Testimony to the Financial Crisis Inquiry Commission
Lanny A. Breuer
Assistant Attorney General
Criminal Division
U.S. Department of Justice
January 14, 2010

Introduction

Chairman Angelides, Vice Chairman Thomas, and distinguished Members of the Commission. Thank you for your invitation to address you today. Your Congressionally-mandated inquiry into the causes of the financial crisis is tremendously important, and the Department of Justice is committed to assisting you in this effort.

To begin, and to provide a better sense of how the Department of Justice can be most helpful to your inquiry, I want to briefly discuss the Department's mission. Put simply, we combat terrorism and fight crime. And we hold wrongdoers accountable: we put people in jail for their crimes and we exact significant, punitive civil penalties from them. In doing so, our dedicated investigators, prosecutors, and other law enforcement officials and support staff work day in and day out to keep Americans safe.

From national security and fighting terrorism – which is the Department's top priority – to prosecuting violent crime and white collar offenses, the Department of Justice's work is as diverse as it is demanding. In the area of financial crimes, our headquarters components, along with our prosecutors in 94 federal districts around the country, investigate an array of cases, from mortgage fraud to Medicare and healthcare fraud, to securities fraud and corporate malfeasance. In these areas and others, we are the subject matter experts in federal prosecution.

At the same time, while the breadth of our work runs deep, it does have its limits. As a general matter, for example, we do not have the expertise, and it is not part of our mission, to opine on potential causes of the financial crisis. Rather, as I noted above, the Justice Department's resources are focused on investigating and prosecuting violations of federal law. It is within this context that I am pleased to offer my testimony today.

The Department's Efforts Targeting Financial Fraud

Financial fraud in its many forms, including mortgage, corporate, and securities fraud, has an adverse impact on our financial, credit, and housing markets. These crimes erode the public's confidence in our markets and institutions, siphon billions from legitimate, hardworking Americans, and have led to a growing cry by many that Wall Street does not play by the same rules as Main Street.

We have prosecuted and will continue aggressively to prosecute financial fraud. Indeed, in the wake of the financial crisis and the unprecedented sums of taxpayer money that have been invested in economic recovery, the Attorney General has led the Department in redoubling our efforts to combat financial fraud and help restore the public's faith in the integrity of our markets and institutions.

Mortgage Fraud

Mortgage fraud has swept through our economy. As part of our effort to disrupt and prosecute it, we have intensified our efforts to uncover mortgage lending schemes and securitization frauds, foreclosure rescue scams, reverse mortgage scams, bankruptcy schemes, and other frauds.

All types of mortgage fraud investigations have been on the rise. As of November 2009, federal mortgage fraud-related charges were pending against 826 defendants around the nation, and the FBI is working more than 2,800 mortgage fraud investigations. 1,842 of these 2,800 investigations are classified as major cases, which mean each involves over $1 million in loss. The currently open 2,800 investigations contrast sharply with the 534 investigations in the FBI's inventory in 2004.

Types of Mortgage Fraud

The types of mortgage fraud schemes run the gamut, and include loan origination schemes, property flipping, builder bailout conversions, foreclosure rescue schemes, and loan modification fraud, to name just a few. The culprits committing these acts also vary, ranging from industry insiders and professionals, such as real estate brokers, appraisers, and bank insiders, to borrowers, to plain old fraudsters who gravitated to mortgage fraud when the opportunity presented itself.

Some of these frauds are more often seen in "boom" times, and others are more prevalent when the market is depressed. When times are good, our investigators and prosecutors often uncover more mortgage loan origination schemes. At the most basic level, this occurs when mortgage fraud perpetrators falsify a borrower's financial or other information to qualify for a mortgage loan for which the borrower otherwise would not be eligible. Lenders are often more susceptible to such frauds when the volume of mortgage loan activity is at high levels, because in those times mortgage applications and supporting documentation may not receive the same degree of scrutiny.

"Property flipping" is also more common when the economy is doing well. These schemes are characterized by someone buying property for a low or true market value, and then selling it for two or three times above the real value after little or no legitimate market appreciation. Fraudsters accomplish this by, for example, recruiting straw buyers whom they help qualify for loans using falsified documents. These straw buyers are typically paid a fee for each property purchased in their name. The buyers may make a few, if any, mortgage payments, and the property then falls into foreclosure. The key to these schemes often is the fraudulent appraisal, which occurs before the property is sold.

