Money Laundering in the Real Estate Industry

John Madinger, Author
Continuing Education for Real Estate Professionals

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COURSE OVERVIEW

Money is central to all real estate transactions, and to many criminal activities. The government is constantly seeking ways to prevent financial crime and catch criminals that harm society with these schemes. The money laundering statutes have become one of the federal government’s primary tools to combat not just illegal money laundering, but over 250 “Specified Unlawful Activities” (SUA) including terrorism. Other statutes, such as the Bank Secrecy Act and the USA PATRIOT Act impose increasingly complex regulations and compliance measures on American businesses defined as “Financial Institutions.” Today, real estate licensees – agents, brokers, and others “involved in real estate closing,” are subject, in one way or another, to these laws and regulations. Violations of the statutes and failure to comply with regulations can have severe legal, financial, and even emotional consequences, not just for agents and brokers, but for consumers.

This course seeks to explain the ways in which money is laundered, the laws and regulations designed to prevent the activity, the dangers to the real estate professional, and the ways these dangers can be avoided.

LEARNING OBJECTIVE

The object of this Money Laundering in the Real Estate Industry course is not to teach the laws in great detail. This course will give the real estate licensees a basic awareness and knowledge of the statutes and regulations, and how they affect real estate activity in Hawaii. Using actual Hawaii case examples, the course will focus on the variety of ways that money laundering schemes are most commonly used in real estate transactions. The “walk away” objective is that the licensee will learn to recognize the “Red Flags” that can alert them to potential criminal activity. Upon recognition of a Red Flag the licensee will know to avoid becoming involved, and how to take appropriate steps to protect themselves and their clients, Hawaii’s consumers.
MONEY LAUNDERING
IN THE
REAL ESTATE INDUSTRY

Time and Topic sequence

1:30 pm - 1:45 pm
Registration and administrative matters

1:45 pm - 2:15 pm
Money Laundering: Basic Concepts and Relevance to Real Estate licensees

2:15 pm - 2:30 pm
Federal Statutes and Regulations re: Money Laundering and Penalties
(drugs, false statements, bankruptcy fraud, mortgage loan fraud)

2:30 pm - 2:45 pm
Reporting cash transactions and the Bank Secrecy Act

2:45 pm - 3:15 pm
Asset Forfeiture of Real Property: Overview of Concepts

3:15 pm - 3:30 pm
Break

3:30 pm - 3:45 pm
Model Money Laundering Real Estate transaction in Hawaii

3:45 pm - 4:15 pm
Hawaii Real Property Money Laundering Cases (Prosecution and Defense views)
• Commercial building forfeiture
• Real estate agent/broker assisted purchase
• Fraud and false loan applications
• Straw buyers/nominee purchases
• Offshore loan financing/
• Consequences of Asset Forfeiture to Consumers (Clients)

4:15 pm - 4:30 pm
Review T/F quiz to illustrate Red Flags learned and open questions.

Total Instruction time - 180 minutes

**All cell phones must be turned OFF.**
Biographies

John Madinger, Author

John Madinger retired as a senior special agent with the Criminal Investigation Division of the Internal Revenue Service in October 2010. In his 36-year law enforcement career, he also served as a narcotics agent, supervisor, and administrator. He holds a bachelor's degree in criminal justice from Indiana University and a master's degree in history from the University of Hawaii. He is a graduate of the Oklahoma state police academy, the Drug Enforcement Administration's National Academy, and was the honor graduate in the Treasury Criminal Investigation Training Program. He is the recipient of numerous awards and citations from the Internal Revenue Service, the Drug Enforcement Administration, and the Organized Crime Drug Enforcement Task Force program. Certified to testify in federal court as an expert witness on money laundering, he is the author of Money Laundering: A Guide for Criminal Investigators (3rd Edition published 2011) and Confidential Informant: Law Enforcement's Most Valuable Tool, and has taught classes on money laundering and financial crime in the United States, Asia, Europe, Africa, the Caribbean and the Middle East. Currently, he is employed on contract by the United States Department of Justice to develop and present international training programs on money laundering, terrorism financing, and financial crimes.

Stephen P. Pingree, J.D.

