

June 5, 2011



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**Ken Wurzel** walks through woods on Grass Valley property in which he invested. He was an investor with Gold Country Lenders and put \$70,000 into a project that turned out to be on contaminated land. Hundreds of thousands of dollars are missing, and Gold Country is said to be under criminal investigation.

## ‘Hard money’ crumbles

### DA benefited from loan favors by Nevada County broker

BY ROBERT LEWIS AND CHARLES PILLER  
*cpiller@sacbee.com*

His personal finances in disarray and his ability to do his job compromised, Nevada County District Attorney Clifford Newell sat in a local cafe, eyes welling, as he described how he became beholden to a loan broker who is under investigation for bilking investors.

A few years ago, Newell and his wife assumed crushing debts to keep their summer camp business solvent. Unable to get a conventional loan – “Neither of us were qualified,” Newell said – they borrowed from what is called a “hard money” broker, the equivalent, some say, of a legal loan shark who uses others’ money to make high-priced loans.

That decision inextricably linked Newell, the county’s top law enforcement officer, to Philip Lester. That hard money broker has since been accused by investors of cheating them, leading to investigations by police, and now the state at-

torney general’s office, for securities fraud.

A yearlong Bee investigation found that Newell, 54, received favorable treatment on his own loans from two hard money brokers. Documents show that one of them, Lester, tried to help the Newells avoid foreclosure and possible bankruptcy by raising money for a loan and misleading investors who contributed.

Lester has since forfeited his lending license, ceased doing business, and admitted to numerous violations of laws designed to protect investors, involving other loans. Newell said he did not know about the false statements to investors and could recall little about his own transactions with Lester.

Newell said he and his wife “were moving property and loans, trying to keep all the balls in the air. Some of it was smoke and mirrors.”

Newell’s ties to the broker offer a window into a culture of fraud in the hard money community in Nevada County. A Bee review of thou-



**Nevada County District Attorney Clifford Newell** and his wife refinanced a loan via hard money broker Philip Lester. A yearlong investigation by The Bee concludes that investors who put up the funds were misled by Lester on the loan's security.

Andy Alfaro /  
Sacramento Bee

sands of pages of court and regulatory filings shows that for more than 20 years, a number of hard money brokers have misused or stolen their investors' money. Some brokers landed in prison; many investors lost their life savings.

Abuses typify the hard money industry. A Bee review of statewide data for the biggest 344 brokers operating around the peak of the real estate bubble found one out of every four has been accused of wrongdoing or sanctioned by the state Department of Real Estate in the past decade.

Hard money brokers targeted Nevada County because it had become a magnet for retirees and others with hefty nest eggs. At the peak, hundreds of local investors put up about \$130 million for such loans, according to public records and brokers. Lester's business alone raised \$40 million from people who were eager to get in on real estate appreciation and construction projects. Their money was pooled into loans with extraordinarily high interest and fees, often provided to borrowers who did not qualify for bank loans.

When property values imploded and the recession settled in, investor allegations about missing money started reaching Newell.

When asked, Newell said he followed up on complaints as well as he could given his small staff of nine attorneys. First elected in 2006, Newell said he recently opened prosecutions against contractors who allegedly misused investor money and has carefully avoided conflicts of interest.

Margaret Fowler doesn't believe that. One of several investors who said their money disappeared, she blames Newell for not pursuing fraud allegations because of his financial ties to the industry.

"Victims' complaints were basically ignored," Fowler said.

Newell said he never was asked by a law enforcement agency to prosecute Lester or his company, Gold Country Lenders Inc. When he learned local police were looking into complaints of fraud against the firm, he said he had a conflict. "I was very upfront with the investigating officer that I had a personal relationship with that business and that I shouldn't be involved in it whatsoever," Newell said.

### **'Legalized loan sharking'**

Done honestly, hard money fills market gaps, funding worthy projects rejected by banks. But the loosely regulated industry also invites fraud.

The hard money process is simple. Brokers function like private banks for people who don't qualify for a traditional mortgage or need money fast. Unlike banks, brokers care less that borrowers have enough income to make their payments than about the value of property used as collateral in case of default.

One broker said it's called "hard money" because of "hard to swallow" terms, often double the cost of conventional loans. Such deals cause many unsophisticated borrowers to lose their property to foreclosure.

