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Operation Malicious Mortgage

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Recent news reports are filled with stories about the “crisis” of mortgage loans with upwardly-adjusting interest rates and the increase in foreclosures which, not surprisingly, have followed. Politicians in Washington, D.C. have vilified “predatory” lenders and have even sponsored legislation which would give a helping federal hand to homeowners who have defaulted on their mortgage loans.

But are all such homeowners victims of predatory lenders? Perhaps not, says the U.S. Department of Justice. Deputy Attorney General Mark R. Filip announced at a June 19, 2008 Washington, D.C. news conference that, since March 1, 2008, the Justice Department has investigated 144 mortgage fraud cases as part of its Operation Malicious Mortgage, with criminal charges in those cases having been filed against 408 defendants. According to the Justice Department, major investigations have been conducted in Georgia, Indiana, Maryland, Texas, and Tennessee.

Operation Malicious Mortgage reportedly now has 42 mortgage fraud task forces scattered throughout the nation, including three in California. The California task forces are based in the San Francisco, Los Angeles, and Sacramento areas.

Each task force is composed of agents from the Federal Bureau of Investigation (FBI) and prosecutors from a local U.S. Attorney’s Office. Other agencies which are expected to provide investigative assistance include the Internal Revenue Service (IRS), the U.S. Postal Inspection Service, local law enforcement officials and state prosecutors.

Although the Los Angeles task force was only recently established, the U.S. Attorney’s Office for the Central District of California (Los Angeles

and Orange counties) recently unsealed an indictment which charges three Orange County defendants with crimes such as making false statements on mortgage loan applications.

The task forces likely won’t have to look far for work. According to Joseph P. Russoniello, U.S. Attorney for the Northern District of California (San Francisco Bay Area), the Northern District currently has a backlog of 6,000 “suspicious activity” reports, which have been received from lenders in the past two years. According to Russoniello, the Northern District is currently receiving an additional 500 such reports per month. Russoniello estimates that 10,000 mortgage fraud cases may ultimately be prosecuted just in the Northern District of California.

Persons who reasonably believe they might be the subject of a mortgage fraud investigation should retain an attorney before being subpoenaed by a federal grand jury or contacted by law enforcement authorities.

* Anthony F. Earle, Esq. practices in the areas of business law, family law, real estate law, and trusts and estates; he represents individuals, small businesses, and real estate investors and professionals in both litigation and non-litigation matters.

Mr. Earle is licensed to practice law in all California state trial and appellate courts, the United States Supreme Court, the United States Court of Appeals for the Ninth Circuit, and federal trial courts in the Northern District of California. He is also a licensed Real Estate Broker.

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