Stephen P. Pingree, attorney at law, has for over 30 years represented taxpayers, real estate agents and others in a range of criminal and civil tax fraud and financial crimes cases before the IRS and the federal courts in Hawaii and throughout the United States. He holds an A.A. in English from Foothill College, Los Altos, California, a B.A. in Sociology (0) from the University of California, San Diego and a Juris Doctor (Dean's List) from California Western School of Law, San Diego. Steve is licensed to practice before the courts in the State of Hawaii, U.S. District Court for the District of Hawaii, the 9th Circuit Court of Appeals, the U.S. District Court for the Western District of Wisconsin, the U.S. Tax Court and, the Supreme Court of the United States. Following law school, Steve taught college courses in Business Law, Criminal Justice and Real Estate. Over the past 30 years he has written articles for, and taught seminars to, CPAs and accountants on the issues of tax and financial fraud. Steve Pingree has been a licensed Real Estate Broker for over 35 years and has taught pre-Licensing and continuing education courses to Hawaii real estate licensees. Steve has always drawn on his background as a trial lawyer, Sociologist, real estate salesman and college professor to bring a unique and interesting approach to his legal representation and teaching.
6 True or False Quiz on Money Laundering in the Real Estate Industry
(circle T or F)

1. Real Estate agents and brokers are included within the definition of a “Financial Institution” required to comply with money laundering regulations. T F

2. A real estate licensee may accept in excess of $10,000 in cash without filing a report to the government (form 8300). T F

3. Money Laundering laws only apply to drug deals. T F

4. In an Asset Forfeiture, the real estate agent must have knowledge of the illegal activity to be charged as a co-conspirator. T F

5. In an Asset Forfeiture legal proceeding where the Government files a "Notice of Pending Action" (Lis Pendens) that does not become a lien on the property. T F

6. It is legal to break $18,000 cash into three $6000 individual deposits. T F

7. The consumers/clients are not harmed if they, unknowingly, buy a house that was purchased with drug money and flipped it. T F

8. The absentee owner of a commercial building would not be harmed if the building was leased to a gambling organization by the owner’s agent. T F

9. It is ok to assist a client in filling out a loan application that contains false information as it is the client who signs the form. T F

10. It would be a “Red Flag” if the agent’s buyer was obtaining a loan from an offshore company. T F

11. It would be a “Red Flag” if the agent discovers that the client’s tax returns do not show enough income to justify the home purchase. T F

12. Because the buyer is a “Client” it is ok to have the buyer tell you of his criminal activity in confidence. T F

13. It is a good idea to help your client convert a large amount of cash into smaller cashier’s checks because cashier check transactions do not have to be reported. T F

14. You would not be liable for a crime if you helped your client transfer property just prior to him filing bankruptcy. T F

15. It is not mortgage loan fraud to purchase a property in the name of a straw buyer then after escrow closes transfer title to an investor. T F
Federal Money Laundering Law – 18 USC § 1956

§1956 (a) (1)
(a) (1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity—
   (A) (i) with the intent to promote the carrying on of specified unlawful activity; or
   (ii) with intent to engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or
   (B) knowing that the transaction is designed in whole or in part—
      (i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or
      (ii) to avoid a transaction reporting requirement under State or Federal law,
   shall be sentenced to a fine of not more than $500,000 or twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both. For purposes of this paragraph, a financial transaction shall be considered to be one involving the proceeds of specified unlawful activity if it is part of a set of parallel or dependent transactions, any one of which involves the proceeds of specified unlawful activity, and all of which are part of a single plan or arrangement.

§1956 (a) (2)
(a)(2) Whoever transports, transmits, or transfers, or attempts to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States—
   (A) with the intent to promote the carrying on of specified unlawful activity; or
   (B) knowing that the monetary instrument or funds involved in the transportation, transmission, or transfer represent the proceeds of some form of unlawful activity and knowing that such transportation, transmission, or transfer is designed in whole or in part;
      (i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or
      (ii) to avoid a transaction reporting requirement under State or Federal law,
   shall be sentenced to a fine of not more than $500,000 or twice the value of the monetary instrument or funds involved in the transportation, transmission, or transfer, whichever is greater, or imprisonment for not more than twenty years, or both. For the purpose of the offense described in subparagraph (B), the defendant’s knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant’s subsequent statements or actions indicate that the defendant believed such representations to be true.

§1956 (a) (3)
(a)(3) Whoever, with the intent—
   (A) to promote the carrying on of specified unlawful activity;
   (B) to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of specified unlawful activity; or
   (C) to avoid a transaction reporting requirement under State or Federal law, conducts or attempts to conduct a financial transaction involving property represented to be the proceeds of specified unlawful activity, or property used to conduct or facilitate specified unlawful activity, shall be fined under this title or imprisoned for not more than 20 years, or both. For purposes of this paragraph and
paragraph (2), the term “represented” means any representation made by a law enforcement officer or by another person at the direction of, or with the approval of, a Federal official authorized to investigate or prosecute violations of this section.

