

# MORTGAGE e-ALERT<sup>©</sup>

(13-8-2)

## CALIFORNIA MAN GETS FIVE YEARS IN ARIZONA FEDERAL PRISON FOR ADVANCE FEE MORTGAGE MODIFICATION AND RESCUE SCAM

### FACTS

**ON AUGUST 5, 2013, FRANK BECERRA CAMPOS, 66, OF SAN DIEGO, CALIFORNIA,** was sentenced by U.S. District Judge G. Murray Snow to five years' imprisonment, followed by three years of supervised release, for his role in an advance-fee mortgage rescue scam that took place in Arizona and California.

Campos had previously pled guilty to conspiring with two others, **MIGUEL CARRERA AND OSWALDO ESQUEDA**, to defraud more than 250 distressed homeowners out of approximately \$675,000 in up-front fees with **false promises of mortgage modification assistance**. Campos' prison sentence was the maximum allowed by statute, and Campos was ordered to pay back the fees to the victims in the form of restitution.

Campos, Carrera, and Oswaldo operated under the business names **GOLD CAPITAL INVESTMENTS, LLC, AND FORECLOSURE HOME SAVERS, LLC**, making false guarantees to mostly Spanish-speaking distressed homeowners that their mortgage principal balance and monthly payments would be reduced by 25 percent, and then failed to pursue any form of loan modification process on behalf of the homeowners.

When homes neared foreclosure, the homeowner was placed in bankruptcy proceedings to delay the foreclosure, but virtually all of the 250 or so victims ultimately lost their homes to foreclosure. **Carrera and Oswaldo, both citizens of Mexico, fled from the charges and are believed to be in Mexico. CARRERA IS BELIEVED TO BE WORKING IN REAL ESTATE UNDER THE NAME MIKE BELTRAN. (usattaz8513)**

### MORAL

If someone wants an advance fee to stop a foreclosure or modify your home loan, run do not walk to the nearest exit.

**CALIFORNIA HOMEOWNER ASSOCIATIONS CANNOT NONJUDICIALLY FORECLOSE ON OWNER'S UNIT WITHOUT FIRST PROVIDING OWNER WITH NOTICE OF 90-DAY STATUTORY RIGHT OF REDEMPTION**

**FACTS**

The homeowners association conducted a nonjudicial foreclosure of the owner's unit but failed to give the owner a 90-day notice of a statutory right of redemption. The owner does not have to tender any arrears which may be due before bringing an action to vacate any trustee's sale based on failure to provide the statutory notice of redemption.

The homeowners' association failed to notify the unit owner Mulani of his statutory 90-day right to redeem his home following the trustee's sale. The homeowner sued to vacate the trustee's sale and court granted summary judgment in favor of the homeowners association which was reversed on appeal by the homeowner.

The court also stated the homeowner was not required to tender arrears as a condition to maintaining the lawsuit to vacate the sale based upon lack of the redemption right notice to him. This is because the right of redemption arose after the trustee's sale and survived any earlier failure to cure the nonpayment. (*ccp*§729.050, *Afshan Mulani v. Witkin & Neal* (5-1-13, 2<sup>nd</sup> Dist. 215 CA4th 1428,155 CR3d892, 2013)

**MORAL**

If the HOA forecloses for failure to pay the assessments and does not give you the notice you have a right to sue to undo the foreclosure sale.

**GLEN ALAN WARD, FORMERLY OF LOS ANGELES, CALIFORNIA CAUGHT AFTER TEN YEARS AND NOW GETS TO SPEND THE NEXT ELEVEN YEARS IN FEDERAL PRISON**

**FACTS**

**On August 5, 2013 GLEN ALAN WARD, 48, A FORMER LOS ANGELES RESIDENT WHO FLED TO WATERLOO, CANADA** and was a fugitive from justice for more than a decade was **sentenced to 11 years in federal prison for RUNNING A NEARLY 15-YEAR FORECLOSURE-RESCUE SCAM** that fraudulently delayed foreclosure sales for more than 800 distressed homeowners.

In addition to his prison term, Ward was ordered to pay \$59,961 in restitution and to forfeit approximately \$100,000 in cash and property previously seized by law enforcement authorities.

Ward pleaded guilty in April to three separate sets of charges stemming from his 15-year fraud scheme. **In 2000, Ward failed to appear in United States District Court in Los Angeles after agreeing to plead guilty and fled to Canada.** In 2002, while he was a fugitive, Ward was indicted on multiple counts of

bankruptcy fraud in San Francisco. One year ago, in the third case, Ward was indicted on mail fraud, aggravated identity theft, and additional bankruptcy fraud counts in Los Angeles.