"Hard money lending is the real estate equivalent of a pawn shop," said Bert Ely, an independent banking analyst in Alexandria, Va. "Some might call this legalized loan sharking."

Nevada County brokers raised money from investors, some savvy, others naive. Some investors said they failed to keep records, didn't monitor projects and weren't even sure where the money was invested, and didn't care, as long as the profits rolled in.

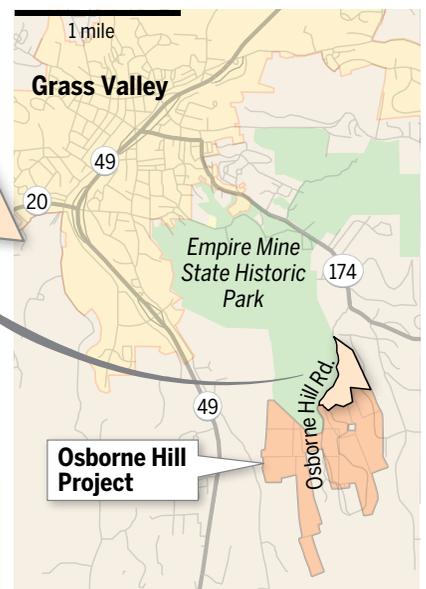
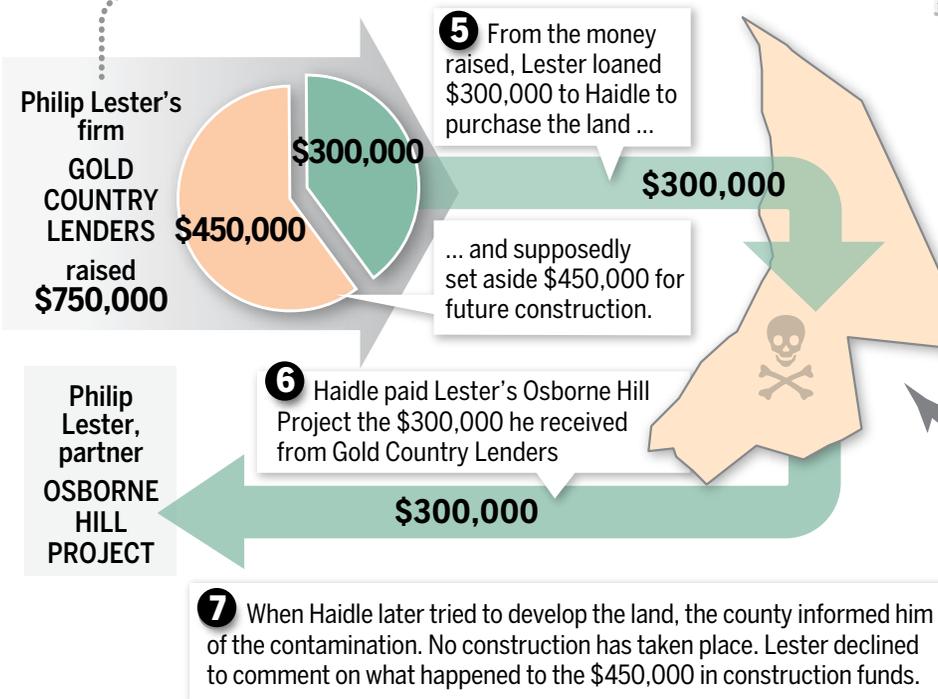
**"Nevada County seems to be the cesspool of this kind of activity. (The brokers) are all friends. They are all in a little loop. It's been that way for years."**

DEBBIE WARNKE, former Nevada County resident

## HOW A DEAL WAS DONE

Some of “hard money” broker Philip Lester’s deals left investors and borrowers wondering what happened to their money. Lester sometimes acted simultaneously as broker, as well as buyer or seller in complex transactions. One example:

- 1 In 2004, Lester and some business partners, calling themselves the Osborne Hill Project, purchased a large tract of vacant land to create a luxury community near Grass Valley.
- 2 Lester learned of possibly toxic mine tailings that might require cleanup on a portion of the land. He arranged a two-part deal to speed development.
- 3 Lester found a buyer for a parcel that had most of the contamination. That buyer, Curtis Haidle, claims that he did not learn of the hazards until long after the purchase.
- 4 Lester’s firm, Gold Country Lenders Inc., then persuaded private lenders to loan Haidle \$750,000 to purchase and develop the parcel. Some of the lenders have said they were unaware of the hazards on the parcel.