§1956 (b)

(b) Penalties.—

(1) In general.— Whoever conducts or attempts to conduct a transaction described in subsection (a)(1) or (a)(3), or section 1957, or a transportation, transmission, or transfer described in subsection (a)(2), is liable to the United States for a civil penalty of not more than the greater of—

(A) the value of the property, funds, or monetary instruments involved in the transaction; or

(B) $10,000.
1956 (a) (1)
Financial Transactions

No
Money proceeds of SUA?

No
Know proceeds of UA?

No
Conduct financial transaction or attempt to conduct financial transaction?

No
With intent to do any of four prohibited activities:

Yes

Promote SUA 1956 (a)(1)(A)(i)
Conceal nature, source, location, ownership, or control of proceeds of SUA 1956 (a)(1)(B)(i)
Avoid reporting requirements 1956 (a)(1)(B)(ii)
Evade taxes 1956 (a)(1)(A)(ii)
18 USC § 1957 - ENGAGING IN MONETARY TRANSACTIONS IN PROPERTY DERIVED FROM SPECIFIED UNLAWFUL ACTIVITY

(a) Whoever, in any of the circumstances set forth in subsection (d), knowingly engages or attempts to engage in a monetary transaction in criminally derived property of a value greater than $10,000 and is derived from specified unlawful activity, shall be punished as provided in subsection (b).

(b)
(1) Except as provided in paragraph (2), the punishment for an offense under this section is a fine under title 18, United States Code, or imprisonment for not more than ten years or both.
(2) The court may impose an alternate fine to that imposable under paragraph (1) of not more than twice the amount of the criminally derived property involved in the transaction.

(c) In a prosecution for an offense under this section, the Government is not required to prove the defendant knew that the offense from which the criminally derived property was derived was specified unlawful activity.

(d) The circumstances referred to in subsection (a) are—
(1) that the offense under this section takes place in the United States or in the special maritime and territorial jurisdiction of the United States; or
(2) that the offense under this section takes place outside the United States and such special jurisdiction, but the defendant is a United States person (as defined in section 3077 of this title, but excluding the class described in paragraph (2)(D) of such section).

(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury, the Secretary of Homeland Security, and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Postal Service, and the Attorney General.

(f) As used in this section—
(1) the term “monetary transaction” means the deposit, withdrawal, transfer, or exchange, in or affecting interstate or foreign commerce, of funds or a monetary instrument (as defined in section 1956 (c)(5) of this title) by, through, or to a financial institution (as defined in section 1956 of this title), including any transaction that would be a financial transaction under section 1956 (c)(4)(B) of this title, but such term does not include any transaction necessary to preserve a person’s right to representation as guaranteed by the sixth amendment to the Constitution;
(2) the term “criminally derived property” means any property constituting, or derived from, proceeds obtained from a criminal offense; and
(3) the terms “specified unlawful activity” and “proceeds” shall have the meaning given those terms in section 1956
1957 Spending Statute

1. Proceeds of SUA?
   - Yes
   - No
   2. Know property is criminally derived?
      - Yes
      - No
      3. Monetary transaction involving a financial institution?
         - Yes
         - No
         4. Value greater than $10,000
            - Yes
            - No

Money Laundering Violation
18 U.S.C. § 1957 (a)
STATUTORY DEFINITION OF FINANCIAL INSTITUTION

- As defined in the BSA 31 USC 5312(a)(2), the term “financial institution” includes the following:
  - An insured bank (as defined in section 3(h) of the FDI Act (12 USC 1813(h))).
  - A commercial bank or trust company.
  - A private banker.
  - An agency or branch of a foreign bank in the United States.
  - Any credit union.
  - A thrift institution.
  - A broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 USC 78a et seq.).
  - A broker or dealer in securities or commodities.
  - An investment banker or investment company.
  - A currency exchange.
  - An issuer, redeemer, or cashier of traveler’s checks, checks, money orders, or similar instruments.
  - An operator of a credit card system.
  - An insurance company.
  - A dealer in precious metals, stones, or jewels.
  - A pawnbroker.
  - A loan or finance company.
  - A travel agency.
  - A licensed sender of money or any other person who engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system.
  - A telegraph company.
  - A business engaged in vehicle sales, including automobile, airplane, and boat sales.
  - Persons involved in real estate closings and settlements.
  - The United States Postal Service.
List of Specified Unlawful Activities (SUA)