The artificially inflated property value allows the buyer to secure a larger loan than would otherwise be possible. The fraudster profits on the difference between the price he paid for the property and the selling price of the property to the straw buyer, based on the inflated appraisal.

When the economy is depressed, other mortgage fraud schemes become more prevalent. One example is loan modification schemes, where criminals purport to assist homeowners who are behind on their mortgage payments; the fraudsters promise to successfully renegotiate with lenders the terms of their home loans for a fee. The criminals require significant advanced fees and sometimes even negotiate unfavorable loan modification terms for their purported clients, or simply do nothing and run away with the money. These scams are similar to foreclosure rescue schemes, which have also been prevalent in this down economy. As the number of foreclosures has increased since the financial crisis began, foreclosure rescue scams have emerged as a growing threat to both homeowners and our efforts to revive the housing industry. Some of the most egregious conduct in rescue schemes occurs when distressed homeowners are convinced to sign over their home "temporarily" to the fraudsters, who never return ownership to the victims. In such instances, fraudsters take advantage and illegally profit from the misfortune of homeowners confronting the loss of their homes.

Builder bailout scams can also be common in down times. When builders have large inventories and a low demand for homes, we have seen some fraudulently try to offset their losses. Developers recruit a buyer, provide cash back incentives to the borrower that are undisclosed to the lender, and inflate the value of the home to obtain a large sales price at closing. Often the buyer's income and asset information are inflated and falsified in order for the buyer to qualify for the loan. These schemes saddle lenders with mortgage loans that are secured with little or no equity or far exceed market values.

Of course, these are just some of the schemes that we encounter, and our criminal and civil enforcement efforts are geared at appropriately addressing the full range of existing and emerging mortgage and financial fraud trends that we see.

Criminal Enforcement Efforts

To address the myriad of mortgage fraud-related challenges, the Department has deployed various enforcement strategies to ensure optimal use of our investigative and prosecutorial resources in a way that maximizes deterrence and remediation.

One such strategy involves the use of coordinated nationwide takedowns or "sweeps." By bundling a number of discrete cases into a nationwide takedown, the Department has been able to raise public awareness of its enforcement efforts and, correspondingly, send a strong message aimed at deterring future fraud. In recent years, the Department – working with its law enforcement and regulatory partners – has conducted three coordinated nationwide takedowns of mortgage fraud prosecutions. Operation "Malicious Mortgage," conducted in 2008, included charges against more than 400 defendants in cases across the nation. Operation "Quick Flip" in 2005 featured a nationwide takedown of mortgage fraud cases charging a total of approximately 155 defendants. In 2004, Operation "Continued Action" targeted mortgage fraud and other schemes in more than 150 cases in more than 35 states.

And, the U.S. Attorney for the Middle District of Florida recently announced the results of a nine-month-long "Mortgage Fraud Surge" that resulted in charges against more than 100 defendants. The charges involve more than $400 million in loans on more than 700 properties allegedly procured through fraud. This surge was launched in January 2009 in response to the epidemic of mortgage fraud throughout the state of Florida. To address this extensive problem, the U.S. Attorney's Office, along with the FBI in both its Tampa and Jacksonville Divisions, began an intensive effort to identify, investigate, and prosecute mortgage fraud in all of its forms. These efforts were led by a FBI mortgage fraud task force in Florida and involved the cooperation of multiple federal, state and local law enforcement and governmental agencies.

A number of specific individual cases demonstrate both the breadth of the mortgage fraud we face, and the Department's commitment to combating it, in all of its forms.

Last fall, in *U.S. v. Way*, a case brought by the U.S. Attorney's Office for the Southern District of Texas, a jury convicted a Houston area resident on mortgage fraud charges involving a loan origination scheme with fraudulent loans in excess of $24 million. The defendant, a loan officer at a financial institution, participated in the submission of fraudulent loan applications and packages to residential mortgage lenders across the country. In an effort to procure the most favorable loan terms, the defendant and her co-conspirators misrepresented the credit-worthiness of individual borrowers who were recruited to purchase multiple properties.

