

Rented Identities, Extravagant Prices and Foreclosure: A Post-Boom Real Estate Scam

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Part one of a two-part series. [Read part two.](#)

Friday, April 10, 2009 | Jim McConville arrived an hour late to the gathering in Vicki Jenkins' Capistrano Beach living room. When he finally walked through the door, a driver and two employees in tow, he didn't look like the real estate mogul the crowd expected.

In his late 50s, McConville wore boots, jeans and a casual shirt. His salt-and-pepper hair hung in a ponytail and he sported a Fu Manchu mustache, a look more aging rocker than businessman. But when the charismatic investor from the Bay Area introduced his plan, the living room hushed.

He'd come that evening in January 2008 to court partners for a massive real estate purchase. They needn't invest any of their own money -- just allow their good credit and identities to be used to obtain mortgages. McConville told the crowd that he wanted to buy more properties than the bank would allow him to, and he needed help. He promised to make the mortgage payments and to pay the partners \$10,000 for each property bought in their names.

Jenkins, a 63-year-old retired businesswoman, had met McConville a few weeks earlier and liked the sound of his proposition so much she invited him down to Orange County to pitch her friends, too. McConville netted three new recruits that night, Jenkins included.

Over the next several months, McConville's team arranged for Jenkins to obtain five mortgages. The loans were used to purchase five condos in Escondido in March and April last year, four for \$337,000 and one for \$370,000, while other similar units in the same complex were listed or sold for much less.

McConville had already agreed to buy those five condos for \$187,560 each from the project's developers. The difference allowed McConville's company to collect more than \$120,000 out of each of the five transactions after paying the developer, according to the developers' records.

But, Jenkins and five other buyers said, he never made good on his promises. McConville didn't pay the \$10,000 per condo for their identities, they said. After making no more than three of the mortgage payments on Jenkins' units and those of several other buyers, McConville quit paying, the buyers said. The defaulting loans left the buyers to deal with ruined credit, the lenders to absorb more toxic loans, and North County neighborhoods to brace for more foreclosures.

The pitch to Jenkins and many others was a key component of a staggering real estate swindle, uncovered by a three-month voiceofsandiego.org investigation, involving fake

buyers, duped lenders, forged documents and extravagant purchase prices, that has infected two condo projects in Escondido and one in San Marcos.

Over the course of several months last year, McConville picked up at least 81 condo conversions from distressed developers and orchestrated their sale to more than 20 buyers who'd rented him their identities, according to a review of hundreds of public and private records and interviews with lenders, developers, former McConville employees, and six of the more than 20 buyers.

By arranging purchase prices well above market value, McConville was able to pay off the developers and capture what the developers' records state as more than \$12.5 million. Now, 74 of the 81 homes involved in the deals in Sommerset Villas and Sommerset Woods in Escondido and Westlake Ranch in San Marcos are in the first stage of foreclosure.

McConville, who didn't respond to repeated interview requests for this story, has sent word to many of those involved that he's working to pull together the funds to pay off their mortgages and pull the condos out of foreclosure.

At the same time, McConville has employed a property management company to lease out the buyers' condos and collect rents on them.

One lender said the fallout has already forced him to shut the doors of his mortgage business after 17 years. That lender and another say they were tricked by McConville and the buyers into making these loans and they now face losses of millions of dollars. And because the federal government has assumed greater responsibility for the mortgage finance industry, the American taxpayer is likely on the hook for the toxic debt.

And then there are the buyers like Jenkins, whose signatures on documents enabled McConville to carry out his plan. Jenkins and her husband, who worked in construction, had seen their finances fall along with the housing market. Now, she has begun to reckon with her own participation, her susceptibility to one man who played on her greed and fear.

Robert Martinez, a local real estate analyst, said he isn't surprised such a get-rich-quick operation could take hold in the wake of the housing boom's excesses.

"When times are good, people get greedy. When times are bad, people get desperate," he said.

Convinced the Deal Would Work

To Frances Greenspan, Jim McConville was a godsend.

Greenspan, a 53-year-old animal portraitist and consultant, met McConville that January night in Vicki Jenkins' living room.

Some of the assembled friends were skeptical about the program, but Greenspan, Jenkins and friend Annemarie Miller-Jones had immaculate credit scores and were convinced the deal would work. They agreed to rent him their identities to help him expand his real estate empire.

Greenspan saw the money as a way to pay off the seemingly insurmountable debt she had built up paying for her mother's last few months of care in an assisted living home. Three months after her mother died in November 2005, Greenspan lost her job. She hasn't found a fulltime job since.