Sources: Nevada County property records, Bee reporting by **Robert Lewis** and **Charles Piller**

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But Nevada County’s hard money losses were particularly severe due to a deeply rooted culture of fraud, according to investors, convicted brokers and public records.

Debbie Warnke, 50, said she grew up in Nevada County, and knew hard money brokers through her work at a title company. She lost \$110,000 in a hard money transaction gone bad.

“Nevada County seems to be the cesspool of this kind of activity,” she said. “(The brokers) are all friends. They are all in a little loop. It’s been that way for years.”

Problems included overly high appraisals, shoddy project oversight and fraud.

“You learn from your role models,” said E. John Vodonick, a local attorney who prevailed in court against a broker. “And the role models are often not honest people.”

The original role model in Nevada County was the late Donald Timoney, who in 1979 wrote the book on hard money: “Borrow, Lend and Get Rich.”

Timoney was convicted in 1995 for running a Ponzi scheme. In that fraud, investors are promised high returns but paid with new investors’ funds, while perpetrators skim money off the top. Ponzi schemes typically collapse when raising enough money to pay off earlier investors becomes impossible.

“Your hardest work,” he and a co-author

wrote, “is just to sit back and figure out how you will spend the money.”

### ‘Investors are greedy’

Since 1991 in this small county, Timoney and three other hard money brokers have gone to prison. Four more have lost their licenses, and four of their borrowers have been charged with or convicted of bilking investors.

Most of the brokers were linked by family ties or close business relationships. When one has been legally sanctioned or jailed, the others usually have carried on under new company names, using some of the same employees. One escrow officer worked for three different brokerages whose owners went to prison.

Lester, 63, opened Gold Country in 1991 and became one of the county’s most prominent construction lenders, financing loans from the bundled savings of neighbors and acquaintances. He gained stature as a local philanthropist whose luxurious home overlooks the Auburn Valley Golf Club, which he once owned.

When Lester’s business crumbled during the Great Recession, some of his investors – seniors living on fixed incomes – said they lost their life savings.

At a glance, Lester and his backers suffered just another hard luck story in tough times. Under the surface, his descent into legal jeopardy



Sandy Huffaker / Special to The Bee

**Eve Ggem** rings up a sale at her Macy's job in Escondido. She and her husband, Paul, put about \$400,000 in retirement money into Philip Lester's loan ventures and consider most of it lost. They filed a complaint with the state Department of Real Estate against Lester, who recently surrendered his license amid alleged violations.

and financial ruin is the latest chapter in a history of local brokers who made and squandered fortunes by doing business with often-desperate borrowers and inexperienced or inattentive investors.

Last year the California Department of Real Estate accused Lester of a dozen violations of real estate law.

Sitting in the golf club's restaurant recently, Lester acknowledged, "I was guilty of every single one."

He excused his transgressions as trivial, and described the laws he broke as ambiguous and obscure. He didn't fight for his license, he said, because he could no longer afford an attorney. Gold Country's funding was gone and Lester's personal fortune – spent, he said, in a vain effort to make investors whole – was gone with it.

Lester accused a handful of investors of distorting his actions.

"Investors are greedy. They got used to getting this check every month," he said, later ending the interview in a tearful, profanity-laced tirade. "Don't come to me after the market has crashed and suggest I did some (action) that was illegal or unethical."

### 'The money is gone'

Yet investors sometimes doubted Lester's motives when they lost vast sums to failed construction projects in which he played conflicting roles.

In 2004, Lester and some partners bought a large tract of wooded hills beside Empire

Mine State Historic Park. Dubbed the Osborne Hill Project, the partnership planned to build a luxury community with open space and views of the snow-capped Sierra. Lester's Gold Country investors were going to fund the project.

Lester and his partners soon realized the land might be contaminated by toxic mining hazards. To speed the development process, the Osborne Hill Project sold a part of the land – thought to have the worst contamination – to Curtis Haidle, a contractor who had worked with Lester on prior projects. Haidle planned to build one or more homes on the smaller parcel.