While in Canada, Ward recruited **FREDERIC ALAN GLADLE**, who was indicted by federal prosecutors in Los Angeles on bankruptcy fraud and identity theft charges in 2011. **Gladle was sentenced last year to 61 months in federal prison** (see: <http://www.justice.gov/opa/pr/2012/May/12-crm-576.html>).

On April 5, 2012, Ward was arrested in Canada by the Royal Canadian Mounted Police (RCMP) and the Waterloo Regional Police Service. On December 21, 2012, Ward was extradited to the United States to answer all three sets of charges.

After fleeing the United States in 2000, Ward continued his scheme while in Canada. To avoid being detected while accessing websites he needed for his scheme, Ward used a laptop computer in wireless hotspots away from his home. He also arranged for clients' monthly payments to be deposited in the bank account of a person in Texas, which he could access with an ATM card. Upon receiving confirmation that client funds had been deposited, Ward would withdraw the funds at one of many Waterloo-area ATMs. Federal agents in the United States were able to identify Ward's most-frequented wireless locations and his most-frequented ATMs. Using near-real-time information, these agents repeatedly passed along information on Ward's current or expected whereabouts to Waterloo and RCMP authorities in Canada. These Canadian authorities would then visit the locations as soon as possible, usually missing Ward by only minutes. Finally, Canadian authorities established "stake outs" on multiple ATMs after Ward had received confirmation of a deposit. When Ward visited one of these ATMs, Canadian authorities identified Ward and arrested him.

Ward led a scheme that solicited and recruited homeowners whose properties were in danger of imminent foreclosure with **promises that Ward would delay their foreclosures for as long as the homeowners could afford his \$700 monthly fee**. Once a homeowner paid the fee, Ward accessed a public bankruptcy database, retrieved the name of a debtor who had recently filed a bankruptcy petition, and directly the client to record a grant deed transferring a tiny interest in their distressed home. Then, after stealing the debtor's identity, Ward faxed a copy of the bankruptcy petition, a notarized grant deed and a cover letter to the homeowner's lender, directing it to stop the impending foreclosure sale due to the bankruptcy.

Because bankruptcy filings give rise to automatic stays that protect debtors' properties, the receipt of the bankruptcy petitions and deeds in the debtors' names forced lenders to cancel foreclosure sales. The lenders could not move forward to collect money that was owed to them until getting permission from the bankruptcy courts, thereby repeatedly delaying the recovery of money for months and even years. Additionally, if a distressed homeowner wanted to complete a loan modification or short sale, they were left to the mercy of Ward to send them forged deeds, supposedly signed by the debtors, to re-unify their title as required by most lenders.

As part of the scheme, Ward delayed the foreclosure sales of approximately 824 distressed properties by using at least 414 bankruptcies filed in 26 judicial districts. During that same period, Ward admitted to collecting more than \$1.2 million from his clients who paid for his illegal foreclosure-delay services. (*usattycdca8513*)

## MORAL

He was certainly very busy and creative. BUT, modern technology caught up with him. To the best of my recollection, this is the only case I can recall where someone had been doing it for fifteen years BEFORE getting caught. Well, now he has eleven more years to think about it because there is no parole in the federal system.

## **COLORADO SAYS USING A LOCK BOX CAN BE DANGEROUS TO YOUR LICENSE-THE SAME COULD BE TRUE IN CALIFORNIA**

### FACTS

The Colorado Division of Real Estate has seen an **increase in the number of complaints revolving around how lock box access has been handled for the seller's property**. Specifically, **allowing perspective buyers accesses to the property without being accompanied by their broker or authorized assistant**. Providing a perspective buyer unauthorized access to a property by themselves creates **numerous consumer harm issues; such as possible theft, property damage, injury, personal safety, and trespassing**. The Commission would like to reiterate that such action would be a **violation of §12-61-113(1)(n), C.R.S., which states "having demonstrated unworthiness or incompetency to act as a real estate broker by conducting business in such a manner as to endanger the interest of the public."**

As a consequence, disciplinary action may be taken whether or not there is actual harm caused by allowing a buyer or other third party unaccompanied access without the listing broker's authorization. Licensees review CP-16 on the Commissions position on Access to Properties Offered for Sale.