"It was like 'Thank goodness!' I can pay off a good chunk of my credit cards," Greenspan said.

The man she was putting her faith in was rumored to be second only to Donald Trump in his real estate prowess. But he also had a criminal record.

James D. McConville had served 51 days in jail for felony grand theft and been ordered to pay \$262,000 in restitution a decade earlier, according to the Alameda County District Attorney's Office. After a fire destroyed a hotel he owned in Richmond, he had diverted insurance proceeds to himself rather than paying banks he owed money, according to the D.A.'s Office. The D.A.'s Office said the felony was reduced to a misdemeanor in 2006.



Frances Greenspan agreed to let her identity be used to purchase this condo in Sommerset Villas. Photo: Sam Hodgson

Five months after the meeting in Jenkins' living room, an employee who notarized documents for one of McConville's companies, Diamond House Development, flew to Orange County with a stack of loan documents. Greenspan said she spent an hour and a half signing her name again and again while the employee, Bahareh Shamlou, notarized each document.

Shamlou said that over several years, she held many such meetings. She said she just handled the paperwork, that she was just one member of McConville's team.

"Nobody knew exactly how he did things," said Shamlou, who no longer works for McConville. "He kept everything secret. He brought in different people and we all did a different portion. Everybody had a small part so nobody knew everything."

Shamlou and two other members of McConville's team -- Raymond Davoudi, who also coordinated paperwork, and Charlene Lujan, who helped McConville round up buyers -- said they saw nothing improper in the way McConville was purchasing properties. Each even recruited members of their own families to serve as buyers.

Soon after signing the documents, Greenspan got an e-mail telling her that she had qualified for three mortgages, which McConville would use to buy condos in Sommerset Villas in her name. She was directed to forward her mortgage bills as they came in the mail, so that McConville could make the payments.

The process went much the same way for Jenkins and five others interviewed for this story: Over several weeks, they signed documents, answered questions and sent copies of their personal information and financial records to McConville's team.

The team was collecting straw buyers -- people who allow their credit to be used to purchase properties they never intend to live in or rent out.

All of the parties in a real estate deal have a legal responsibility, throughout all stages of the transaction, to explain all of the true facts to the banks that are lending money to make the

deals possible. Federal law prohibits any party from misleading a bank about the true nature of the purchase.

In addition to Jenkins and her friends, McConville cobbled together a diverse group of buyers from around the state to buy the 81 condos.

He recruited Mark Lassagne, a professional bass fisherman and magazine publisher from the Bay Area, who had never invested in real estate before, but thought the deal was foolproof. Then there was Afsar Shamlou from San Diego, who learned about the deal from her niece, Bahareh Shamlou, McConville's former employee.

Some of the buyers heard about the program through Craigslist.

Norman Johnson, owner of a small moving company in the Bay Area, last year stumbled upon [an ad](#) on the website that read: "Make \$50,000 in 3-4 months for 10 hours of work- NO Joke."

He soon attended an evening seminar in a restaurant in the Bay Area, where he met McConville. Johnson now owns three condos in Sommerset Villas and two in Westlake Ranch.

He's never been to either city and he's never seen his condos.

'We Had to Be Innovative'

As his team readied the buyers, McConville searched out properties for them to buy.

In late 2007, with the local housing market in freefall, Premier Coastal Development, a prolific local condo conversion company, struggled to sell condos in three projects in San Marcos and Escondido.

The developers of the projects were under pressure from banks to make sales and pay back their loans. The banks agreed to consider selling the units at a discount price if an investor was willing to buy in bulk, said Rob Chemaly, a Premier representative.

A local broker came to Premier with a willing buyer -- McConville.

In [a 2008 letter](#) provided by Premier, McConville cited a 43-year career in real estate and said he had recently made deals work despite the tough financial environment.

"In order to be successful we had to be innovative in our selling techniques and creative in our financial placements in loans," he wrote. He pointed out that he had "acquired 47 new buyers ready and willing to purchase in the San Diego area. At this time we do not have any product to sell."

In three separate deals, McConville agreed to buy almost all of Premier's remaining units in the three projects at bulk prices. The developers agreed to accept between \$109,000 and \$187,560 per condo, said Chemaly, who was involved in all three of the sales. The rest, after closing costs, would go to McConville's company for what was labeled a "marketing fee," according to the developers' documents.

Meanwhile, McConville's team arranged for the straw buyers to purchase the condos at prices far higher than the cheaper bulk prices McConville had negotiated with the developers.