Violations of federal and state or foreign law identified as “specified unlawful activity” under 18 U.S.C. § 1956(c)(7) that pertain to the real estate industry:

Title: Section: Violations of Federal Law Relating to:

18  152  Bankruptcy (concealment of assets; false oaths and claims; bribery)
18  1001  Fraud and False Statements
18  1014  Fraud And False Statements (fraudulent loan and credit applications)
18  1341  Mail Fraud (frauds and swindles)
18  1343  Wire Fraud (fraud by wire, radio, or television) Involving a Health Care Offense
18  1344  Bank Fraud (defrauding a federally chartered or insured financial institution)
18  1956  Racketeering (laundering of monetary instruments)
18  1957  Racketeering (engaging in monetary transactions in property derived from specified unlawful activity)
21  841  Drug Abuse Prevention And Control (felony violations of certain prohibited acts)
21  842  Drug Abuse Prevention And Control (subsequent violations of subparagraph (A) after one or more prior convictions of a drug-related offense)
21  846  Drug Abuse Prevention And Control (attempt and conspiracy to commit any felonious offense defined in Subchapter I)
21  848  Drug Abuse Prevention And Control (continuing criminal enterprise)
21  854  Drug Abuse Prevention And Control (investment of illicit drug profits obtained from a felonious violation of either Subchapter I or Subchapter II)
21  856  Drug Abuse Prevention And Control (establishment of manufacturing operations)

Any Act Or Threat (chargeable under State Law and punishable by imprisonment for more than one year) Involving:
* Murder
  • Kidnapping
  • Gambling
  • Arson
  • Robbery
  • Bribery
  • Extortion
  • Dealing In Obscene Matter
  • Dealing in a Controlled Substance or Listed Chemical (as defined in 21 U.S.C. § 802)
Money Laundering and Real Estate in the News

Real estate agent pleads guilty in money laundering
March 20, 2012

A real estate agent has pleaded guilty to money laundering for helping a couple use profits from a drug operation to buy a $2-million, 4,538-square-foot home in exclusive Rancho Santa Fe.

Marco Manuel Luis, 31, of Carlsbad, faces a maximum 10 years in prison and a $500,000 fine for having submitted fraudulent loan documents on behalf of Joshua John Hester and Kelsey Wiedenhoefer.

Hester and Wiedenhoefer in January pleaded guilty to drug charges in connection with a marijuana growing operation at the Rancho Santa Fe home, according to court documents. The couple is set to be sentenced May 14 in San Diego federal court.

Luis has also pleaded guilty to submitting fraudulent documents to help Hester and co-defendant Jay Jansen buy a 38-acre parcel in Palomar Mountain, where marijuana could be grown. That charge also carries a maximum 10-year prison sentence and $500,000 fine.

Jansen is set to be sentenced May 14.

"MONEY LAUNDERING"
AND
REAL ESTATE TRANSACTIONS

By Frank D. Whitney
Assistant United States Attorney
for the
Western District of North Carolina

On September 14, a Charlotte real estate broker pleaded guilty in United States District Court to two felony counts of mishandling large amounts of cash in violation of federal currency transaction reporting requirements, and forfeited $180,000 to the United States. The cash was proceeds of cocaine trafficking and illegal gambling.

This conviction illustrates the shift in the "war on drugs" from the streets and into the business and finance community, where in the Money Laundering Control Act of 1986, Congress criminalized the handling of "dirty money" as well as the distribution of drugs. The intent of the Act is to prevent drug traffickers from laundering their ill-gotten gains into legitimate assets so that they are unable to spend their illegal profits; thus, the profit incentive of drug trafficking is diminished or even eliminated.
There are two domestic money laundering sections in the United States Code. Under Section 1956 of Title 18, persons are subject to a twenty-year prison sentence if they know that property (currency, securities, real estate, etc.) is the proceeds of unlawful activity and the property is, in fact, the proceeds of certain "specified unlawful activities" (fraud, Controlled Substance Act crimes, racketeering, gambling, etc.), and they either (1) promote the conduct of a specified unlawful activity; (2) engage or attempt to engage in tax evasion or tax fraud; (3) conceal the nature, location, source, ownership, or control of the property; or (4) avoid the applicable transaction reporting requirements.

