

FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT

The Florida Department of Law Enforcement (FDLE), Office of Executive Investigations (OEI), is conducting a criminal investigation into allegations that Special Agent Kathy Smith and her former husband, [REDACTED], filed a sworn affidavit falsely claiming they were married in order to obtain a mortgage loan in the amount of \$461,500. The following investigative report details the documents received in support of the criminal allegation of mortgage fraud.

On November 17, 2014, Inspector Luis Negrete received and reviewed documents relating to a mortgage signed on March 3, 2010 for the property located at [REDACTED], [REDACTED]. The Mortgage details the amount of the loan as \$461,500.00 and the "borrower" as Kathy Smith, a married woman. The mortgage documents were initialed on every page with "KS" and "[REDACTED]", and signed at the end of the document by K. Smith and [REDACTED].

The mortgage was filed and recorded at the Monroe County Clerk of the Courts Office (MCCC) on March 19, 2010 as document# 1782085. An additional document titled Continuous Marriage Affidavit was also filed on the same date (March 19, 2010) with the MCCC as document # 1782086. The affidavit was signed under oath by K. Smith and [REDACTED] attesting to the following:

- K. Smith and [REDACTED] were the owners of the property located at [REDACTED]
- K. Smith and [REDACTED] were husband and wife at the time they acquired title to the property and that their marriage to each other had been continuous and uninterrupted up to and including March 3, 2010.
- K. Smith and [REDACTED] were familiar with the nature of an oath and with the penalties as provided by the laws of the State of Florida for falsely swearing to statements in an affidavit.

Both the mortgage documents and the Continuous Marriage Affidavit were processed by LHT Title, LLC and notarized by Susan Meneses (Commission# DD637500).

MCCC records detail that the marriage of K. Smith and [REDACTED] was dissolved on November 10, 2009.

A copy of the mortgage documents, the Continuous Marriage Affidavit and the MCCC marriage dissolution are stored as related items # INV-1.

Case Number: EI-14-0144	Serial #: 1
Author: Negrete, Luis Angel	Office: Executive Investigations
Activity Start Date: 11/24/2014	Activity End Date:
Approved By: Ward, Richard Allan	

Description:Case Opening

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On November 24, 2014, pursuant to the above investigation, Senior Crime Intelligence Analyst Holly Williams obtained [REDACTED]
[REDACTED]
[REDACTED]

The results for the subject were provided to Inspector Luis Negrete and will be maintained in Related Item #2 of this case file.

Case Number: EI-14-0144	Serial #: 2
Author: Williams, Holly Ann	Office: Executive Investigations
Activity Start Date: 11/24/2014	Activity End Date:11/24/2014
Approved By: Ward, Richard Allan	

Description: [REDACTED]

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The Florida Department of Law Enforcement (FDLE), Office of Executive Investigations (OEI), is conducting a criminal investigation into allegations that Special Agent Kathy Smith and her former husband, [REDACTED], filed a sworn affidavit falsely claiming they were married in order to obtain a mortgage loan in the amount of \$461,500. The following investigative report details the interview of Lina Gomez.

On December 3, 2014, Inspector Jay Best of the Office of Executive Investigations made contact with witness Lina M. Gomez in Boca Raton, FL. Gomez was listed as the owner of LHT Title, which facilitated the closing on the March 3, 2010 mortgage with Kathy Smith. Gomez, who was identified by photo ID, and the last 4 digits of her social security number provided a recorded witness interview in relation to the above complaint.

During the interview Gomez stated that the mortgage dated March 3, 2010 was a re finance of the residential property on [REDACTED]. Gomez further stated that Kathy Smith was the sole borrower on the mortgage and that [REDACTED] was only listed on the mortgage because Kathy Smith was listed as a "Married Women". Gomez stated that the "Continuous Marriage Affidavit" was a form initiated by her title company (LHT Title) to show the lender (ING Bank), and the underwriters (First American Mortgage) that there was a clear title.

Gomez stated that the reason the [REDACTED] name was handwritten on the mortgage documents was because Kathy Smith indicated that she was married at the time of the closing. Gomez further stated that [REDACTED] did not have any financial responsibility with this mortgage, because Kathy Smith was listed as the "Sole Borrower".

