Washington Mutual funded home flippers

Troubled lender's mortgages enabled family of real estate traders to make millions as the market collapsed.

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In July 2007, Vijay and Supriti Soni of Corona del Mar paid $440,000 for a home at 2129 W. Civic Center Drive in Santa Ana.

Five weeks later, they resold the house to Javier Hernandez – the family gardener and handyman – for $660,000. That's a 50 percent gain in 38 days – at a time when real estate prices in Santa Ana were plunging.

But the lender that financed both mortgages – Washington Mutual Bank – took a bath. This March, Hernandez's loan went into default, and in July the bank foreclosed. On the trustee's deed, the bank listed the home's value at $377,137 – $220,000 less than the outstanding loan.

Records show that Washington Mutual, America's largest savings and loan and one of its most precariously perched lending institutions, financed at least 43 mortgages worth $24.5 million on properties bought and sold by members of the Soni family since early 2007.

Of the 22 homes sold in that period, at least six have become problems for Washington Mutual: Four were foreclosed, one received a notice of default and another was listed for sale at a $260,000 loss. The total value of WaMu's mortgages on the troubled properties: $2.7 million.

Washington Mutual's lending practices resembled those of many other home loan institutions that have run into trouble, such as IndyMac Bank, which failed in July, and Countrywide Financial Corp., which was rescued in a January merger with Bank of America. They all offered complex adjustable-rate and subprime mortgages, approving many of the loans with limited scrutiny. When soaring numbers of borrowers were unable to repay or refinance their loans, the banks collapsed.

WaMu's $310 billion in assets, its diverse loan portfolio, its large base of depositors and its conservative risk management were supposed to protect the thrift from collapse. Now it appears to be the next domino in the row.

WaMu said it is investigating the Soni family's transactions as part of a fraud scheme and maintained that those loans are not a symptom of larger problems.

“We have extensive controls in place to protect the integrity of our portfolio and loan processes,” WaMu spokeswoman Sara Gaugl said. “We are continually enhancing our efforts to identify and prevent any potential illegal activity.”

But lending analysts said the Soni family’s transactions raise troubling questions about standards at the Seattle-based thrift, which could face a federal takeover if it cannot find a new source of credit. The distressed WaMu properties would then belong to the taxpayers.

“This is a quality control problem,” said Paul Leonard of the Center for Responsible Lending’s California office. “It certainly is curious WaMu’s fraud detection system didn’t pick this up. It looks very bad and it is bad. The question is how widespread it is.”

Leonard and others said the Sonis’ transactions probably escaped notice because Washington Mutual, like many other lenders:

•Allowed financing of property flips that occur less than 90 days after purchase. The Federal Housing Administration imposed a ban on financing 90-day flips in 2006. The FHA also requires a second appraisal for homes sold at a 100 percent gain less than 180 days after purchase.

•Relied heavily on imperfect fraud detection software. Computers are good at flagging statistical aberrations – such as unrealistic income statements – but can be deceived by knowledgeable and determined insiders.

•Did not check criminal backgrounds. The Sonis had been convicted in 2003 of numerous felonies for a real estate fraud scheme. WaMu checks criminal backgrounds of loan originators, such as outside mortgage brokers, but not borrowers.

Last month, the district attorney’s investigators raided the family’s homes and business offices. Now, prosecutors are investigating the Sonis and other members of their family for criminal behavior.

“Unfortunately, we are back looking at these characters again,” said Doug Brannan, the deputy Orange County district attorney who prosecuted the Sonis in 2003.

Washington Mutual declined to answer specific questions about the Soni family case.

“This is an active investigation, and we are fully cooperating with local law enforcement regarding this matter,” Gaugl said. “We will not tolerate misrepresentation or fraud of any kind and will aggressively pursue all legal means available to combat these offenses.”

Tightened standards?

Washington Mutual once aimed to be the Starbucks of banking: A shop in every

neighborhood, lending that was as simple as buying a double decaf latte.

That was before the mortgage lending industry began to implode.