Licensees need to explain the benefits and potential risks to their clients about lock box use. The discussion should include the topic of to whom and how the access code for the lock box will be distributed. Will the code only be given out to other real estate licensees? May it be given out to others, such as an appraiser, a home inspector, or even the potential buyers once the property has gone under contract? What verification, if any, will be required before the access code is given out? Whatever is agreed upon, the best practice would be to memorialize this understanding in writing signed by all the parties to avoid future misunderstandings.

## MORAL

Think about this in California and the fact the broker can be sued for negligence for damages and any loss. In other words, think twice before using a lock box or asking the owner to allow you to use one.

## **THREE CHARGED IN CONNECTICUT WITH MORTGAGE FRAUD**

### FACTS

**On August 9, 2013** a federal grand jury sitting in Hartford returned an indictment charging three individuals with participating in a mortgage fraud scheme involving the purchase of more than 40

properties throughout Connecticut. The seven-count indictment charges **FILIPPOS MILIOS, ALSO KNOWN AS "FILIP," 54, OF NEWINGTON; MALGORZATA KARAS-GOLKA, ALSO KNOWN AS "MARGARET," 45, OF NEWINGTON; AND CARMELINDA MAROTTA, ALSO KNOWN AS "LINDA," 44, OF MANCHESTER**, with conspiracy and fraud offenses.

According to the indictment, from approximately **June 2005 to at least November 2008**, MILIOS, KARAS-GOLKA, MAROTTA, and others conspired to commit mail and bank fraud by defrauding banks and mortgage lenders in obtaining dozens of mortgages for the sale of properties owned by MILIOS and KARAS-GOLKA. Some of the loans involved in the scheme were insured through the Federal Housing Administration (FHA).

The indictment alleges that the mortgage fraud conspiracy involved the use of straw borrowers, false mortgage applications, false HUD-1 forms, fraudulent down payments, and false verification forms in connection with the **purchase of more than 40 houses** in Hartford, New Haven, and Middlesex Counties. As part of the scheme, MILIOS, MAROTTA, and others recruited or identified borrowers to purchase properties from MILIOS, KARAS-GOLKA, and their co-conspirators. MILIOS is alleged to have made the down payments on behalf of the borrowers recruited to purchase the properties he and his co-conspirators were selling.

The indictment also alleges that MILIOS, KARAS-GOLKA, and MAROTTA **FALSELY REPRESENTED TO THE LENDERS THAT A BORROWER INTENDED TO OCCUPY A PROPERTY AS A PRIMARY RESIDENCE** (*remember what I have said that checking primary residence in and of itself is a felony when you as the borrower do not intend to live there*). Part of the conspiracy involved borrowers submitting mortgage applications to purchase multiple properties as primary residences.

The indictment alleges that MILIOS paid money to borrowers, mortgage brokers, and recruiters, including MAROTTA, which was not disclosed to the mortgage lenders. MILIOS and MAROTTA also concealed from the lenders MAROTTA's involvement in several fraudulent transactions and her receipt of a portion of the seller's proceeds.

The indictment further alleges that MILIOS engaged in a money laundering conspiracy with **GABRIEL SERRANO, A CLOSING ATTORNEY**. In the course of many of the fraudulent closings involving MILIOS's sale to borrowers, Serrano received mortgage proceeds from banks and mortgage lenders. Serrano would frequently disburse some of those proceeds to private lenders who had loaned MILIOS money to purchase those properties.

MILIOS, KARAS-GOLKA, and MAROTTA are charged with one count of conspiracy to commit mail and bank fraud, as well as separate counts of bank fraud. Each of these charges carries a maximum term of **IMPRISONMENT OF 30 YEARS**. MILIOS and KARAS-GOLKA are also charged with separate counts of mail fraud. Each of these charges carries a maximum term of imprisonment of 20 years.

The indictment also charges MILIOS with conspiracy to commit money laundering, a charge that carries a maximum term of imprisonment of 10 years, and KARAS-GOLKA with making a false statement to federal agents in March 2013, a charge that carries a maximum term of imprisonment of five years.

The three defendants appeared in Hartford, pleaded not guilty to the charges and were released on bond. On August 6, 2013, Serrano waived his right to indictment and pleaded guilty to one count of conspiracy to commit mail and bank fraud, and one count of conspiracy to commit money laundering. He awaits sentencing.

As to MILIOS, KARAS-GOLKA, and MAROTTA, Acting U.S. Attorney Daly stressed that an indictment is not evidence of guilt. Charges are only allegations, and each defendant is presumed innocent unless and until proven guilty beyond a reasonable doubt. (*usatttct8913*)

### MORAL

Here they went back to loans that occurred eight years ago. As I have said, the federal prosecutors can and do go back the full ten years to indict.