Lester's Gold Country loaned Haidle \$750,000, to buy and develop the land. Of that, \$450,000 was supposed to be set aside in a bank to pay for construction, according to an account of the transaction Haidle provided to The Bee.

So, wearing his Gold Country hat, Lester raised money from investors, then arranged for the funds to be loaned to Haidle. Wearing his Osborne Hill Project hat, he sold the property to Haidle and received \$300,000 in Gold Country investor funds. In that way, the funds traveled a circular path back to Lester and his Osborne Hill partners.

The apparent conflict of interest might never have been an issue if Haidle's project succeeded. But when he moved to begin construction, the county refused to issue permits before the mine waste was examined and, if necessary, remediated, according to Haidle and public records. In a written account of the episode, Haidle said



Andy Alfaro / Sacramento Bee

Philip Lester, who ran the Gold Country Lenders “hard money” operation, denies acting unethically and contends that people who pocketed profits are now distorting what he did after they suffered losses.

that was the first he learned of the problem. He concluded that he had been duped by Lester to buy tainted property.

Five years later, not one shovel of earth has been turned.

By law, investor funds for a specific project can only be used for that project. So the remaining \$450,000 for construction should be available. But Haidle and some of the investors who provided the loan said Lester wouldn't tell them what happened to the leftover funds.

Kenneth Wurzel was one of the investors, having contributed \$70,000 to the project. “The money is gone,” he said. “Where did it go?”

Lester said he couldn't remember details of the deal and declined to check his records. Nor would he provide specifics on the flow of money in far larger projects that failed, leaving other investors with barren land whose value has since plummeted.

In August 2010, the Department of Real Estate accused Lester of serious violations of real estate law on a number of loans other than Haidle's. Among the charges: Money went missing from his investor trust funds. He improperly loaned investor funds to his own development company, the Linx Group. He failed to ensure that customers didn't invest more than 10 percent of their assets – a safeguard to protect investors. He failed to place construction funds into an escrow account managed by a third party.

In December, Lester surrendered his license.

A law enforcement official with knowledge of the case, but who was not authorized to speak on the record, said the state attorney general's office

## ‘HARD MONEY’ BREAKDOWN

**Definition:** “Hard money” loans, also called private or equity loans, involve a real estate broker acting as a bank – loaning investor money to developers and others who either can't qualify for a loan from a traditional financial institution or want money fast.

**The investors:** Some are wealthy and sophisticated, and scout projects before deciding to lend. Others are elderly retirees looking for a high interest rate for their savings.

**The brokers:** Middlemen who pool investor money and service loans.

**Size of the industry:** No reliable figures exist. The Department of Real Estate tracks only the large brokers, primarily those who make at least \$1 million in loans a year. At the market peak in 2005, the 340 such brokers statewide made \$5.8 billion in loans.

**Regulation:** In California, rules of the agencies that license brokers have loopholes and sometimes conflict. For example, brokers licensed by the Department of Real Estate must fully fund a construction loan at the outset, rather than incrementally. Brokers licensed by the Department of Corporations face no such rule.

**Problems:** The Bee found that one-quarter of the 340 largest brokers licensed by the Department of Real Estate in 2006 have been accused of wrongdoing or disciplined.

Sources: California Department of Real Estate, California Department of Corporations



**Ken Wurzel** didn't know that he loaned funds to buy what turned out to be toxic land, where a building project never got off the ground and \$450,000 remains missing.

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has been investigating Lester and Gold Country for possible securities fraud.

Fowler, who expressed concern about the district attorney's inaction, and her husband, Dennis, complained about Lester and Gold Country at meetings with state investigators and prosecutors beginning two years ago.

The Fowlers have more than \$350,000 tied up in Gold Country loans. If they and other investors are lucky, collateral property from Gold Country's \$40 million in loans will be sold and they will recover some of their funds.

Paul Ggem, 81, and his wife, Eve, 72, entrusted Lester with about \$400,000 of their retirement savings. It's nearly all gone. The Ggems filed a complaint with the Department of Real Estate, alleging that Lester failed to identify himself as the borrower on loans he brokered.

Eve Ggem was forced out of retirement and sells women's handbags at a Macy's in Southern California, where the couple now live.

"It just changed our lives," she said, "I'm just really devastated."