In mid-2007, WaMu's then-chief executive officer, Kerry Killinger, boasted that his company had tightened lending standards to protect itself from the darkening real estate market.

"It's been over two years since we first began talking to you about housing prices becoming inflated and of the high risk of a slowdown in housing with price declines in some parts of the country," Killinger said during his July 2007 quarterly earnings call. "As a result, we started to take actions to minimize our exposure, including tightening our underwriting."

It seems to have been too little too late.

This summer, the bank reported a $4.8 billion loss in the first half of 2008 due mostly to souring home loans. On Sept. 11, the company ousted Killinger and said it was setting aside $4.5 billion for losses in the third quarter of this year.

Credit-rating agencies downgraded the bank's bond rating to "junk" status. The stock sank to $2 on Sept. 15, from a high of $39.25 a year ago. Last week, the bank put itself up for sale.

The Soni family's transactions with WaMu, which took place from early 2007 through March of this year, indicate that Washington Mutual continued making risky loans long after its underwriting standards were supposedly tightened, said James Barth, a senior finance fellow at the Milken Institute in Santa Monica.

"Lending institutions had an obligation to do due diligence to make sure the borrower can repay the loan, especially in 2007 and 2008, when they knew there was a mortgage meltdown taking place," Barth said.

Home prices in Santa Ana peaked in 2006 and have fallen more than 40 percent since.

While those prices were plummeting, members of the Soni family never sold for a loss. A Register analysis of 22 Santa Ana properties flipped by the family in the past two years shows a total gain on sale of $3.7 million.

The average gain: 48 percent.

The average time between purchase and sale: 92 days.

Todd Lackner, a San Diego mortgage fraud investigator who has examined the transaction records, said the common thread of WaMu funding makes the Sonis' transactions even

more disturbing.

“To me, it looks as if WaMu had a failed policy of funding these flip transactions at drastically inflated prices,” said Lackner, who furnished grand jury testimony about the real estate scheme that led to the 2005 bribery conviction of Rep. Randall “Duke” Cunningham, R-San Diego. “I find that disgusting. Any idiot can see these sale prices are excessive.”

The FBI says mortgage fraud reports increased 31 percent nationallyin fiscal 2007, totaling 46,717 incidents with an estimated loss of $813 million.

“During declining markets, mortgage fraud perpetrators may take advantage of industry personnel attempting to generate loans to maintain current standards of living,” the FBI’s annual fraud report said.

If, like most contemporary lenders, Washington Mutual continued to rely on fraud detection software to catch problems, it wasn’t hard to slip under the radar, said Ann Fulmer, vice president for Interthinx, an Agoura Hills fraud detection company used by lenders.

Banks don’t check criminal backgrounds of buyers or sellers because it would be too expensive, Fulmer said. People with experience – in real estate sales, appraisals, finance and escrow – know how to game the system, she said. With a little creativity and an Internet search, they can obtain phony employment, tax and financial documents for loan applicants.

“The problem with technology, it’s very easy to fabricate documents to get them through,” Fulmer said. “It’s not a matter of what controls you put up. If someone is determined and they know how to work inside the system and they’re ethically challenged, there’s no way to stop them.”

In the past two years, Soni family members took out a total 14 mortgages with Wells Fargo, Countrywide Home Loans, Downey Savings & Loan, J.P. Morgan Chase Bank and HSBC Mortgage Corp. But Washington Mutual was their preferred lender, with triple that number of loans.

One possible reason is suggested in a lawsuit filed in November by New York Attorney General Andrew Cuomo. The suit claims that Washington Mutual had a history of pressuring appraisers to give properties high valuations so it could make more money.

The suit alleges that eAppraisIT, a subsidiary of Santa Ana-based First American Corp., was strong-armed by WaMu into using pre-approved appraisers who offered higher property values for sales financed by the bank. The suit says eAppraisIT caved because WaMu was its largest customer, paying for 262,000 appraisals from early 2006 to October

2007.

“By allowing Washington Mutual to hand-pick appraisers who inflated values, First American helped set the current mortgage crisis in motion,” Cuomo said.