Gomez, who at the time of the interview was employed with Digital Risk Mortgage in Boca Raton, FL, could not remember the specifics of Kathy Smith's 2010 re finance. Gomez stated that because the closing took place in the Florida Keys, normal procedure in 2010 would be to conduct the closing at the buyers address or at a local Key West area bank. Gomez could not recall who all was at the 2010 closing, and did not have any paperwork that would show that information. Gomez stated that she did not believe that LHT Title retained any paperwork on the 2010 mortgage, and that any other paperwork would be retained by the lender, ING.

Gomez stated that if she discovered any paper work she would contact the case agent, Luis Negrete in reference to that information.

Gomez stated that Kathy Smith would have been required to notify her lender that she was

Case Number: EI-14-0144	Serial #: 3
Author: Best, Jay	Office: Executive Investigations
Activity Start Date: 12/03/2014	Activity End Date:12/03/2014
Approved By: Mitchell, Mark Sanders	

Description:Witness Lina Gomez interview

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divorced or separated, if she was listed as married at the inception of the loan. Gomez was then provided with a business card with contact information for Inspector Negrete.

No further investigative action was taken by this Inspector on this case. A copy of the recorded interview is attached to this case as related item #3.

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The Florida Department of Law Enforcement (FDLE), Office of Executive Investigations (OEI), is conducting a criminal investigation into allegations that Special Agent Kathy Smith (K. Smith) and her former husband, [REDACTED], filed a sworn affidavit falsely claiming they were married in order to obtain a mortgage loan in the amount of \$461,500. The following investigative report details the documents received from the Monroe County Clerk of Courts (MCCC) in furtherance of this investigation.

On December 8, 2014, Inspector Luis Negrete received certified court documents MCCC regarding the dissolution of marriage between K. Smith and [REDACTED]. The court documents detailed that the marriage was dissolved effective on November 10, 2009, under the authority of Sixteenth Judicial Circuit Judge Tegan Slaton.

The documents also included a section titled "Amended Property Settlement and Parenting Guidelines for [REDACTED] and Kathy M. Smith". This section detailed that the property owned by [REDACTED] and K. Smith which was located at address [REDACTED] had pending balance of \$389,000.00 to the mortgage lender and also owed \$55,000.00 from an equity line. From the owed balance of \$55,000.00 on the equity line, \$50,000.00 was used to pay [REDACTED] for his interest in the property. The property was appraised on October 10, 2008 at \$780,000.00. This section also contained the stipulations that the property would be given to K. Smith, who had to refinance the property by January 1, 2010 at which point it would be only hers.

A copy of the documents received from the MCCC was placed in the related items section as item # INV-4.

Case Number: EI-14-0144	Serial #: 4
Author: Negrete, Luis Angel	Office: Executive Investigations
Activity Start Date: 12/08/2014	Activity End Date:
Approved By: Ward, Richard Allan	

Description: Documents from the Monroe County Clerk of Courts

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FLORIDA DEPARTMENT OF LAW ENFORCEMENT
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The Florida Department of Law Enforcement (FDLE), Office of Executive Investigations (OEI), is conducting a criminal investigation into allegations that Special Agent Kathy Smith (K. Smith) and her former husband, [REDACTED], filed a sworn affidavit falsely claiming they were married in order to obtain a mortgage loan in the amount of \$461,500. The following investigative report details the attempts in locating the company that provided the underwriting services for K. Smith's mortgage loan.

On December 3, 2014, Lina Gomez Lina Gomez, owner of Lighthouse Title Company which provided the closing services in K. Smith's loan advised that a company by the name of First American Mortgage provided the underwriting services for K. Smith's loan. From December 10, 2014 through December 30, 2014, based on Gomez' information, Inspector Luis Negrete contacted the following companies or their representatives in an attempt to ascertain the company that provided the underwriting services for K. Smith's mortgage loan:

FIRST AMERICAN MORTGAGE COMPANY
FIRST AMERICAN MORTGAGE COMPANY
FIRST AMERICAN MORTGAGE CORPORATION
FIRST AMERICAN MORTGAGE CORPORATION
FIRST AMERICAN MORTGAGE CORP.
FIRST AMERICAN MORTGAGE, INC.
FIRST AMERICAN MORTGAGE, INC.
FIRST AMERICAN MORTGAGE CO., INC.
FIRST AMERICAN MORTGAGE ALLIANCE INCORPORATED
FIRST AMERICAN MORTGAGE ELITE CORP.
FIRST AMERICAN MORTGAGE FINANCE CORP.
FIRST AMERICAN MORTGAGE AND FINANCIAL CORP.
FIRST AMERICAN MORTGAGE & FINANCIAL CENTER, INC.
FIRST AMERICAN MORTGAGE FUNDING CORPORATION
FIRST AMERICAN MORTGAGE GROUP, INC.
FIRST AMERICAN MORTGAGE GROUP, INC.
FIRST AMERICAN MORTGAGE & INVESTMENT CORPORATION
FIRST AMERICAN MORTGAGE & INVESTMENTS, INC.
FIRST AMERICAN MORTGAGE & LEASING CORP.
FIRST AMERICAN MORTGAGE LENDING, CORP.
FIRST AMERICAN MORTGAGE PARTNERS CORP.

Case Number: EI-14-0144	Serial #: 5
Author: Negrete, Luis Angel	Office: Executive Investigations
Activity Start Date: 12/20/2014	Activity End Date:01/03/2015
Approved By: Ward, Richard Allan	

Description: Attempts to contact underwriting company.

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FIRST AMERICAN MORTGAGE PROTECTION & FINANCIAL SERVICES LLC
FIRST AMERICAN MORTGAGE & REALTY, INC
FIRST AMERICAN MORTGAGE SERVICES INC.
FIRST AMERICAN MORTGAGE SERVICES, INC.
FIRST AMERICAN MORTGAGE SOLUTIONS, P.A.

Inspector Negrete was able to ascertain that none of these companies provided the underwriting services for K. Smith's mortgage loan.

FLORIDA DEPARTMENT OF LAW ENFORCEMENT
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The Florida Department of Law Enforcement (FDLE), Office of Executive Investigations (OEI), is conducting a criminal investigation into allegations that Special Agent Kathy Smith (K. Smith) and her former husband, [REDACTED], filed a sworn affidavit falsely claiming they were married in order to obtain a mortgage loan in the amount of \$461,500. The following investigative report details the attempts in locating the company that provided the underwriting services for K. Smith's mortgage loan.

On December 31, 2014, Inspector Luis Negrete obtained a copy of a court document from the Monroe County Clerk of Courts (MCCC) which detailed a notice of a pending law suit by Capital One, N.A. against K. Smith in the foreclosure procedures of the property located at [REDACTED]. The document detailed that law firm, Albertelli Law, located in Tampa, Florida was representing Capital One, N.A. in the foreclosure process.

On the same date, Inspector Negrete contacted Albertelli Law and requested their assistance in obtaining K. Smith's loan applications documents for the refinance of the aforementioned property.

On January 5, 2015, Inspector Negrete received an email from Lisa Woodburn, Managing Attorney of the McCalla Raymer Law Firm, who advised that McCalla Raymer was the current counsel for Capital One, N.A. in the foreclosure procedures with K. Smith. Inspector Negrete again requested their assistance in obtaining K. Smith's loan applications documents.

On January 14, 2015, Woodburn advised that Capital One, N.A, would not release any documentation without a subpoena.

On January 23, 2015, the Monroe County State Attorney's Office (MCSAO) issued a subpoena to Capital One, N.A. via the McCalla Raymer law firm for the documents pertaining to K. Smith's refinance mortgage loan for the property located at [REDACTED].

A copy of the court documents from the MCCC was attached to this case file as Related Item # INV-5. A copy of the subpoena issued by the MCSAO was attached to his case file as Related Item # INV-6.

Case Number: EI-14-0144	Serial #: 6
Author: Negrete, Luis Angel	Office: Executive Investigations
Activity Start Date: 12/31/2014	Activity End Date:01/23/2015
Approved By: Ward, Richard Allan	

Description:Contact with McCalla Raymer Law Firm

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FLORIDA DEPARTMENT OF LAW ENFORCEMENT
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The Florida Department of Law Enforcement (FDLE), Office of Executive Investigations (OEI), is conducting a criminal investigation into allegations that Special Agent Kathy Smith (K. Smith) and her former husband, [REDACTED], filed a sworn affidavit falsely claiming they were married in order to obtain a mortgage loan in the amount of \$461,500. The following investigative report details the contact with Attorney Donald Barrett, legal counsel for K. Smith.

On February 19, 2015, Inspector Luis Negrete contacted Donald Barrett in order to ascertain if K. Smith desired to provide a sworn statement regarding the ongoing FDLE criminal investigation into the alleged mortgage fraud. Barrett advised that after consulting with his client K. Smith on the matter, she had decided to decline to provide a sworn statement.