### **'I did him a favor'**

Nightmarish real estate mistakes that changed the life of District Attorney Newell started with a simple dream he shared with his wife, Kelly.

The two met in the 1980s as young counselors at Snow Mountain Camp in the Nevada County foothills. He taught water skiing and sailing, she taught arts and crafts. They fell in love with each other and with summer camp life. Years later, after they had married, Snow Mountain went on the market. They leaped at the chance, Newell said, spending their life savings.

The economy tanked, followed by the Sept. 11 attacks. Amid parental anxiety, the camp foun-

dered, he said.

"When it came to the camp business - it was all heart," Newell said, tearing up as he described serving children and teaching young adults. He said he thought at the time, "we've got to save this thing."

Local hard money became a lifeline.

In 2004, real estate filings show, the Newells borrowed \$1.7 million from hard money broker Olympic Mortgage and Investment Co. The couple later sold off a few parcels from Snow Mountain and refinanced with Olympic. But by late 2007, a year after Newell was elected district attorney, he said, they had were having trouble making payments. Lester, a casual acquaintance, came to the rescue.

He promised to loan Newell \$700,000 at 11 percent interest, records show, although he was never able to raise enough from investors to cover that amount. Lester said the money was to pay off the Olympic loan. Newell said it was to hold Olympic and other creditors at bay, but didn't recall the loan's amount or terms.

Lester proudly defended his handling of the district attorney's loan.

"I did him a favor," Lester said, adding with a laugh, "In case I ever kill anybody." Speaking seriously, Lester called the loan a gesture of good will similar to others he offered to people in the close-knit community.

Gold Country loan and disclosure documents show that in the process of helping the Newells, Lester misled his investors. He told them that if the Newells defaulted, they would be first in line to foreclose on the camp property and recoup their investment. Loan documents show that this was untrue - Olympic held that first position.

Pool, the Department of Real Estate spokesman, said such actions sounded like "willful

**"It just changed our lives. I'm just really devastated."**

EVE GGEM, investor who was forced out of retirement

misrepresentation” that could provide “grounds for civil and potentially criminal action.”

Lester denied misleading investors, but would not answer questions about his disclosures.

In essence, Gold Country investors had unwittingly given the Newells a loan effectively unsecured by any collateral, particularly given plummeting local land values. The issue was important because Lester raised no more than \$260,000 for the Newell loan – far below what the Newells needed to pay off Olympic, a move that would have made the camp property valid collateral for the Gold Country loan.

Apparently assuming that he could eventually raise the remaining funds from other investors, Lester had the Newells sign a deed of trust that indicates a loan of \$700,000 – among the details of his transactions with Lester that Newell said he didn’t recall.

In March 2009, Lester wrote to his investors that the Newells had money trouble. In part, he said, Snow Mountain Camp was no longer worth enough to provide adequate collateral. Calling the Newells “very good borrowers,” Lester didn’t mention the couple were in danger of defaulting on their Olympic loan, or that his own investors would lose their money if the Newells defaulted.

Lester then gave the Newells another generous favor – the kind of loan modification that thousands of other Californians under water with their home loans have struggled in vain to obtain from their lenders. Lester dropped the Newells’ interest rate from 11 percent to 7 percent, saving them up to \$10,000 per year. He also switched the collateral to a parcel the Newells co-owned in Sutter County.

Newell found out that the Grass Valley Police Department was investigating the broker. Newell told them he could not be involved, to

## ABOUT THIS REPORT

Reporting for this story began a year ago when The Bee learned of extraordinary losses in transactions involving Nevada County “hard money” brokers. Reporting involved interviews with borrowers who lost money and reviews of thousands of pages of legal, regulatory and real estate filings. These included Department of Real Estate records and data, Department of Corporations reports, criminal and civil cases and depositions, more than 100 Nevada County property filings detailing hard money debts, and U.S. Treasury Department and Federal Deposit Insurance Corp. data and orders concerning Citizens Bank of Northern California.

The Bee also obtained private letters, disclosure statements and emails between brokers and their investors; and interviewed dozens of investors and borrowers who lost money in hard money deals, brokers, state and local officials, and regulators.

avoid a conflict. Law enforcement agencies also sent Newell two allegations of wrongdoing with investors’ money by David Lester, Philip Lester’s brother and former employee.