For one of Vicki Jenkins' \$337,000 condos in Sommerset Woods, for example, \$187,560 went to the developers while \$124,760 was sent to McConville's company, according to Premier's records of the sale.

McConville agreed to pay a discount price for the condos and then sold them for higher prices to the buyers he'd rounded up -- the people who never expected to make any payments themselves.

'Some of the Cleanest Loans We'd Seen'

After striking the bulk price with the developers and assembling the willing buyers, McConville needed money to close the deals -- money that would come in the form of individual mortgages in the buyers' names.

McConville's team had Frances Greenspan, for example, sign six mortgage applications to see how many could get funded. The team tried to boost the loans' chances of being accepted, having Greenspan sign [a handwritten letter](#) that stated she believed the investment would reap "benefits in a very short time," and that buying several condos in the same complex "makes sense for me."

By 2008, the mortgage lending business was hurting. Loose standards on who could qualify for loans had devastated the industry, shuttering countless lenders and crippling some of the nation's largest banks. The surviving investors willing to fund mortgages tightened their guidelines to lower their risk.

McConville's buyers were the sort who could still qualify for loans last year.

Their loan applications were spotless, said Allen Nazari, owner of All American Finance, a San Jose-based mortgage lender that made 16 of the loans. The borrowers had first-rate credit scores and financial portfolios showing their ability to pay 20 percent down payments on the fixed-rate, 30-year loans, Nazari said.

"Everything was just absolutely perfect -- some of the cleanest loans we'd seen," Nazari said.

However, the information on at least one of the applications appears inconsistent with the buyer's own account.

Norman Johnson's mortgage application to one of the lenders, Pacific Residential Financing, claimed an income of \$11,000 a month, said Rick Gundzik, managing broker. But Johnson estimates he earns between \$40,000 and \$50,000 per year -- about one-third of the income on his application.

The lenders said they didn't know the buyers weren't planning on making the payments themselves. They said they also hadn't known that while they processed these applications, the borrowers were simultaneously obtaining mortgages from other banks. Had they known, the lenders said, the loans would've appeared much riskier.

Gundzik said it was astonishing how McConville's team synchronized the loans to get them through the various lenders' procedures at the same time. He said the process -- from getting loan approvals to obtaining appraisals to ordering forms -- would all have to have been arranged within about a two-week period.

To get all of the loans to the final stage at once, without any lenders knowing about the borrowers' other loans, is very difficult to orchestrate, he said.

"It's a work of art in fraud to get all the loan docs signed at the same time," said Gundzik, whose company made 10 of the loans to McConville's buyers. "This is what ruins the industry for us."

Nazari and Gundzik said they were also not aware that McConville's company, 3 MAC Asset Portfolio, was to receive at least \$120,000 from every sale.

"There was no way they would've represented any of that to the lenders because no one would have made those loans," Nazari said.

Chemaly, the Premier representative, said the developers created disclosures in order to inform every party in the transaction that [a significant portion](#) of the purchase price was going to McConville's company. They instructed the escrow company, Stewart Title of California, to have the disclosures signed by the buyers and the lenders before closing the sale, he said.

But the lenders and buyers interviewed for this story said they never saw the disclosures. Four buyers who reviewed the disclosures for [voiceofsandiego.org](#) said their signatures had been forged.

Donna Demello, escrow officer from Stewart Title for the transactions, said she never saw the instructions to disclose to the lenders and buyers that money was going to McConville's company.

Mortgage Bills Go Unpaid

A few months after the sales, the mortgage payments stopped.

McConville's team took care of the first month's bills for Frances Greenspan's three loans, she said. After that, none of them have been paid, she said. Now she receives phone calls and letters from lenders several times a week. All the buyers interviewed for this story said McConville made no more than three payments before letting the loans default. Default notices continue to pile up.

The defaulting loans forced Nazari's All American Finance to lay off about 40 people last year, he said. He claimed his company survived the subprime turmoil without incident but the fines and other costs from these defaulting loans laid waste to the company.

"This McConville has put me out of business," Nazari said.

Several other lenders for McConville's buyers declined comment; the others didn't return calls. Home Loan Network Corp. did 36 of the loans for a total of \$9.1 million, lending up to four mortgages to single borrowers. The bank said in a statement that the loans met all applicable guidelines.

But Curt Novy, president of Corporate Mortgage Advisors, a San Diego-based mortgage fraud investigation firm, said the banks could have dodged the scheme if they had asked more questions. They could have more fully researched the condos' values and better scrutinized the buyers, he said.

"The lender should've known a straw buyer in this market," Novy said. "The lights should have been flashing. That it could happen now is a mind-blower."