In another recent example, on August 10, 2009, in *U.S. v. Grasso*, a case brought by the U.S. Attorney's Office for the Central District of California and the FBI, two real estate professionals were convicted for their roles in a massive mortgage fraud loan origination scheme that caused more than $40 million in losses to federally insured banks. After a five-week trial, the jury convicted a prominent Beverly Hills real estate agent and a licensed appraiser on charges of conspiracy, bank fraud and numerous loan fraud charges for their roles in the mortgage fraud scheme. (One defendant was also convicted on three money laundering counts.) The evidence presented at trial showed that the defendants were part of a scheme that obtained inflated mortgage loans on homes in some of California's most expensive neighborhoods. Eight other real estate professionals who were part of the scheme had previously pleaded guilty to federal felony charges for their roles.

In addition, Robert Power, Jr. was sentenced by a federal judge last month to eight years and nine months in federal prison. Power was prosecuted by the United States Attorney's Office for the Southern District of Mississippi for running a foreclosure rescue scam to defraud homeowners at risk of foreclosure. Power falsely informed victims that, if they transferred their homes to his business and made monthly payments to him, he would negotiate a refinancing arrangement that would allow them to stay in their homes.

The Power case represents the greed and shamelessness of a small few. But it also is emblematic of the benefits and successes of our state and federal cooperation. The case was initiated by a referral from the United States Trustees Office, and was investigated by the FBI, the Mississippi Secretary of State's Office and the local Madison/Rankin County Mississippi district attorney's office. This case demonstrates the potential of the cooperative, multi-jurisdictional enforcement efforts to which the Department is committed.

The FBI is also taking a proactive approach to these problems, and has implemented innovative methods to detect and combat mortgage fraud and other significant financial frauds. Foremost among these is the development of the Financial Intelligence Center (FIC). The FIC was established last year to investigate mortgage fraud, predatory lending, market manipulation, and other financial frauds. In this fiscal year, the FIC should be fully operational with a total staffing level of 58. The FIC's mission is to provide tactical analysis of intelligence data, data sets, and databases that can be used to create targeting packages to identify the most egregious criminal offenders and enhance current criminal investigations. In addition, the FIC responds to requests by FBI field offices to complement the field's resources in identifying emerging economic threats. The FIC also provides training to the field to assist agents and analysts with identifying the most egregious criminal enterprises within their domain.

The FBI has also created a dedicated mortgage fraud team at FBI Headquarters. In late 2008, the National Mortgage Fraud Team began its work to manage the FBI's mortgage fraud program. Through program guidance, oversight, training, and information-sharing, the team provides the tools necessary to identify the most egregious mortgage fraud perpetrators, prioritize pending investigations, and ensure that mortgage fraud efforts are both threat-based and intelligence driven.

Another proactive approach is the use of a FBI analytical computer application to identify property flipping transactions. Illegal property flipping involves purchasing properties and artificially inflating their value through false appraisals. The artificially valued properties are then sold to an associate of the "flipper" at a substantially inflated price. Often the property is "flipped" within 30 days, but sometimes the "flip" occurs on the same day as the original purchase. The flipper then pockets the proceeds from the artificially inflated sales price and compensates his associate in some way for the associate's involvement in the scheme. Typically, illegally flipped properties go into foreclosure, and are ultimately repurchased for a fraction of their original value.

The FBI's computer application was developed by the Washington Field Office to identify property flipping in the Baltimore and Washington areas. The original concept has since evolved into a national FBI initiative that employs statistical correlations and other advanced computer technology to search for companies and persons demonstrating patterns of alleged illegal property flipping. As potential targets are analyzed and flagged, the information is provided to the relevant FBI field office for further assessment.

In addition, the Department's Criminal Division, which I lead as Assistant Attorney General, is initiating a Mortgage Fraud Enforcement Initiative that will utilize, among other tools, analytical products prepared by the FBI's FIC in the identification, investigation and prosecution of its cases. Working closely with the FBI's National Mortgage Fraud Team and other federal, state, and local law enforcement agencies, the initiative will focus resources on the prosecution of high-impact mortgage fraud cases where mortgage fraud is most acute. In addition, the initiative will seek to deter future mortgage fraud crimes through increased, real-time enforcement.