And under Section 1957 of Title 18, persons may face a maximum ten-year prison sentence if they merely spend or attempt to spend in a "monetary transaction" more than $10,000 in currency or other monetary instrument (personal checks, investment securities, etc.) knowing that the property is "criminally derived"; i.e., was obtained from a criminal offense.

In addition to the two money laundering crimes previously described, real estate agents should also be aware that Congress has enacted "currency reporting requirements" requiring that the IRS be notified where $10,000 or more in currency is used in a transaction. It was these crimes to which the Charlotte real estate broker pleaded guilty. Presently, two forms of federal domestic reporting requirements exist: The CTR which is filed by a bank or similar depository institution when $10,000 in cash is deposited in the bank; and Form 8300 which must be filed by a trade or business (including real estate agencies and closing attorneys) when $10,000 or more in cash is transferred or exchanged in a transaction or a series of related transactions. [NOTE: There is also a proposal pending before the IRS which would extend the reporting requirements to include transactions involving cashier checks and money orders.]

As the Charlotte verdict illustrates, real estate brokers and salespersons must be cautious as to the source of funds used to purchase houses. If they do not, they may risk not only losing their real estate licenses but also serving time in a federal institution without chance of parole.
Oregon Real Estate Agent Guilty in Money Laundering Case

PORTLAND, Ore. – (Source: Oregon DOJ) –
Chael Sonnen, 33, of West Linn, Oregon, plead guilty today to one count of money laundering in federal court before the Honorable Michael Mosman. Sentencing is scheduled on March 28, 2011 at 11:30 a.m.
Sonnen, a licensed realtor in the State of Oregon, admitted that a financial transaction he conducted was designed to conceal or disguise the ownership and control of the proceeds of wire fraud. The scheme involved Joel Rosabal and Chadwick Amsden, employees of Crown Point Enterprises, dba Lighthouse Financial Group (Lighthouse), a mortgage brokerage service based principally in Vancouver, Washington, with operations in Oregon and elsewhere. Rosabal and Amsden submitted a materially false loan application on the buyer’s behalf to Decision One Mortgage, a subprime lending institution that is now defunct, for the purchase of residential property located at 11249 SE Rolling Hills Lane, Portland, Oregon. Sonnen acted as the realtor for the transaction. Sonnen submitted a false letter and Sales Agreement Addendum instructing the title company to pay loan proceeds to a plumbing company for repairs to the home. In fact, Sonnen knew and had negotiated with Rosabal that no repairs would be performed on the home and the funds designated to the plumbing company would instead be paid to the buyer as a cash incentive to purchase the home. This agreement was not disclosed to Decision One Mortgage. Once the loan was funded, the title company paid over $69,000 to the plumbing company and the plumbing company, in turn and at Sonnen’s direction, paid $65,000 to the buyer of the home.
“This office will continue to aggressively prosecute real estate professionals who committed the mortgage fraud that contributed to this country’s economic downturn and wreaked havoc on our community’s housing market. We entrusted these professionals to honestly broker real estate transactions and instead, they defrauded lending institutions throughout the country and left financial ruin in their wake,” said Dwight Holton, U. S. Attorney for the District of Oregon.

Marcus Williams, the Special Agent in Charge of IRS Criminal Investigations for the Pacific Northwest said, “West Linn residents, and other residents throughout the Portland/Vancouver area, can rest assured knowing that federal law enforcement agencies take mortgage fraud very seriously because it played a major role in almost crippling this nation’s banking system just a few years ago.”
Money Laundering carries a maximum sentence of up to 20 years in prison and a $500,000 fine.

There are currently two other cases related to Lighthouse pending in the United States District Court of Oregon, United States v. Joel Rosabal et al., USDC Case No. 10-CR-00195 and United States v. Chadwick Amsden, et al., USDC Case No. 10-CR-00196. In addition, three other defendants have pled guilty and have been sentenced to charges related to Lighthouse as well: United States v. Kamau Herndon, USDC Case No. 09-
**Specific Indicators on Real Estate**

**Introduction**

Real estate has long been the preferred choice of criminals for hiding ill-gotten gains, and manipulating property prices is one of the oldest known ways to transfer proceeds illegally between parties to a deal. Beyond the emotional appeal there are other factors: the relatively high monetary value, the likelihood that the value will appreciate over time and the opportunities to conceal ownership. The following techniques of money laundering are identified.