Case Number: EI-14-0144	Serial #: 7
Author: Negrete, Luis Angel	Office: Executive Investigations
Activity Start Date: 02/19/2015	Activity End Date:
Approved By: Ward, Richard Allan	

Description: Contact with Attorney Donald Barrett

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FLORIDA DEPARTMENT OF LAW ENFORCEMENT
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The Florida Department of Law Enforcement (FDLE), Office of Executive Investigations (OEI), is conducting a criminal investigation into allegations that Special Agent Kathy Smith (K. Smith) and her former husband, [REDACTED], filed a sworn affidavit falsely claiming they were married in order to obtain a mortgage loan in the amount of \$461,500. The following investigative report details the telephone contact with [REDACTED].

On February 20, 2015, Inspector Luis Negrete contacted [REDACTED] in order to ascertain if he desired to provide a sworn statement regarding the ongoing FDLE criminal investigation into the alleged mortgage fraud. [REDACTED] decline to provide a statement.

Case Number: EI-14-0144	Serial #: 8
Author: Negrete, Luis Angel	Office: Executive Investigations
Activity Start Date: 02/20/2015	Activity End Date:
Approved By: Ward, Richard Allan	

Description: Contact with [REDACTED]

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The Florida Department of Law Enforcement (FDLE), Office of Executive Investigations (OEI), is conducting a criminal investigation into allegations that Special Agent Kathy Smith and her former husband, [REDACTED], filed a sworn affidavit falsely claiming they were married in order to obtain a mortgage loan in the amount of \$461,500. The following investigative report details the documents received from Capital One, N.A.

On January 23, 2015, Inspector Luis Negrete received and reviewed five Uniform Residential Loan Applications for the property located at [REDACTED]. The five applications had different loan amounts and dates of completion. All five loan applications were submitted with K. Smith being the singular borrower for the loan and identified as "single woman". The Mortgage application pertaining to the loan in question for the amount of \$461,500.00 was signed on January 27, 2010.

Copies of the five Uniform Residential Loan Applications were electronically attached to this case file as related item# INV-7.

Case Number: EI-14-0144	Serial #: 9
Author: Negrete, Luis Angel	Office: Executive Investigations
Activity Start Date: 01/23/2015	Activity End Date:
Approved By: Ward, Richard Allan	

Description: Loan Application

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FLORIDA DEPARTMENT OF LAW ENFORCEMENT
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The Florida Department of Law Enforcement (FDLE), Office of Executive Investigations (OEI), is conducting a criminal investigation into allegations that Special Agent Kathy Smith (K. Smith) and her former husband, [REDACTED], filed a sworn affidavit falsely claiming they were married in order to obtain a mortgage loan in the amount of \$461,500. The following investigative report details the interview with Notary Susan Meneses.

On January 23, 2015, Inspector Luis Negrete and Inspector Keith Riddick conducted the sworn recorded interview of Susan Meneses at the Reach Hotel in Key West, FL. Meneses was a State of Florida certified notary employed at First State Bank of the Florida Keys. The following is a summary of the statements provided by Meneses during the interview:

Meneses advised that she had been a notary since approximately 2000. Meneses stated that she also provided notary services on the home loan closing process to title companies as a way to obtain additional income. Meneses provided notary services in approximately 20 loan closing for various title companies. Meneses advised that all the documents she notarized were provided by the title companies. Meneses did not recall the Light House Title Company (the title company that performed the closing paperwork on K. Smith's loan) or its owner Lina Gomez.

Inspector Negrete showed Meneses the following three documents which related to the closing process of K. Smith's refinance loan for the property located at [REDACTED]

- Mortgage Document, page 16
- Continuous Marriage Affidavit
- Warranty Deed

Menses identified and confirmed her seal and signature in all the documents but did not recall the instance when she notarized the documents nor did she recall K. Smith or [REDACTED]. Menses advised that she has never notarized a document when the person being sworn was not present and as such felt confident in asserting that both K. Smith and [REDACTED] were present and signed the aforementioned forms before she affixed her signature and notary seal to the forms.

A copy of Meneses' recorded sworn statement has been attached to this case file as related item# INV-8.