Civil Enforcement Efforts

While the Department is well-known for criminal enforcement, we have a robust and extraordinarily well-led and staffed Civil Division which, along with the United States Attorneys, enforces a number of civil statutes, including the powerful False Claims Act, 31 U.S.C. § 3729 *et seq.*

The False Claims Act is the government's primary tool in redressing fraud perpetrated against the taxpayers. The statute imposes liability on any person who knowingly submits, or causes to be submitted, a false or fraudulent claim for payment to the United States. Where liability is established, the United States may recover three times the damages it sustains, plus a penalty of between $5,500 and $11,000 for each violation.

The False Claims Act also contains a *qui tam* provision that authorizes a private party, called a "relator," to file suit on behalf of the United States. The action is initially filed under seal and served only on the United States (and not the defendant). The United States has 60 days, plus any subsequent extensions granted for good cause, to investigate the relator's allegations and to decide whether to take over the action, or to permit the relator to pursue the action on his or her own. If a *qui tam* suit is successful, the relator is entitled to between 15 and 30 percent of any recovery.

This statute has been extremely successful. Over the last five years alone, total False Claims Act recoveries across all government programs have averaged approximately $2 billion per year. Since 1986, when the False Claims Act was amended and strengthened, recoveries have exceeded $24 billion.

In the context of mortgage fraud, the Department's civil mortgage fraud enforcement efforts have been robust. These efforts have focused primarily on combating fraud on U.S. Department of Housing and Urban Development (HUD) mortgage insurance programs, under which HUD guarantees loans made to borrowers who buy homes or commercial properties, typically through the Federal Housing Administration (FHA).

In a common scenario, a defendant makes false statements to induce HUD to insure a mortgage loan and HUD, having issued an insurance commitment, is required to pay the balance of the mortgage when the loan defaults. Liability under the False Claims Act attaches to claims for mortgage insurance benefits submitted to HUD arising from such fraudulently induced loans. Historically, the types of FHA mortgage fraud that have been the basis for False Claims Act actions include applications for loans that contain false statements concerning the borrower's assets and debts, the borrower's creditworthiness, or other financial misrepresentations. Each person who knowingly causes false or fraudulent documents to be submitted to the government in connection with an application for federal loan insurance may be liable under the False Claims Act for the resulting false claims for payment.

Since Fiscal Year (FY) 2006, the Department has used the False Claims Act to recover $116 million in matters involving mortgage fraud and has enforced the False Claims Act against a variety of fraudulent mortgage practices. A number of our case successes demonstrate the power and great utility of the Act.

In *United States v. Dolphin Mortgage Corporation*, a case decided last year in the Northern District of Illinois, Dolphin Mortgage Corporation, a Chicago-based originator of HUD-insured loans, was held liable when an employee submitted forged W-2 forms and paycheck stubs in support of six applications for HUD-insured loans, and was ordered to pay over $1 million.

Similarly, in 2007, the Department entered into a $318,000 settlement with CTX Mortgage Corporation, which employed a loan officer who submitted false financial documentation to HUD in connection with 13 loans.

There are also many instances of false statements made to HUD concerning the source of borrowers' down payments. In order to reduce its insurance exposure, HUD's single-family mortgage insurance requires borrowers to make a 3.5 percent down payment. We have seen many cases in which real estate investors covertly pay the down payments for destitute recipients of HUD-insured loans and then make false statements to HUD about the origin of the down payment funds. With no equity stake in the property, these borrowers almost inevitably default, which requires HUD to pay off the balance of the loan. This happened in *United States v. Eghbal*, a case decided in the Central District of California in 2007. There, the government obtained a judgment of nearly $6 million against a California real estate investor who made false statements about down payment funds provided by the recipients of 27 borrowers for whom he secured HUD-insured loans.