**The purchase**

In purchasing a property the criminal will seek to launder proceeds by providing a portion of the purchase price (from criminal proceeds) in cash “under the table”, with the formal sale documents showing the balance of the purchasing price. The purchase of real estate by offshore companies, where the shareholder and the origin of the money is concealed, is also a way of using criminal proceeds.

**Financing**

A popular form of money laundering is by financing through loan back. This is when a criminal borrows his or her own criminal money. This is simply done by creating a loan agreement between the criminal or their representative and an apparent third party. Foreign offshore corporations controlled by the criminal are most commonly used as the third party lender.

**Renovations and use of real estate**

The owner of the property has it altered and pays for renovations with criminal money. Another possibility is where the criminal rents a home and pays for it in cash with the proceeds of crime.

**Selling**

Selling real estate property to an offshore corporation, for a price that is much higher than the real market price, creates a seemingly legitimate capital gain. Selling real estate property to a third party for a price above market value, while giving a cash rebate at the same time, will also create a seemingly legitimate capital gain.

**Concealment of ownership**

The criminal will attempt to conceal their assets, wealth or the origin of the funds used to finance the purchase. Examples include:

- Straw man/straw men or nominees, perhaps a relative of the criminal or a corporation, often offshore, is used as the registered owner of the real estate property. The criminal is therefore able to remain anonymous.

- Third party bank accounts or trust accounts, administered by notaries or lawyers, are used to conceal the origin of money to acquire the property.

**Rental of real estate**

Luxury homes can be rented and the lease can be in the name of a third party or in the name of the criminal. The rent is paid in cash, out of criminal proceeds. This may be more apparent in new real estate developments.
20  **Indicators “Red Flags”**

- Unusual transactions and parties
- Unusual possession
- Non-transparent ownership
- Lack of income in relation to purchase price
- Persons with criminal records or background
- Social network of a criminal person
- Fast-growing portfolio
- Unusual transactions
- Unusual parties to the transaction
- Unusual transaction prices
- Unusual transaction results
- Unusual financing
- Unusual origin of the funds
- Unusual lender
- Unusual borrower
- Unusual loan agreement
- Unusual financing result
- Unusual occupant or user
- Unusual statements given

**Example**

Property flipping

Property flipping means that two or more transactions relating to the same property take place within a relatively short period of time. Property flipping can be used to launder criminal proceeds. The buyer pays more than the price which is documented in the purchase agreement and the notarial deed. When the buyer subsequently resells the property for the same price that they actually paid, it appears that they have made a profit. As a result of this transaction, the criminal proceeds have been converted to a seemingly legitimate amount of deposit money.

In this example the criminal seeks to launder $200,000 with the apparent legitimate purchase and subsequent sale of a property. The property seller receives full market value (e.g. $700,000) for the property, but agrees to receive an “under-the-table” cash payment of $200,000 and a formal payment of $500,000 along with notarial documents listing the sale as $500,000. When the buyer subsequently resells the property for the same price that they actually paid ($700,000), it appears that they have made a profit.
Glossary of Terms Used in Mortgage Loan Fraud Cases

Common Federal Statutes for Mortgage Fraud Prosecution
18 U.S.C. § 1341 – Mail Fraud
18 U.S.C. § 1343 – Wire Fraud
18 U.S.C. § 1344 – Bank Fraud
18 U.S.C. § 1014 – false Statement on Loan or Credit Application
18 U.S.C. § 371 – Conspiracy

Common Schemes

**Fraud for Housing** – misrepresentations by mortgage applicant to obtain a primary residence.

**Fraud for Profit** – creating fake properties and fraudulently inflating property values to gain from property sales. Often involves industry insiders and persons paid to participate.

**Property Flipping** – Property purchased and quickly resold for artificially inflated price, usually after a fraudulent appraisal.

**Equity Skimming** – Investor gets mortgage loan in name of straw buyer who signs property over to investor, then investor rents property and does not pay the mortgage.

**Foreclosure Rescue Scams** – “Consultant” convinces homeowner that foreclosure can be prevented by transferring the deed, then strips equity through sale of the home or by securing a second mortgage.
Commercial Building Forfeiture – Example 1

This example involves a group of methamphetamine dealers who had cornered a part of the Hawaii market in the early days of the ice epidemic in Hawaii. An informant led agents to one of the mid-level dealers, who agreed to sell 2 pounds of crystal methamphetamine.