Case Number: EI-14-0144	Serial #: 10
Author: Negrete, Luis Angel	Office: Executive Investigations
Activity Start Date: 01/23/2015	Activity End Date:
Approved By: Ward, Richard Allan	

Description: Interview of Susan Meneses

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On March 3, 2015, Inspector Luis Negrete obtained and reviewed the following Monroe County Clerk of the Courts Office (MCCC) records regarding past mortgages on the property located at [REDACTED]

- On June 26, 1997, a mortgage and property title for the property located at [REDACTED] was issued under the names of [REDACTED], Kathy Smith, Robert Smith and Sarai Smith.
- On July 14, 2004, a Quit Claim Deed was issued in which the title ownership for the property located at [REDACTED] was transferred from [REDACTED], Kathy Smith, Robert Smith and Sarai Smith; to only [REDACTED] and Kathy Smith.
- On August 2, 2004, a mortgage for the property located at [REDACTED] was issued under the names of [REDACTED] and Kathy Smith.
- On March 3, 2010, a Warranty Deed was issued in which the title ownership for the property located at [REDACTED] was transferred from [REDACTED] and Kathy Smith to only [REDACTED] and Kathy Smith.

Inspector Negrete contacted the Monroe County Property Appraiser's Office (MCPAO). An MCPAO representative advised that the customary legal process for individuals seeking to separate joint ownership of real property after a divorce was to obtain a Quit Claim Deed to separate ownership of the property. The use of a Quit Claim deed permits the real property to be titled in the name(s) of the new owner(s) as directed by the court in the divorce settlement.

The MCPAO also advised that if Kathy Smith and [REDACTED] had obtained a Quit Claim Deed for the property located at [REDACTED] after their divorce on November 10, 2009, the cost to them would have been approximately \$10.70.

A copy of the documents obtained from the MCCC were attached electronically to this case file as related item# INV-9.

Case Number: EI-14-0144	Serial #: 11
Author: Negrete, Luis Angel	Office: Executive Investigations
Activity Start Date: 03/03/2015	Activity End Date:
Approved By: Ward, Richard Allan	

Description: Additional Monroe County Clerk of the Court Documents

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FLORIDA DEPARTMENT OF LAW ENFORCEMENT
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On March 9, 2015, Inspector Luis Negrete contacted Capital One Process Coordinator, Christopher Hall via telephone. Hall advised that after reviewing the loan documents for the property located at [REDACTED], it was determined that the mortgage loan approval was delayed until Kathy Smith was able file a Quit Claim Deed which transferred the title of property from Kathy Smith and [REDACTED] [REDACTED] names to only Kathy Smith.

Additionally, Hall stated that he also reviewed notes in their system regarding conversations with the loan applicant (Kathy Smith). In one note date February 25, 2010, the loan applicant was contacted and advised that [REDACTED] [REDACTED] needed to be removed from the title of the property before the closing of the mortgage loan. Another note from the same date also detailed that the loan applicant stated that [REDACTED] [REDACTED] would be removed from the title of the property by way of a Quit Claim Deed.

An additional note entry from February 26, 2010, detailed that the lender had contacted the loan applicant and verified with the loan applicant that [REDACTED] [REDACTED] was being removed from the title of the property by way of a Quit Claim Deed.

Per the documents reviewed by Hall, at the time of the mortgage loan closing on March 3, 2010, the mortgage loan was awarded to Kathy Smith based on the belief by the lender that [REDACTED] [REDACTED] had been removed from the title of the property.

Case Number: EI-14-0144	Serial #: 12
Author: Negrete, Luis Angel	Office: Executive Investigations
Activity Start Date: 03/09/2015	Activity End Date:
Approved By: Ward, Richard Allan	

Description: Information from Capital One, N.A.

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On March 12, 2015, Inspector Luis Negrete mailed the Investigative Summary with related items to the Monroe County State Attorney's Office. Review of the investigation materials for potential prosecution was assigned to Assistant State Attorney (ASA) Mark Wilson.

On May 29, 2015, ASA Wilson sent Inspector Negrete an email with the conclusion to his review of the FDLE investigation materials. ASA Wilson concluded in his review that Kathy Smith and [REDACTED] could not be prosecuted because the time lapse between the criminal events that occurred (Perjury and Mortgage Fraud) and the possible prosecution of the case, exceeded the statute of limitations for the aforementioned crimes.