The Department also has addressed fraud on HUD's multifamily insurance programs, which insure loans used to acquire or refinance larger commercial projects, such as hospitals and nursing homes. For example, the Department recently filed a complaint in the Central District of California against Capmark Finance Inc., the largest originator of HUD-insured loans in the country, for making false statements in connection with applications for HUD to insure mortgage loans used to acquire two nursing home facilities. In December 2009, a similar case was settled for over $679,000 in the Western District of New York with Robert Corp, a Syracuse mortgage underwriter who defrauded the same HUD program.

As is evident from these case successes, the False Claims Act has and will continue to be an incredibly powerful tool to combat mortgage fraud perpetrated against American taxpayers.

Civil Rights Enforcement Efforts

The Civil Rights Division, and in particular its Housing and Civil Enforcement Section, also plays a key role in ensuring fair housing practices. The Civil Rights Division enforces civil rights laws that prohibit discrimination in credit-related transactions. To the extent that foreclosure rescue scams or other predatory practices are targeted on the basis of race, national origin or other protected classes, the Division has jurisdiction to investigate and bring enforcement actions. Since January 2009, the Division has opened 38 fair lending matters, which means it is reviewing a potential pattern or practice of lending discrimination in these matters.

These practices consist of pricing discrimination in which minority borrowers are charged higher fees and costs; redlining where financial institutions refuse to make financial services available in minority areas; and, more recently, reverse redlining where financial institutions target minority borrowers to steer them into higher-cost products regardless of their credit-worthiness.

Two recent cases illustrate the type of results our fair lending enforcement has yielded. In September, 2009, the Civil Rights Division settled a case that alleged that First United Security Bank discriminated against African-Americans by charging them higher interest rates than whites for loans on home mortgage refinance loans and by redlining majority African-American areas of west central Alabama. The settlement provided for injunctive relief, a loan subsidy fund specifically for previously redlined areas and monetary damages for African-American borrowers, money for marketing and outreach to African-American communities, and a new branch located in a majority minority census tract.

In another fair lending case recently settled, the Division alleged that Nara Bank had discriminated against borrowers on the basis of race or national origin by offering less favorable loan terms through two auto dealerships. The bank agreed to provide monetary awards to victims of discrimination and money annually to fund financial consumer education in the community.

Whether it is housing discrimination, foreclosure rescue scams, or any other kind of mortgage fraud, the Attorney General is committed – through targeted investigations and firm prosecutions – to using our resources in the most effective, efficient manner to prosecute and punish those responsible.

Corporate and Securities Fraud

In addition to our focus on mortgage fraud, we have built upon the lessons and successes of the Department's efforts over the last several years in combating corporate and securities fraud. Indeed, the Department has pursued securities violations with vigor and intensity.

Since 2002, the Department has obtained approximately 1,300 corporate fraud convictions, including convictions of more than 200 corporate chief executives or presidents, more than 120 vice presidents, and more than 50 chief financial officers.

Since the financial meltdown began in the fall of 2007, the Department's efforts to combat significant financial frauds of all stripes have continued to intensify. For example, the FBI currently reports more than 2,100 pending corporate and securities fraud investigations across the country, many with losses exceeding $100 million, and several with losses over $1 billion. Efforts to combat the most egregious corporate and securities fraud offenders resulted in 460 convictions in FY 2009 alone.

Securities-related crimes come in all types and stripes, and new methods are constantly emerging and being tested by fraudsters. But traditional frauds and schemes continue to exist. Indeed, the financial crisis itself has exposed established fraud schemes that had been thriving undetected in the booming American and global financial system.

The Madoff case, brought by the U.S. Attorney's Office for the Southern District of New York, the FBI, and the SEC, is probably the most prominent example. In this case, Bernard Madoff was charged on eleven counts of securities fraud, investment adviser fraud, mail fraud, wire fraud, money laundering, false statements, perjury, false filings with the SEC, and theft from an employee benefit plan. He was ultimately sentenced on June 29, 2009, to 150 years in prison for perpetrating a Ponzi scheme that resulted in billions of dollars in losses to thousands of investor-victims. Moreover, the district judge in the case entered an order of forfeiture totaling $170 billion.