After he delivered the methamphetamine, search warrants were executed at his Kapahulu apartment, where agents seized over $900,000 in cash, and another 11 pounds of ice. Agents also found bank records – deposit slips and receipts for cashier’s check purchases – that led to bank accounts in Honolulu and Los Angeles. Using these records, agents traced over a million dollars in structured cash deposits from Hawaii to California, where the money was used to purchase a house in Orange County and a liquor store in Marina del Rey. These properties and the bank accounts were seized and forfeited.

The objective of the money laundering scheme was to purchase property in California, away from the drug trafficking and sales in Hawaii, and to use the commercial property – a liquor store – as an explanation for the income from drug sales.

This case had another real estate angle. In attempting to fight the forfeiture, the defendants claimed that the money used to buy the house and liquor store did not come from drug sales, but were the proceeds of a sale of property in Korea, and that the money from this sale had all been brought in cash to Hawaii by family members. Investigators determined that there had been a sale of a property in Korea, but learned that it occurred after most of the cash transactions in Hawaii. Further, none of the cash was reported on the Customs Currency and Monetary Instrument form that is required anytime cash over $10,000 is taken into or out of the United States. And none of it was reported to Korean authorities, which had a similar requirement.

Violations – 18 USC 1956 (a) (1) (B) (i) Money laundering – Intent to conceal or disguise
18 USC 1957 Engaging in monetary transaction
31 USC 5324 Structuring

Forfeiture – Approximately $1,000,000 in cash
Residence in Orange County, California
Commercial property – Marina Liquors, Los Angeles, California

Red Flags – Purchaser had no legitimate source of income
Unusual form of payment to purchase the property
Multiple cashier’s checks from Hawaii
This example involves a commercial business property in Honolulu’s Chinatown district. The building had been owned for some time by a corporation that included investors who did not occupy the building and some of whom lived abroad. One of the three floors was leased to a gambler who constructed a complete gambling operation on the premises.

Police and federal agents raided the property and another commercial building in Chinatown, arrested several people and seized gambling devices and other property. A forfeiture action was filed against the building, which was encumbered by a large mortgage from a mainland lender.

The owners of the property claimed to have no knowledge of the illegal activity taking place on the premises, but one of the owners pleaded guilty to money laundering and admitted knowledge of the activity.

Violations – 18 USC 1956 (a) (1) (A) (i) Money laundering – Promoting a Specified Unlawful Activity

Forfeiture – Commercial property – Chinatown, Honolulu, Hawaii

Red Flags – Use of the building for illegal activity (this wasn’t a big secret)
In this case, a Honolulu real estate broker was convicted of money laundering when a major cocaine and methamphetamine trafficker from the Bay Area of California established part of his drug sales operation in Hawaii, using two California friends as his local representatives. As part of his scheme, he sought out a commercial property – an established Waikiki nightclub – and directed his representatives to purchase the property.

The owner of the nightclub and the real estate broker were both aware that the large amounts of cash that were being offered for the purchase were the proceeds of drug trafficking, and both admitted this at their sentencing. Because the escrow company would not accept cash, the seller and the broker both took cash from the drug trafficker and purchased large cashier’s checks, which were then deposited into the escrow account.

When the seller cooperated with law enforcement, he provided evidence against the broker, and the broker agreed to launder additional money for an undercover agent.

**Violations** – 18 USC 1956 (a) (1) (B) (i) Money laundering – Intent to conceal or disguise  
18 USC 1957 Engaging in monetary transaction

**Forfeiture** – Commercial property – Waikiki nightclub

**Red Flags** – Purchaser had no legitimate source of income  
Unusual form of payment to purchase the property - cash  
Broker was aware of the illegal source of the funds
25  **Under the Table Payment**

This case began as a narcotics investigation and officers discovered that the suspect had recently purchased a house in the Aina Haina neighborhood of Honolulu. A review of the public records of the transaction showed that although the purchase price was low - $200,000 under the listing price, the 20 percent down payment was normal and the balance was financed through a local bank.

After the suspect was arrested, he agreed to cooperate with law enforcement and he was asked about the purchase of the Aina Haina property. He said that he had come to an agreement with the owner to pay $250,000 in cash “under the table,” with the understanding that the recorded sale price would be $600,000 instead of the $800,000 listing price. The sellers agreed to these terms and took the money. The suspect claimed that the seller’s broker and agent were unaware of the cash payment, and he was not represented by an agent.

