Home Servicing, Allied Loan Servicing, U.S. Consulting Corp., and Accredited Processing Solutions for home loan modification assistance. Cunningham, Koelle, Phalen, Nolan, and Silva sent a promotional letter to people throughout the United States with an offer to restructure their home loans, in which the defendants referred to the homeowner's specific lender and principal balance, and charged the homeowner upfront fees for loan modification services. The letter was fraudulently designed to appear as if it came from the victims' lenders.

California Senate Bill 94, enacted into law on Oct. 11, 2009, makes it illegal in California for any person or business to demand, charge, or collect any advance or upfront fee for loan modification work or services.

When victims called the number on the letter, the defendants falsely told the victims that they could get a complete refund of the fee their company charged if their loan was not modified and that the company had over a 95 percent success rate. After the victims gave Cunningham, Koelle, Phalen, Nolan, or Silva their money, the defendants kept that money without securing loan modifications for the distressed victims. They did not return or refund the victims the fees they paid for a loan modification.

In order to avoid having their theft discovered, Cunningham, Koelle, Phalen, Nolan, and Silva regularly changed the names, phone numbers, and addresses of the companies they operated.

In late December 2011, after more than one hundred victims from California and other states submitted complaints to various law enforcement agencies and to the Better Business Bureau regarding the defendants' loan modification activities, Cunningham, Nolan, and Silva started a new fraudulent scheme, in which they would send out forged "Conditional Approval" letters to victims with a mortgage servicer logo in the letterhead. They stated in the forged "Conditional Approval" letters that they could offer the homeowner a low interest rate of 2.8 percent or less to refinance their home loan. Cunningham, Nolan, and Silva also attached "Escrow Instructions" with the letter, directing the homeowner to deposit between \$3,500 and \$4,600 directly into the defendants' bank accounts.

Cunningham, Nolan, and Silva had no affiliation to the mortgage servicers or any authorization to offer a loan on behalf of the mortgage servicers. They made no efforts to qualify the victims for loans with mortgage servicers.

There are presently hundreds of known victims and others that are unknown both in California and out of state.

Participating Agencies

SIGTARP, the United States Secret Service, Huntington Beach Police Department, Department of Real Estate, Orange County Probation Department, Orange County Sherriff's Department, Costa Mesa Police Department, Irvine Police Department, and Santa Ana Police Department assisted in the investigation of this case and arrests of the defendants.

Deputy District Attorney Megan Wagner of the Major Fraud Unit prosecuted this case.

This prosecution was brought in coordination with President Barack Obama's Financial Fraud Enforcement Task Force, which was established to wage an aggressive and coordinated effort to investigate and prosecute financial crimes. SIGTARP is a member of the task force. To learn more about the President's Financial Fraud Enforcement Task Force, please visit www.StopFraud.gov.

About SIGTARP

The Office of the Special Inspector General for the Troubled Asset Relief Program investigates fraud, waste, and abuse in connection with TARP.

To report suspected illicit activity involving TARP, dial the **SIGTARP Hotline**: 1-877-SIG-2009 (1-877-744-2009).

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