

MAY 28, 2010

White-collar crack down

Feds ramp up Cincinnati efforts to ferret out fraud

by Jon Newberry | jnewberry@bizjournals.com

The U.S. Attorney's office for Cincinnati has established a financial crimes section to focus more resources on prosecuting mortgage fraud and other white-collar crime.

Its action is just one aspect of a broad increase in investigative activity among local law enforcement and regulatory agencies looking into financial crime.

Carter Stewart, U.S. attorney for the Southern District of Ohio, said he is stepping up efforts to uncover other criminal activity, having prosecuted several high-profile financial crimes over the past year, such as the conviction last summer of former Dynus Corp. owner Orlando Carter for bank fraud. Stewart is based in Columbus and oversees branch offices in Cincinnati and Dayton.

"Financial crime is our No. 2 priority, after terrorism," Stewart said.

Ohio in recent years has ranked near the top of states for indicators of mortgage fraud activity tracked by the Federal Bureau of Investigation. Ohio's "suspicious activity reports" filed by banks with the financial crimes unit of the U.S. Treasury Department, ranked ninth in 2008 and 10th in the first six months of 2009. Mortgage fraud activity increased by more than 40 percent on an annualized basis during both of those periods.

BUSY DEFENSE LAWYERS

More concrete evidence was revealed in January indictments that accused Warren County interior designer Eric Duke and West Chester mortgage broker Debbie Sferazza of operating mortgage fraud schemes involving millions of dollars in loans.

Other agencies involved in the investigative efforts locally include the FBI, the



'We're seeing increased activity across the board,' said Taft's Ralph Kohlen.

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criminal investigation unit of the Internal Revenue Service, and the Office of the Inspector General at the Department of Housing and Urban Development, as well as state and local law enforcement agencies.

These combined efforts are keeping white-collar criminal defense lawyers in Cincinnati scrambling as business clients respond to investigators' inquiries and demands for documents. Investigations can impose big burdens on those identified as targets for prosecution, as subjects or "persons of interest" to investigators, or merely as witnesses, according to lawyers.

"Behind every regulator or auditor or analyst working for an agency is a criminal investigator looking over their shoulder to cherry-pick criminal cases," said Ralph Kohlen, former federal prosecutor in Cincinnati who now heads the white-collar

criminal defense practice group at Taft Stettinius & Hollister. "We're seeing increased activity across the board."

Stewart's office received federal funding for a new assistant U.S. attorney in Columbus to focus on mortgage fraud. It was one of 25 such positions created nationwide. The Cincinnati office has two specialists dedicated to the new financial crimes section.

The Cincinnati office of the Federal Bureau of Investigation also has increased its investigative activities into financial crime, particularly mortgage fraud, said Tom Bailey, supervisor of its white-collar crime unit. Bailey said the office has refocused resources on white-collar crime but declined to quantify those actions.

A 'TEAM APPROACH'

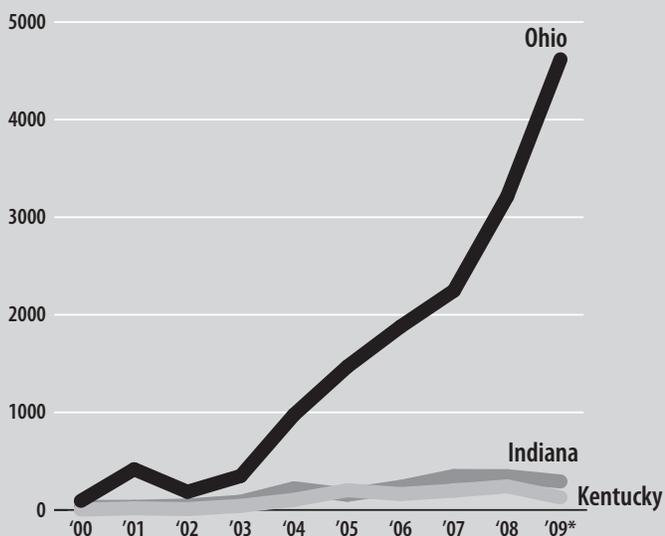
Its emphasis is on partnering with other

FRAUD: U.S. Attorney's Southern Ohio office, FBI ramp up local financial crime investigation efforts

'SUSPICIOUS ACTIVITY'

These charts show the number of Suspicious Activity Reports filed by banks and other depository institutions with the Treasury Department's office of Financial Crimes Enforcement Network. SARs are one of the main indicators the FBI uses to gauge how much and where fraudulent activity is occurring.

Mortgage Loan Fraud



Source: U.S. Treasury Department

*Projection

Commercial Loan Fraud



*Projection

federal, state and local agencies, he said. The main thrust has been through a Greater Cincinnati Mortgage Fraud Task Force, which includes dedicated, full-time officers from the Cincinnati Police Department and the Hamilton County Sheriff's Department.

"Instead of all of them doing their own things, we're getting together to address them as a team approach," Bailey said.

Asked to identify areas that investigators are focusing on, Stewart said there's no typical case, that they're looking in numerous places. Most of their leads are paper-driven – bankruptcy filings, loan applications, tax forms, regulatory filings, etc. – so one piece of evidence often leads to another piece elsewhere, he said.

Marty Pinales, a veteran Cincinnati criminal defense lawyer, said his practice has been extremely busy since he joined Strauss & Troy last fall to initiate its white-collar criminal defense practice. Pinales represented Dynus's Carter, who was convicted of making false statements to obtain millions of dollars in commercial bank loans.

'THE MOOD OF THE COUNTRY IS NOT TRUSTING'

While the number of white-collar crimes does tend to increase when the economy

slumps, Pinales said, there also has been a greater stress on financial crime by the government. He pointed to a recent study by the National Association of Criminal Defense Lawyers and the Heritage Foundation that found there are many new business crimes that don't require criminal intent. As a result, people or businesses can be charged and convicted of a crime even if they make a mistake.

"It might not be fraud, but the government might perceive it as fraud," he said. "Most of my clients have no intention of crossing the line or breaking the law. They get wrapped up. The mood of the country is not trusting to companies."

Taft's Kohnen said he's been seeing evidence of "more and broader-based investigations," including more grand jury subpoenas and more demands for documents and electronic records from agencies with subpoena power. The subject matter runs the gamut, including loan fraud, bankruptcy, securities, taxes, environmental, immigration and labor, he said.

"We expect that much of it is in the investigative arena right now. It's hard to tell whether that's going to produce more prosecutions or more significant prosecutions,

OHIO RANKS HIGH

Number of SARs filed Jan. 1 through June 30, 2009

1	California	63,484
2	New York	31,759
3	Florida	28,309
4	Delaware	27,037
5	Texas	22,952
6	Virginia	11,814
7	Illinois	11,751
8	North Carolina	11,129
9	New Jersey	11,028
10	Ohio	10,962
36	Indiana	3,357
43	Kentucky	1,795

Source: U.S. Treasury Department

but I'm confident that it will," he said. That's likely to begin happening by the end of the summer, he said.

"Investigations might take three months or three years. The more significant they are, the longer they take," Kohnen said. "The next few years is probably not going to be a happy time for people in regulated industries."