The suspect had successful laundered $250,000 in drug money, converting it from cash into real property. The sellers were interviewed and it was learned that they had structured some deposits of the cash to avoid the filing of a currency transaction report. Further, they were not planning to report the receipt of the $250,000 on their tax return, but the return was not yet due for the year. Faced with these issues, they also cooperated and said that they had concealed the transaction from their broker, saving on the commission on the sale. They denied that they knew that the money had come from drug sales and the suspect said he never told them the source of the funds.

The prosecutor declined to charge the sellers with money laundering, but they agreed to forfeit the $250,000. Because the house had a significantly higher value than the mortgage, it was forfeited to the government and the loan paid off.

**Violations** – 18 USC 1956 (a) (1) (B) (i) Money laundering – Intent to conceal or disguise
- 18 USC 1957 Engaging in monetary transaction
- 31 USC 5324 Structuring

**Forfeiture** – Approximately $250,000 in cash, bank accounts
- Equity in residence in Aina Haina, Honolulu, Hawaii

**Red Flags** – Purchaser had no legitimate source of income
- Unusual form of payment to purchase the property - cash
- Concealing details of the transaction from the real estate professional
- Unusual purchase price – substantially below listing
In this case, Hawaii law enforcement was completely unaware that the property had been purchased with drug proceeds. The drug organization sold huge amounts of marijuana smuggled from Asia and elsewhere, but did not operate in Hawaii. One of the principals, though, liked visiting Kauai, and decided to buy property there. This was intended as an investment and a potential “retirement” residence for life after drug dealing. This individual used funds that were deposited into a mainland bank account, transferred to Hawaii to complete the real estate transaction. There was nothing suspicious about the deal, and nothing to alert the real estate agents or brokers that drug proceeds were involved.

Some time later, agents in Spokane, Washington and Boise, Idaho, began investigating the group and discovered that one of the subjects had transferred funds to an escrow company in Hawaii. Further investigation led to the Kauai property, which was concealed under the name of a front company. The Idaho agents obtained seizure warrants for this and other properties and asked for Hawaii’s assistance in seizing the property. The seizure warrant was executed, the tenants evicted, the property seized and inventoried, and held pending forfeiture. It was subsequently forfeited to the government.

This type of case is not uncommon, as criminals from the mainland and elsewhere invest their funds in Hawaii real estate like many non-criminals. If the laundering scheme is effective, there will be little or nothing to alert real estate professionals to the scheme. By following the money, investigators will be led to the property, which can then be seized and forfeited.

Violations – 18 USC 1956 (a) (1) (B) (i) Money laundering – Intent to conceal or disguise
18 USC 1957 Engaging monetary transaction
31 USC 5324 Structuring

Forfeiture – Residence in Kilauea, Kauai, Hawaii

Red Flags – None
These two cases both involved properties bought in Hawaii and Las Vegas by drug traffickers who used family members as nominees or straw purchasers.

In the first case, a Waimanalo drug trafficker purchased a home on a multi-acre lot in a Puna subdivision in the town of Hilo. Because he was unemployed and had no legitimate source of income, he used his father, a retired City and County employee, as the purchaser. The dealer conducted all of the negotiations, made the down payment, and had all the meetings with the real estate professionals, none of whom ever saw the father.

At about the same time, he was also purchasing a residential property in Henderson, Nevada, just outside of Las Vegas. For this purchase, he used his brother as the nominee. Both properties were seized and forfeited to the United States.

Violations – 18 USC 1956 (a) (1) (B) (i) Money laundering –
Intent to conceal or disguise

Forfeiture – Residence in Puna, Hawaii County, Hawaii
Residence in Henderson, Nevada

Red Flags – Purchaser had no legitimate source of income
Used nominees or straw purchasers to buy the property

In the second case, a Kaneohe drug trafficker purchased a condominium apartment in the Salt Lake district of Honolulu, placing this property in the name of his brother. The dealer then used this condominium as a residence and a base of operation for his heroin sales in Honolulu.

Shortly afterward, the dealer gave money to his parents, with instructions to invest the money in mainland real estate. They used the funds to purchase two duplex apartment buildings in Las Vegas, Nevada. The dealer participated in the negotiations for the purchase.

Violations – 18 USC 1956 (a) (1) (B) (i) Money laundering –
Intent to conceal or disguise

Forfeiture – Condominium apartment in Salt Lake, Honolulu, Hawaii
Two duplex apartment buildings in Las Vegas, Nevada

Red Flags – Purchaser had no legitimate source of income
Used nominees or straw purchasers to buy the property
MONEY LAUNDERING
IN THE
REAL ESTATE INDUSTRY

Instructor: Stephen P. Pingree, J.D.

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