From the discoveries made in this case, the Department has uncovered and pursued a number of related matters – including, for example, a case against Madoff's accountant who pleaded guilty on November 3, 2009, to a nine-count indictment charging securities fraud and related offenses; a case against another Madoff employee who pleaded guilty on August 11, 2009, to ten felony counts; and a case against two computer programmers for Madoff who were charged on November 13, 2009, with conspiracy and with falsifying the books and records of a broker-dealer and of an investment adviser.

Another example is the Stanford case brought by the Criminal Division's Fraud Section, together with the U.S. Attorney's Office for the Southern District of Texas. The case was investigated by the FBI and United States Postal Inspection Service. In June 2009, Robert Allen Stanford and four other individuals were indicted in connection with a scheme to defraud thousands of U.S.-based investors of approximately $8 billion in Certificates of Deposits. The indictment charges that the defendants misrepresented the financial condition of Stanford International Bank, Ltd., its investment strategy, and the extent of its regulatory oversight by Antiguan regulators, all the while siphoning off investor funds for personal use.

According to court documents, defendant Stanford is alleged to have fraudulently lured investors to trust him with their money and instead funneled funds to various "pet projects" that were not profitable. As the gap between reality and the reported value of the Bank's assets grew, the Chief Financial Officer, allegedly at defendant Stanford's direction, directed the accounting department to manipulate the Bank's revenue/asset values. In addition, defendant Stanford is alleged to have bribed the head of the Antiguan Financial Services Regulatory Commission to ensure that it did not conduct a thorough examination of the Bank's books and records. On August 27, 2009, the former Chief Financial Officer of the Bank pleaded guilty and agreed to a preliminary order of forfeiture of $1 billion.

In another recent prosecution of a $3.65 billion Ponzi scheme, the United States Attorney's Office for the District of Minnesota obtained the conviction of Thomas Petters late last year on wire fraud, mail fraud, and related charges. Petters obtained billions in money and property by inducing investors to provide his company with funds ostensibly to purchase merchandise that was to be re-sold to retailers at a profit. In fact, no such purchases were ever made. Instead, Petters and his co-conspirators diverted the funds to make lulling payments to investors, paying off those who assisted in the scheme, funding businesses owned by Petters, and financing his extravagant lifestyle. Six co-conspirators also pleaded guilty for their roles in the scheme.

In yet another instance, in a case brought by the U.S. Attorney's Office for the Eastern District of New York and investigated by the FBI, two former Credit Suisse brokers were charged with securities fraud for misrepresenting to investors that auction-rate securities were backed by guaranteed student loans, when they were actually backed by much riskier mortgage-backed derivatives, enabling the brokers to earn much higher commissions. Investor losses allegedly exceeded $1 billion. One defendant pleaded guilty, and one defendant was convicted by a jury in August.

And, in a case that has recently garnered much attention, the U.S. Attorney's Office for the Southern District of New York and the FBI in October 2009 indicted Raj Rajaratnam, the manager of the multi-billion dollar hedge fund, Galleon Management, LLC, and five others, including an IBM executive, and charged them with participating in an insider trading scheme that netted more than $20 million. On November 5, 2009, 14 additional defendants were charged, including an attorney at a major law firm.

This case has been described as the largest hedge fund insider-trading schemes ever charged by the Department. According to the charging documents, the defendants are alleged to have traded repeatedly on material, nonpublic information given as tips by insiders and others at hedge funds, public companies, and investor relations firms. The tipsters and tippees allegedly even used disposable, prepaid cell phones to try to conceal their conduct. As a result of their insider trading, these defendants and others allegedly gained millions of dollars of illegal profits for themselves and the hedge funds with which they were affiliated.

This case is believed to represent the first time that court-authorized wiretaps have been used to target significant insider-trading on Wall Street. It demonstrates our commitment to being aggressive and innovative in investigating and prosecuting white-collar crimes. We have numerous tools at our disposal to help us accomplish our mission, and we will continue to use all of them.

Commodities Fraud

Commodities fraud is another area in which the Department's prosecutors work closely with partner agencies, including the Commodity Futures Trading Commission (CFTC) and its Division of Enforcement, to coordinate enforcement efforts against those who engage in such fraud. Commodities schemes vary widely – from relatively basic frauds premised ostensibly on commodity and foreign exchange investments to sophisticated market manipulation frauds. The more basic schemes simply incorporate commodity futures trading terms in otherwise recycled Ponzi scams. More complex schemes entail efforts to manipulate the futures market in a particular commodity like propane, intentionally distorting supply and demand dynamics by "cornering" the market through massive purchases that dry up the supply.