If banks have to foreclose on the condos and resell them, they could lose millions of dollars. The difference between McConville's buyers' prices for the condos and what they could sell

for now is staggering.

The price for McConville's buyers was \$310,000 for two-bedroom units in Sommerset Villas last summer, for example. Since December, three similar units in the same complex have sold for less than \$100,000.

Even more striking, McConville's buyers were sold four 480-square-foot studios in the same complex for \$265,000 each last summer, taking out loans for \$212,000 on each one.

"Property values will have to quadruple before that condo is even worth the loan amount," said Todd Lackner, a local real estate appraiser and mortgage fraud expert.

McConville's straw buyers are already hurting.

Greenspan's credit score, once the last shred of stability in her financial world, has been decimated. She's seen the interest rate on her credit cards spike from 9 percent to 25 percent. She said she tries to stay positive, though she no longer realistically expects McConville will suddenly show up to pay off her loans. She doesn't have a Plan B.

"If I have to, I guess I'll walk away from my home, which is all I have," Greenspan said. "I don't know what I'd walk away with -- I don't have any family left."

Vicki Jenkins told a similar story, as did Annemarie Miller-Jones, Norman Johnson, Mark Lassagne and Afsar Shamlou.

"I guess that's what I get for being greedy," Jenkins said.

'You've Been Snookered, or You're Complicit'

On July 3, 2008, Norman Johnson became the owner of two condos in Westlake Ranch for \$375,000 each. Both were 931 square feet with two bedrooms. A resale condo the same size in the same project sold a few weeks earlier for less than half that price -- \$180,000.

It's not unusual for a new unit to sell for more than a resale condo. But especially in last year's market, there's no logical explanation for a \$200,000 difference, said Roger Lopez, a local real estate appraiser.

Banks rely on appraisers to give them a sense of a home's value and trust the appraisers have fully analyzed a neighborhood before justifying a purchase price. If an appraisal is way off, the appraiser must be either blindly or willingly following the orders of the person arranging the sale, Lopez said.

"You either don't have any common sense about the neighborhood and you've been snookered, or you're complicit," he said.

Lenders said the original appraisals for these deals supported the purchase prices. Now, they question those appraisals.

The identity of an appraiser on a particular transaction is not public record.

Worsening the Foreclosure Epidemic

Vicki Jenkins got her first glimpse of the condos she owns in Sommerset Woods last month. Wedged into the doorframe of one of her five units, flapping in the breeze, was a receipt from a local property management company that rents out the units for McConville.

"I'll take that," Jenkins said, grabbing the receipt for a \$1,495 rent payment. "That could have helped pay my mortgage."

Victor Goliac confirmed that his company, Concord Management, managed the properties for McConville. "After he bought the units, I managed the units," he said.

Besides collecting rents, McConville's complex machine of papers and signatures has had little to do with the physical condos themselves. But now that they're in default, the impact of all of that paper-swapping could come crashing in on the people who lived in the neighboring homes before McConville ever found his first buyer.

In the arc of the local real estate market, the deals are relatively fresh; the fallout is just beginning. The impending flood of foreclosures probably won't even show up in listings until 2010, worsening an epidemic that has already ravaged San Diego County.

Neighborhoods with high foreclosure rates often become magnets for squatters, crime or vandalism. Common areas fall into disrepair without homeowners to pay association dues. And the impact to surrounding property values could be devastating -- the lenders will have to compete for buyers and likely slash their prices.

The defaulting loans also likely add to the toxic assets that American taxpayers have already begun to shoulder. The loans are likely now owned by Fannie Mae or Freddie Mac, experts said, because there were scant other investors willing to buy loans last year.

"If they were indeed resold to Fannie Mae or Freddie Mac or another government agency, what you have is a fraud against the public," said William Markham, local real estate attorney. "The last thing we need are a bunch of con artists swindling the public at a time like this."

Brad German, spokesman for Freddie Mac, said the company was investigating these transactions and could not comment on an ongoing investigation into a fraud or a potential fraud against the company. A spokeswoman for Fannie Mae declined to comment.

Some of the buyers and former employees have spoken to investigators from the Alameda County District Attorney's Office, where McConville's business was based. Others have taken their knowledge to the FBI.

For her part, in between corralling other straw buyers and contacting law enforcement, Vicki Jenkins has begun to reckon with her own involvement with McConville.

"It is an example of desperation overshadowing logic," she wrote in an e-mail one year to the day after her first condo sale was recorded in San Diego County. She said the ordeal "is an example of confusion of values and how greed and power take advantage of vulnerability. None of us are immune."

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