Newell’s office declined to prosecute David Lester for lack of evidence, but after The Bee’s inquiries, Newell said he reconsidered and sent the complaints to the state attorney general’s office.

Newell and his wife continue to pay interest on the Gold Country loan, he said, although the balloon payment for the principal is long past due.

Their summer camp dream finally ended in the form of one last favor – this time from Olympic. In June 2009, Olympic accepted portions of Snow Mountain Camp in lieu of payment of more than \$614,000 still owed, allowing the Newells to avoid the credit-ruining foreclosure process.

Newell said the transaction was fair, but according to the Nevada County Assessor’s Office, the parcels Olympic accepted were worth only \$570,000 – in effect, Olympic forgave \$44,000 of the Newells’ debt. The most recent assessment dropped the property’s value to \$508,000.

“We could have gone to foreclosure, but it costs money to do that,” said Phil Ruble, the company’s owner. Olympic – now called Olympia – could sell the property when the market recovers hoping to avoid a loss, he added.

Despite favors from their lenders, the Newells’ financial distress extended to their home loan. The bank holding their mortgage filed a notice of default this year after the couple fell behind on their payments. Newell said he is close to working out a short sale, in which the property is sold for less than the amount owed without foreclosure.

“Free and loose money lending is the crux of the whole problem,” Newell said, reflecting on how his debts grew beyond anything he imagined a few years ago.

He added: “From the very beginning I wondered, ‘why?’ “

## SIDEBAR

# Bank caught in wheeler-dealer's web

## 'Hard money' broker borrowed to buy building, then stopped his payments

BY ROBERT LEWIS AND CHARLES PILLER  
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Nevada County is ripe for "hard money" lending, due in part to a lack of local banks that cater to developers.

The county's only locally based community bank, Citizens Bank of Northern California, founded in 1995, is struggling to raise capital and operates under an order by the Federal Deposit Insurance Corp. - signs of serious distress.

Citizens received \$10.4 million in bailout funds under the federal Troubled Asset Relief Program, and, to preserve its capital, has become one of a handful of banks nationally that has deferred repaying the funds to the government.

Citizens has extended millions of dollars in credit to the local hard money industry. Philip Lester, a broker who recently surrendered his license and whose business was decimated in the recession, received funds for his office building in Grass Valley, according to a disclosure statement to his private investors, who also provided funds for that building.

In June 2009, when his lending empire was

in jeopardy and his loan to Citizens lapsed into delinquency, Lester told those investors, "Citizens Bank has applied TARP (stimulus) funds and is not requiring payments at this time" - an apparent effort to reassure them that he would eventually repay their loan.

Lester told The Bee that two bank officers - including one who went to jail - told him not to worry about paying the money for a while. Lester couldn't recall the officer's name. On May 24, a former Citizens loan officer, Melvin Rohs, was sentenced to 33 months in federal prison for embezzlement.

"We've got \$11 million in TARP funds, ' and they said, 'don't worry about it, ' " he recalled being told. "They never billed me ... for over two years." Then, Lester said, the bank sued him. Late last year, a Superior Court judge awarded the bank nearly \$1 million, including damages.

Phillip Campbell, the bank's general counsel, said TARP funds are part of the bank's capital pool, and would never have been applied to any specific loan. He declined to comment further due to the pending legal matter against Lester.

June 6, 2011

## Heartbreaks in 'hard money'

### NEVADA COUNTY RETIREES, LURED INTO RISKY LENDING, PAID PRICE

BY ROBERT LEWIS AND CHARLES PILLER  
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For three decades, the promise of easy money lured residents of this region's Gold Country towns to invest in an obscure corner of the real estate industry – “hard money” lending.

Some of those investors entrusted their entire life savings to brokers who used the money to make high-interest loans to people who either didn't qualify for a traditional bank loan or who needed money fast.

The practice has flourished in Nevada County, even though the industry has been rife with unscrupulous brokers and outright fraud.

“Nevada County was full of wealthy retirees who thought they were making these real safe investments,” said Jeffrey Ingram, an attorney who represented one of the county's many victims. “The scope of people who have lost money is just tremendous.”

The recession laid bare the dangers of hard money lending. As large, risky loans went bad, many investors lost their money and were left with nearly worthless land. Unlike banks, brokers carry no insurance and receive no bailouts. Regulatory and legal filings show that hard money investors lost more than \$50 million in Nevada County.