The recent Hays case in Minnesota is an example of the results we have achieved by working collaboratively in this area. Defendant Hays defrauded investors of more than $20 million through a Ponzi scheme involving purported investments in stock index futures and other futures contracts. In a case worked jointly by the Criminal Division's Fraud Section, the U.S. Attorney's Office in Minnesota, and the U.S. Postal Inspection Service – together with the CFTC – defendant Hays was charged in a criminal complaint and arrested. We seized, among other assets, a $3 million yacht that defendant Hays had purchased with investor funds and bank accounts containing approximately $1 million in fraudulently obtained funds. On the very same day, the CFTC filed a civil enforcement action against defendant Hays and his company. Shortly thereafter, in April 2009, defendant Hays pleaded guilty to mail and wire fraud and financial transaction structuring charges and agreed to forfeit all proceeds of his scheme. Our combined efforts on the Hays case demonstrate that, by working together, we can move quickly to charge, convict, and forfeit the assets of those who engage in commodities fraud.

Also, the U.S. Attorney's Office for the Southern District of Florida, in coordination with the FBI, prosecuted Michael Riolo, who, on October 16, 2009, received a sentence of 293 months imprisonment in connection with his role in organizing a multi-million dollar Ponzi scheme. According to court documents, defendant Riolo owned and operated two companies that he used to defraud investors (including several current and former police officers) out of millions of dollars. Defendant Riolo induced individuals to invest money with him in the foreign exchange market by leading them to believe that they would receive substantial profits from their investments. Instead, he diverted investor funds for other purposes, including for his own personal use and benefit. In total, defendant Riolo caused more than 80 investors to invest approximately $44 million, based on materially false statements and omissions of material facts.

As evidenced by these examples, commodities fraud does not occur solely in jurisdictions where trading exchanges operate. To the contrary, this fraud – like so many other forms of fraud – sees no boundaries. We will continue our coordinated enforcement efforts with the CFTC in jurisdictions throughout the country to uncover and prosecute commodities fraud.

The Financial Fraud Enforcement Task Force

The Department's enforcement efforts against all kinds of fraud have been robust and have yielded tangible results. But we can and must do more. New frauds emerge. Existing frauds can remain dormant and undetected, as we have seen. And the Department of Justice, with its partner agencies, has an ongoing responsibility to disrupt, dismantle, and prosecute all of these criminal or fraudulent schemes, including those that contributed to the financial crisis.

As part of this effort, and in recognition of the reality that a coordinated approach to this challenge is essential, in November the President established by Executive Order a new interagency Financial Fraud Enforcement Task Force (FFETF or Task Force) to combat financial fraud.

The Task Force is designed to strengthen our collective efforts – in conjunction with our federal, state, and local partners – to investigate and prosecute significant financial crimes relating to the current financial crisis; to recover ill-gotten gains; and to ensure just and effective punishment for those who perpetrate financial fraud. The Task Force's mission is not just to hold accountable those who helped bring about the financial meltdown, but to help prevent another meltdown from happening. By punishing wrongdoers for their actions, we will send a strong message to anyone looking to profit from the misfortune of others.

The FFETF's membership is comprised of individuals from the highest levels of the federal government. It is chaired by the Attorney General, and its Steering Committee, led by the Deputy Attorney General, includes the FBI, the Department of the Treasury, HUD, and the SEC. Drawing on the substantial resources of the federal government, the FFETF counts among its members the Department of Justice, the FBI, the Department of the Treasury, HUD, the SEC, the CFTC, the Department of Homeland Security, the Department of Labor, the Federal Trade Commission, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the Office of Thrift Supervision, the Office of the Comptroller of the Currency, the Recovery Accountability and Transparency Board, the Internal Revenue Service-Criminal Investigative Division, the Special Inspector General for the Troubled Asset Relief Program, the U.S. Postal Inspection Service, the U.S. Secret Service, and many other federal departments, agencies, and offices.