First American said Cuomo’s allegations were “largely based on a handful of e-mails that have been taken out of context or mischaracterized.”

Washington Mutual’s Gaugl said: “After investigating these allegations, we can say with confidence that there has been no systematic effort by WaMu to inflate home appraisals.”

That case is pending in New York State Supreme Court.

‘A huge amount of grief’

In August 2003, an Orange County Superior Court jury found Vijay and Supriti Soni guilty of forgery, falsifying real estate documents, identity theft and grand theft. Vijay Soni was sentenced to a year in jail. He also surrendered his real estate license. Supriti Soni was convicted on 19 counts in the case and sentenced to three years in prison.

Brannan, who prosecuted the case, said their scheme “took advantage of their clients’ trust when they exploited the unsuspecting customers’ information for their own financial gain. They left these families with large financial liabilities, goods and property purchased in their name without their knowledge, many hidden costs and a huge amount of grief to clean up their credit.”

Supriti Soni appealed, but her conviction was upheld.

The appeals court said that, under various names, the Sonis “obtained confidential information from various people – one of whom worked for Vijay and the rest who were clients for properties or mortgages – and then used it to acquire furniture, loan proceeds and commissions, real estate deeds and commissions, a Mercedes-Benz automobile and cash for themselves.”

A Superior Court judge later agreed to reduce seven of the 15 felony counts against Vijay Soni to misdemeanors.

On their Web site, Vijay and Supriti Soni posted a message:

“Supriti Soni and Vijay Soni of Orange County have been acquitted of all charges and allegations. Supriti and Vijay Soni have been in Real Estate Business for many years and have been extremely successful. On their way toward success they were put under radar and charged with false allegations. Through the Internet using search engines their reputation as a successful and an honest business people were compromised. However the

final judgment reveals that Supriti and Vijay Soni are innocent and acquitted of all charges and allegations."

Attached was a document showing that eight of Vijay's felony convictions had been reduced to misdemeanors.

Vijay Soni's attorney, Shirley Macdonald Juarez, told the Register that she asked him to remove the Web posting because it implies he has no felonies on his record. In fact, eight felony convictions remain.

On Aug. 7, investigators from the Orange County District Attorney's Office and state Franchise Tax Board served search warrants on nine locations, including the homes of the Sonis, Supriti Soni's mother Sushama Lohia and the family of Supriti Soni's sister Suniti Shah, plus four family companies – SL Realty, California Escrow, New Age Realty and First Priority Escrow. They carted out 154 cardboard boxes and 40 computers filled with evidence.

Family members declined to comment for this story, citing the advice of their attorneys.

"I'm confident that the facts will reveal that Mr. Soni has not engaged in any wrongdoing," said Vincent LaBarbera, Vijay Soni's attorney.

In the past two years, the Soni family essentially created their own market in Santa Ana by flipping enough homes in a small area, said Lackner, the appraisal fraud specialist. In at least three cases, homes flipped from one family member to another – and the sales were later used by appraisers to give credibility to high asking prices for other properties in the area.

One example: Lohia bought the bank-owned house at 827 S. Flower for $259,500 on Jan. 4. She sold it 20 days later for $575,000 to her daughter, Suniti Shah, who financed the purchase with a $488,750 Washington Mutual mortgage.

That was a 122 percent increase in less than three weeks.

"Selling to each other, that's something an appraiser should definitely discover," said Mike Sanders, a Laguna Beach real estate appraiser and expert witness in property value litigation cases. "If the appraiser finds all the same people's names on transactions, then that's something suspicious."

No money down

Vijay Soni provided another clue to his success at selling homes in a falling market: They made the down payments for the buyers.

In an interview in June with the India Journal, Soni said his “liquidation company” bought foreclosed properties in Santa Ana, Riverside and Corona and sold them by offering “10 percent down free money to any qualified buyer. With this big burden out of the way, they only have to worry about coming up with their monthly mortgage.”

That would be the equivalent of 100 percent financing, experts said.

