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ATTORNEY SENTENCED TO UP TO FOUR YEARS IN PRISON
FOR “SHORT SALE” MORTGAGE FRAUD SCHEME
Defendant Signs Confessions Of Judgment Totaling More Than \$2.3 Million

Queens District Attorney Richard A. Brown today announced that a Long Island attorney who admitted to defrauding Queens homeowners, financial institutions and real estate buyers out of more than \$2.3 million in mortgage loan proceeds through a “short sale” mortgage fraud scheme has been sentenced to 1 1/3 to 4 years in prison. A second attorney previously pleaded guilty in the scheme.

District Attorney Brown said, “The two defendants created a financial nightmare for the buyers and the sellers of nearly half a dozen Queens properties. The victims in this case only discovered that something was amiss when foreclosure notices for the pre-existing mortgages were served several months after the supposed ‘short sale’ closings. Homeowners were deceived into selling their property, believing that the underlying mortgages would be satisfied, and buyers and new mortgage lenders were deceived into believing that the purchased properties were free and clear of prior encumbrances when, in fact, the mortgages were still outstanding.”

The District Attorney identified the defendant as Helene Stetch, 53, of Lindenhurst, New York. Stetch worked with attorney Kenneth Schwartz at the law firm of Kenneth B. Schwartz, Esq., located at 555 Westbury Avenue in Carle Place, New York, until her termination in mid-2010.

Schwartz, 67, of Huntington, New York, took a conditional guilty plea to fourth-degree criminal facilitation and disorderly conduct on January 13, 2017. He also executed confessions of judgment in favor of two homeowners totaling \$129,061 and will be making \$12,050 in restitution to a third homeowner. Additionally, Schwartz is required to obtain a compliance and auditing monitor, also known as an IPSIG (Independent Private Sector Inspector General), for two years and pay for the monitor at his own expense. The monitor will verify that Schwartz is in compliance with ethical rules and legal business practices. The monitor will provide periodic reports to the Queens District Attorney’s Office every few months. Sentencing will occur following the first year of monitoring.

Stetch, who pleaded guilty to one count of first-degree criminal possession of stolen property and six counts of second-degree grand larceny on January 9, 2017, appeared yesterday before Queens Supreme Court Evelyn L. Braun, who sentenced her to seven concurrent terms of 1 1/3 to 4 years in prison. In addition, Stetch executed eight confessions of judgment totaling approximately \$2,325,043.00.

District Attorney Brown said that, according to the charges, the law firm of Kenneth Schwartz represented sellers and lenders, and sometimes buyers, in the sale of several houses in Queens County,

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in which the closings were held at the defendants' Carle Place law offices and occurred between October 2008 and May 2010. In each transaction, the seller was delinquent on the mortgages and sought to sell the property in a short sale in order to avoid foreclosure.

A short sale occurs when a homeowner gets their mortgage lenders (lien holders) to agree to release their lien on the real estate and accept less than the amount owed on the mortgage. In this particular case, the mortgages on the houses involved typically had a first and second lien holder, both of whom had to approve of the sale. Although a first lien holder may approve a short sale, a second lien holder may disapprove of the sale because it would receive a paltry sum or nothing at all.

According to the charges, Stetch represented the property sellers and engaged in short sale negotiations with the goal of persuading the underlying lien holders to accept less than the outstanding mortgage to discharge the debt and the lien. In all instances, Stetch proceeded to closing without the short sale approval from both lien holders of the property, and although having proceeded with a sale, Stetch failed to pay off the underlying mortgages. In fact, she continued short sale negotiations – ranging from a few months to more than a year – with the lien holders as if no sale had yet occurred.

Since the law firm of Kenneth Schwartz was the lender's settlement agent, mortgage loan funds were wired into an attorney trust account in Kenneth Schwartz's name and for which Schwartz and Stetch were the only authorized signatories on the account. Disbursement of the funds was conditioned upon certain things taking place – including, paying off the underlying mortgages and recording the new mortgages so that the lender would be in position of first lien holder; preparing HUD settlement statements that correctly listed how the mortgage proceeds would be disbursed; and obtaining title insurance on behalf of the lender.

In fact, the underlying mortgages were not being paid off, the HUD settlement statements falsely indicated that there were no underlying mortgages to be paid off, and no title insurance was purchased. Instead, unauthorized and excessive disbursements were made from the attorney trust account where more than \$1 million in mortgage loan funds were wired – with Stetch writing the majority of the disbursement checks and Schwartz writing all checks that were payable to himself and a few other checks.

District Attorney Brown thanked the New York State Department of Financial Services for referring the matter to his office.

The investigation was conducted by Department of Financial Services (DFS) Investigator David Nummey, working under the direction of Ricardo E. Velez, Director of DFS's Criminal Investigations Unit, and under the overall direction of Joy Feigenbaum, Executive Deputy Superintendent for Financial Frauds and Consumer Protection. Additionally, the investigation was conducted by former Detective Jerome Pugh and Sergeant Patrick F. Dolan, of the District Attorney's Detective Bureau, and by Forensic Accountant John M. Murphy, of the District Attorney's Economic Crimes Bureau.

Assistant District Attorney Allison P. Wright, Supervisor of the District Attorney's Economic Crimes Bureau, prosecuting the case under the supervision of Assistant District Attorneys Gregory C. Pavlides, Bureau Chief, and Christina Hanophy and Kristen A. Kane, Deputy Bureau Chiefs, and the overall supervision of Executive Assistant District Attorney for Investigations Peter A. Crusco.

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Note to Editors: Press release e-version posted on www.queensda.org