The FFETF will lead an aggressive, coordinated, and proactive effort to investigate and prosecute financial crimes. We will marshal both criminal and civil enforcement resources to investigate and prosecute financial fraud cases, recover stolen funds for victims, address discrimination in lending and financial markets, and enhance coordination, cooperation, and information sharing among authorities responsible for investigating and prosecuting significant financial crimes and violations.

Essential to the Task Force's mission is enforcement. The FFETF will focus our investigative and prosecutorial efforts on the types of financial fraud that affect us most significantly in this time of economic recovery, including:

- Mortgage fraud – from foreclosure rescue and loan modification frauds to systematic lending fraud in the nationwide housing market;

- Securities fraud – including Ponzi schemes, misrepresentations to investors, and corporate frauds, such as traditional insider trading;

- Recovery Act and rescue fraud – to ensure that the taxpayers' investment in America's economic recovery is not siphoned away by a dishonest few; and

- Discrimination – to ensure that the financial markets work for all, and that no one is unfairly targeted based on impermissible characteristics.

The Task Force will also enhance coordination with state, local, tribal, and territorial authorities responsible for investigating and prosecuting significant financial crimes, including coordinating with the National Association of Attorneys General (NAAG) and the National District Attorneys Association. The Task Force will accomplish much of its mission through various working groups, including the Mortgage Fraud Working Group, one of whose chairs is the NAAG. The NAAG's participation in the working group's leadership demonstrates the Task Force's commitment to strong federal, state, and local partnerships, which will be key to broader engagement with state and local authorities in our joint efforts to combat financial crimes.

In the mortgage fraud area, as in other areas, the FFETF will build on the work that the Department and its law enforcement partners already had underway. For example, in September of last year, the Attorney General, the Secretaries of Treasury, and Housing and Urban Development, and the Chairman of the Federal Trade Commission announced the creation of four state-federal mortgage fraud working groups focused on information sharing, criminal enforcement, civil enforcement, and civil rights enforcement. Those state-federal groups are being incorporated into the FFETF and have given the FFETF a running head start in the mortgage fraud area.

As the FFETF and the state-federal mortgage fraud working groups demonstrate, one of the most effective tools for combating financial fraud is our long-standing partnership with federal, state, and local law enforcement and regulatory agencies.

Collaboration, communication, and information-sharing have long been a proven solution to the nation's most complex crimes. The FBI has organized mortgage fraud task forces across the country in response to the recent wave of financial crimes. In addition, United States Attorneys' Offices, along with the FBI and other federal investigative agencies, serve alongside representatives of federal, state, and local law enforcement on over 50 regional and local mortgage fraud working groups. These working groups and task forces are strategically placed in areas identified as high threat areas for mortgage fraud. The establishment and membership of the FFETF recognizes the value of multi-level, multi-jurisdictional coordination. Also, the Department stands ready to assist in Administration-wide efforts on prevention.

In our ongoing struggle to combat crime and terrorism, the Department of Justice is committed to getting the most out of each and every taxpayer dollar that we spend. We understand that resources are precious and limited. And, in the fight against financial crime, we also recognize that there exist other important priorities that require substantial resources. But it is also undeniable that financial investigations and prosecutions – especially complex ones – take time and cost money. I want to assure the Commission that we have and will continue to squeeze the very most out of every dollar appropriated to achieve our core national security and law enforcement mission.

Conclusion

As the Attorney General recently remarked: "In this time of war the protection of our national security is and will remain our top priority. And we will use every component of our power to keep the American people safe—from our military to our courts."

And while we work tirelessly to protect the American public, we must also fulfill our duty to protect and strengthen the American economy. Indeed, protecting our economy is a key component of our broader security objectives.

As part of this effort, the Department of Justice has long been focused on financial fraud of all stripes. The financial crisis has brought these challenges to the forefront, and the Department's law enforcement response has and will continue to be aggressive, comprehensive, and well coordinated.

Thank you again for the opportunity to address this important Commission and for allowing me to outline the Department's ongoing efforts to address financial fraud in the wake of the economic crisis. The Department looks forward to working with the Commission, and I would be happy to answer any questions you may have.