A copy of the materials sent to the Monroe County State Attorney's Office for review and a scanned copy of ASA Wilson's email have been attached to this case file as related items 10 through 12. ASA Wilson's email has also been attached below:

Dear Inspector Negrete:

I am writing in response to your referral of FDLE Office of Executive Investigations case no. EI-14-0144 to the Office of the State Attorney for review.

As outlined in your investigative report, the gravamen of the allegations against Special Agent Kathy Smith and her former husband [REDACTED] is that in March 2010 they misrepresented their marital status on documents relating to the mortgage of real property located at [REDACTED]. The documents they signed stated they were married; in truth, however, they had been divorced four months previously, in November 2009. The question is whether these misrepresentations constitute perjury or mortgage fraud, and if so whether they can be prosecuted.

Of the documents in which [REDACTED] and Kathy Smith claimed to be married, the least ambiguous is

Case Number: EI-14-0144	Serial #: 13
Author: Negrete, Luis Angel	Office: Executive Investigations
Activity Start Date: 03/12/2015	Activity End Date:05/29/2015
Approved By: Ward, Richard Allan	

Description:Response from Monroe County State Attorney's Office

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the "Continuous Marriage Affidavit," which they signed on March 3, 2010. This one-page document had a single purpose: to affirm they "were husband and wife at the time they acquired title to the above described property and that their marriage to each other has been continuous and uninterrupted up to and including March 03, 2010." Both [REDACTED] and Kathy Smith signed this document, which was made under oath and notarized. It was filed with the Clerk of the Court of the Sixteenth Judicial Circuit on March 16, 2010. Based on their earlier divorce, this statement was obviously false.

In relevant part, the perjury statute provides: "Whoever makes a false statement, which he or she does not believe to be true, under oath, not in an official proceeding, in regard to any material matter shall be guilty of a misdemeanor of the first degree[.]" F.S. 837.012(1).

In relevant part, the mortgage fraud statute provides: "A person commits the offense of mortgage fraud if, with the intent to defraud, the person knowingly makes any material misstatement, misrepresentation, or omission during the mortgage lending process with the intention that the misstatement, misrepresentation, or omission will be relied on by a mortgage lender, borrower, or any other person or entity involved in the mortgage lending process[.]" F.S. 817.545(2)(a). Where the misrepresentation involves a mortgage exceeding \$100,000 in value - as was the case here - the crime is a felony of the second degree. F.S. 817.545(5)(b).

As the language of both statutes suggests, the false statement or misstatement, misrepresentation, or omission must be "material." A material matter "means any subject, regardless of its admissibility under the rules of evidence, which could affect the course or outcome of the proceeding." F.S. 837.011(3).

We attempted to ascertain the lender's view whether these false statements concerning their marital status were material to the issuance of the loan. While far from dispositive - materiality is a question of law - it seemed to us that the lender was in the best position to opine whether the Smiths' misstatements concerning their marriage "affect[ed] the course or outcome of the proceeding." Despite repeated requests, however, we were unable to receive a definitive response from the lender. (Indeed it is this that has delayed our reply to you.) Nonetheless, we have assumed the statements were material because of the expansive language of the mortgage fraud statute: "*any* material misstatement, misrepresentation, or omission *during the mortgage lending process*[.]" F.S. 817.545(5)(b) (emphasis added). And of course the mortgage lending process involves more than just the lender - title and closing agents (among others) may rely on such statements as well.

It is difficult to countenance that the Smiths were unaware of their marital status in March 2010. Divorce is typically distressing, unpleasant, and expensive, and not something a person is likely to be confused about. So assuming their false statements were material, it is conceivable both the perjury and mortgage fraud statutes might be implicated. But this question is moot because the limitations periods for these offenses have long since passed. Perjury (of the sort at issue here) is a first degree misdemeanor. The limitations period for such crimes is two years. F.S. 775.15(2)(c). Mortgage fraud (again, of the sort at issue here) is a second degree felony. The limitations period for such crimes is three years. F.S. 775.15(2)(b). It is now more than five years since these documents were signed. Therefore, even if these statements were criminal in nature at the time they were made, they cannot form the basis for a criminal prosecution now. (The related but separate question of whether these statements *should* be prosecuted under the circumstances is one that is unnecessary for us to consider.)

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In sum, even if the actions of [REDACTED] and Kathy Smith were criminal in March 2010, they cannot be prosecuted because the relevant conduct occurred outside the period of limitations. Accordingly, further action by the Office of the State Attorney is unwarranted.

Very truly yours,

Mark Wilson

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