## CONNECTICUT ATTORNEY PLEADS GUILTY TO MORTGAGE FRAUD

### FACTS

**On August 6, 2013 ATTORNEY AT LAW GABRIEL SERRANO, 47, OF WEST HARTFORD,** waived his right to indictment and pleaded guilty before United States Magistrate Judge Donna F. Martinez in Hartford to conspiracy charges stemming from his **role in an extensive mortgage fraud scheme. SERRANO, AN ATTORNEY, IS A PARTNER IN THE LAW FIRM OF SERRANO & SERRANO, LLC.**

From approximately **June 2005 to at least November 2008**, SERRANO was involved in a mortgage fraud conspiracy that involved the **use of straw borrowers, false mortgage applications, false HUD-1 forms, fraudulent down payments, and false verification forms for the purchase of numerous houses.** SERRANO served as the closing attorney on at least two dozen fraudulent transactions.

SERRANO often served as the closing attorney when a co-conspirator purchased properties with financing from private lenders. Later, when SERRANO's co-conspirator sold many of the properties to a buyer, SERRANO usually represented the buyer. In connection with many of the transactions where SERRANO's co-conspirator sold properties, **SERRANO knew that his co-conspirator, and not the borrower, had provided the required down payment checks on behalf of the borrower.** SERRANO often released the seller's proceeds checks to his co-conspirator before receiving a down payment, and he knew that his co-conspirator would use the seller's proceeds checks to obtain the down payment check for the same transaction. In this way, contrary to what SERRANO led the mortgage lenders to believe, the borrowers were purchasing the properties with no down payment funds of their own.

In addition, some of the borrowers purchased multiple properties from SERRANO's co-conspirator and represented to the mortgage lenders that they were purchasing each of the properties as primary residences. SERRANO knew that the borrowers did not intend to use the properties as primary residences.

In the course of many of the fraudulent closings involving his co-conspirator's sale to borrowers, SERRANO received mortgage proceeds from banks and mortgage lenders. SERRANO would frequently

disburse some of those proceeds to private lenders who had loaned his co-conspirator money to purchase those properties.

SERRANO has agreed that the **loss attributable to his conduct is approximately \$3.5 million.**

SERRANO pleaded guilty to one count of conspiracy to commit mail and bank fraud, a charge that carries a maximum **term of imprisonment of 30 years**, and one count of conspiracy to commit money laundering, a charge that carries a maximum term of imprisonment of 10 years. He is scheduled to be sentenced by Chief United States District Judge Alvin W. Thompson on October 29, 2013. (*usattyct8-6-12*)

### **MORAL**

Here is one attorney that is looking at losing his license. Thing about this: four years of college, 3 years of law school; months studying to pass the bar. Now it will all be gone. Greed does it every time. If anyone has questionable loans, contact your attorney now. NOT after you have been contacted by?

## **NEW JERSEY STILL COMPETING TO BE IN MORTGAGE FRAUD SYSTEM**

### **FACTS**

**On August 8, 2013 Linda Cohen, 55, of Orange, New Jersey**, a paralegal admitted participating in a long-running, large-scale mortgage fraud scheme that defrauded financial institutions of at least \$2 million. Linda Cohen, 55, of Orange, New Jersey, **pleaded guilty** before U.S. District Judge Esther Salas to information charging her with one count of conspiring to commit bank fraud and one count of transacting in criminal proceeds.

**Cohen worked as a paralegal who handled real estate closing** for S.B., an attorney licensed in New Jersey. Cohen acted as the settlement agent for fraudulent mortgage loans brokered by **CONSPIRATOR KLARY ARCENALES, 45, OF LYNDHURST, NEW JERSEY, ON BEHALF OF PREMIER MORTGAGE SERVICES**. As closing agent, Cohen furthered the scheme by convening closings, receiving funds from lenders, and preparing HUD-1 reports that purported to reflect the sources and destinations of funds for mortgages on subject properties. Those HUD-1s were neither true nor accurate. Cohen routinely certified HUD-1s in which she purported to have received a down payment from the buyer when no down payment had been made. At or following the closings, Cohen disbursed mortgage loan proceeds directly to Premier Mortgage Services, **ARCENALES, AND OTHER CONSPIRATORS**. Cohen created shell bank accounts into which she funneled the proceeds of her fraudulent activity.