If loan documents do not fully disclose who made the down payment, it would misrepresent the purchaser’s stake in the property and would potentially be a form of criminalfraud or theft, said Fulmer of Interthinx.

“Unfortunately, the bank doesn’t know it’s 100 percent financing,” she added.

Documents show that all of the family’s sales through Washington Mutual indicated that the buyer paid a down payment of 10 percent to 20 percent.

But Elijio Servin Rojas told the Register that he never made a down payment on the home he bought in November for $640,000 from Sushama Lohia. Records show he paid at least $64,200 before closing.

Servin Rojas said he was renting when Lohia persuaded him to buy last year. He said he has fallen behind on payments on the $575,800 mortgage from Washington Mutual. He received a notice of default in July.

“I’m up against a wall,” Servin Rojas, a tile worker who has been working only part time, said in Spanish. “They’re just going to take away our house.”

The Sonis were positioned to escape detection if no money changed hands – because Lohia, a licensed real estate broker, also served as escrow agent on the transactions.

One alleged instance is detailed in a lawsuit filed in Orange County Superior Court in May after the Sonis unsuccessfully bid on a $13 million Newport Coast mansion.

Documents in the suit, filed by the home’s seller, Dr. William Dobkin, allege the Sonis deposited $450,000 as earnest money with California Escrow, an arm of Lohia’s SL Realty. But when Dobkin asked for the money as the first step of the sale, California Escrow failed to produce the cash, the suit says. Vijay Soni then wrote a personal check for $460,000 to cover the debt. The check bounced.

“We’ve determined, and they’ve admitted, that the funds are no longer there – if they ever were,” Dobkin’s attorney, Jeffrey Simon, said of the California Escrow account.

Vijay Soni’s attorney, Allan Leguay, said the case is not about fraud, but whether Dobkin can demonstrate he suffered a financial loss. The lawsuit has been sent to arbitration.

‘Gentle, harmless and giving’

In August, an investigator from Washington Mutual told Angel Enrique Torres that his name was on a bank account and real estate in Texas.

“I don’t know where that came from,” Torres told the Register.

Torres’ name is also on three Santa Ana properties purchased from the Sonis and their relatives, all financed with Washington Mutual mortgages. One of the homes was foreclosed in July. He said he has fallen behind on the payments of a second home.

County records show Torres refinanced his home at 339 S. Garnsey with a $496,000 mortgage from Washington Mutual in June 2007. Torres told a reporter he was unaware of the refinancing deal.

Torres is part of another family whose members both worked for the Sonis and bought properties from them and their relatives, using Washington Mutual financing. His sister, Sara Torres, bought 1609 W. Raymar from Supriti Soni for $640,000. That’s $111,000 more than Soni paid for the property five days earlier.

Sara Torres was a key witness in the identity theft case against the Sonis. In 2000, she filed a complaint with the Orange Police Department alleging the Sonis put her name on a deed without her consent and applied online for a $10,000 loan in her name.

But when Supriti Soni appealed her conviction, Sara Torres wrote to the judge that her police complaint resulted from a misunderstanding.

In court documents, Torres described herself as the cousin of Patricia Cruz Hernandez, whose husband was the Sonis’ gardener, Javier Hernandez.

Hernandez purchased two Santa Ana homes from the Sonis in 2007: 2129 W. Civic Center Drive and 517 S. Garnsey St. Both are now in foreclosure.

Before the Sonis’ sentencing in 2003, Javier Hernandez wrote a letter to the judge in Spanish urging mercy.

“I don’t have words to express what good people they are,” his letter said.

Sushama Lohia also wrote to the judge about her daughter and son-in-law. “They have become prey of misunderstanding and jealousy of heartless people. If you watch them closely, you will find them gentle, harmless and giving.”

===== Photo Captions =====

FORECLOSED: 2129 W. Civic Center. Eleven months after the Sonis sold it to their family gardener, Javier Hernandez, the home went into foreclosure.

FORECLOSED: 517 S. Garnsey. Hernandez also bought this home from the Sonis, for $595,000. It went into foreclosure Sept. 18.

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