The count of conspiracy to commit bank fraud to which Cohen pleaded guilty is punishable by a maximum potential **PENALTY OF 30 YEARS IN PRISON** and a \$1 million fine, and the count of transacting in criminal proceeds is punishable by a maximum penalty of 10 years in prison and a fine of \$250,000 or twice the gross amount of any gain or loss. Sentencing is scheduled for November 18, 2013. (*usattnj8813*)

### **MORAL**

Guess who is cooperating with the prosecutor against the conspirators?

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# TEXAS HOLDS THAT THE 3% CAP ON ORIGINATION FEES INCLUDES THE LENDERS ORIGINATION POINTS

## FACTS

In *Finance Commission of Texas vs. Norwood*, the Texas Supreme Court first held that the Commissions did not properly interpret the term “interest” under § 50(a)(6)(E) of the **state Constitution, which caps origination fees at 3% of principal**. The Commissions interpreted “interest” to include fees paid to the lender, thereby removing lender fees from the fee cap. However, the Court held the Commissions’ interpretation invalid, thus ruling that lender fees must be included in the 3% fee cap. (62113)

## MORAL

Now that ought to make it fun when reviewing CFPB caps and now the Texas caps.

**THE INFORMATION CONTAINED HEREIN IS NOT LEGAL ADVICE.  
AN ATTORNEY SHOULD BE CONSULTED IF YOU DESIRE LEGAL ADVICE.**

## SPEAKERS AND SPEAKING ENGAGEMENT

DATE:	SEPT. 12, 2013
TIME:	10:00 a.m. – 3:00 p.m. LUNCH IS PROVIDED
LOCATION:	LOMELI’S ITALIAN RESTAURANT 600 S. Brea Blvd. Brea Ca (714) 255-9100
TOPIC:	FORECLOSURES AND SHORT SALES. How they work. How to stop a foreclosure in order to work on the short sale. The process of both. A manual will be given to all attendees, Mr. Thordsen will stay to answer all questions on this or any other subject as long as necessary.  There are other speakers on: HOW TO GENERATE MORE LEADS THROUGH SOCIAL MEDIA HOW TO CREATE YOUR OWN WEBSITE HOW TO INCREASE YOUR PRODUCTIVITY
SPEAKER:	HERMAN THORDSEN. Other speakers will speak on the remaining three topics.
COST:	FREE
REGISTRATION:	Register at <a href="mailto:sgates@capmtgservices.com">sgates@capmtgservices.com</a>
NOTE:	SPONSORED BY CAPITAL MORTGAGE SERVICES

The Thordsen Law Firm for over 40 years represents clients in business litigation, personal injury, trusts and agency hearings among other matters.

We have successfully represented companies and individuals in many civil matters including but not limited to those under investigation or charged with violations of licensing laws and regulations, including HUD/FHA, FDIC requests for loss paybacks on loans submitted to banks taken over by the FDIC as well as those under investigation or charged with mortgage fraud. We develop and advise companies on audit procedures and policies to avoid violation of CFPB, HUD/FHA and state agency licensing laws and regulations such as the Consumer Financial Protection Bureau, Dodd Frank Act and federal and state mortgage fraud laws. We actively defend individuals in demands from lenders and federal agencies to buy back loans or pay for losses on loans.

We are a full service law firm. On Federal Matters we represent clients nationwide. Our Attorneys are licensed in California and Nevada representing clients in matters where they have suffered personal injury or are in need of a fresh start by filing for bankruptcy protection or in need of protecting their assets through trusts and wills.

**The firm attorneys represent numerous clients in many areas of law** including Personal Injury, trust and wills for asset protection, criminal white collar defense, defending against CALIFORNIA DRE, HUD/FHA and FDIC accusations, copyright and trademark protection, bankruptcy, defending civil suits **brought** against loan originators that are sued by borrowers, for repayment of losses on mortgage loans, mortgage fraud defense and general real estate matters. Among others we are counsel to lenders, realtors, mortgage brokers in California and nationally. We are counsel to state trade associations in California, Nevada and Arizona.

**If we may serve you please contact one of our attorneys Toll Free at (888) 667-8529.**

**Herman Thordsen, Esq.**

**Jozef G. Magyar, Esq.**

**Sean Thordsen, Esq.**

Our trial lawyer for our personal injury cases is Alan Brown a member of the National Trial Lawyers Association and past president of the Orange County Trial Lawyers Association. The National Trial Lawyers of America is by invitation only to the 100 top trial lawyers in each state. We are quite proud of Alan's accomplishment and the fact that we may serve those of you that have been injured so that you receive just compensation for your injuries.

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