Law enforcement agencies have tried, with limited success, to address what they see as a statewide problem of large proportions. State officials recently ordered a Sacramento hard money operation, VLD Realty, to cease operations. A Santa Rosa broker has been accused of stealing millions from investors. The U.S. attorney's office indicted a Monterey County broker in late 2009 for operating a Ponzi scheme.

At the market peak in 2005, roughly 340 of the biggest hard money brokers in California loaned \$5.8 billion. While that represents a small slice of the overall lending picture, the California Department of Real Estate spends disproportionate resources investigating and disciplining bad hard money brokers, officials said.

A Bee review of licensing records found that one in four of the biggest hard money brokers operating when housing prices peaked has been

accused of wrongdoing or sanctioned by the department in the past decade – a far higher rate of violations than for conventional mortgage brokers.

The problems are perhaps most evident in Nevada County – historically home to just one locally based bank but numerous large hard money brokers. Such brokers played a central role in converting a scenic rural area into a once-booming haven for developers.

Since 1991, four Nevada County brokers have gone to prison, four others have lost their licenses, and four borrowers have been either charged with or convicted of bilking investors.

“Is there anyone who has lent money in this town that hasn't gone to jail?” local attorney Stephen Munkelt recently joked. Munkelt defended one of the brokers who went to prison and is now defending a contractor accused of misusing investor money.

Roots in retiree influx

Hard money lending began to make some Nevada County residents rich and impoverish others in 1979, said David Timoney. That's when Timoney moved here, he told The Bee, and opened his own brokerage.

He is the son of Donald Timoney, co-author of the hard money guide, “Borrow, Lend and Get Rich.” He and other brokers took advantage of Nevada County's vast territory for development and influx of retirees with savings to invest.

From 1980 to 2010, census figures show, the county's housing stock increased at more than double the state pace, while the median age rose to more than 12 years older than the state as a whole. The opportunities for development and the number of people looking to invest grew, beckoning hard money brokers.

David Timoney apparently was also the first area broker indicted for defrauding investors. In 1991 he went to prison for creating false loan documents to embezzle funds. A few years later his father and two of Donald Timoney's borrowers were convicted of effectively running a Ponzi scheme – skimming investor money from projects and using funds from newer investors to cover the misuse.

# 'HARD MONEY' WEB

"Hard money" lending has been a lucrative industry in Nevada County for more than three decades. This method of financing has been riddled with problems and fraud. Since 1991, four brokers have gone to prison, four others have lost their licenses, and four borrowers have been either charged criminally or convicted of bilking investors. Many in the local industry are connected.



Worked at same brokerage

Other type of connection



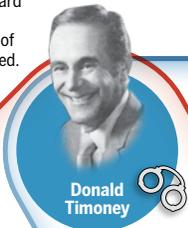
License surrendered or revoked



Served time in prison

## Donald Timoney

- Left Sierra Home Loans to open Equity Real Estate Loans.
- Sentenced in 1995 to nearly six years in federal prison after pleading guilty to charges that he defrauded investors. His son David, who operated a separate hard money brokerage, was sentenced to federal prison for similar crimes. Two of Donald's borrowers were also convicted.
- Sold Equity Real Estate Loans to Larry Blanchard, who operated under the name Olympic Mortgage and Investment Company.



Donald Timoney

## David Timoney

- Opened what he calls the first hard money lending operation in the county, Sierra Home Loans, in 1979.
- Indicted for defrauding his investors in 1990. Sentenced to 37 months in prison after pleading guilty to mail fraud.



David Timoney

## Keith Hysom

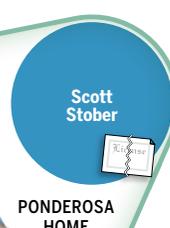
- Worked for David Timoney before opening his own hard money operation, Ponderosa Home Loans.
- Charged in 2005 in state court for essentially running a Ponzi scheme. Pleaded guilty to fraud-related charges, sentenced to five years in prison.



Keith Hysom

## Scott Stober

- Took over broker Keith Hysom's loans when Hysom went to prison.
- In February, the Department of Real Estate revoked Stober's license for trust fund and record-keeping violations. In November, one of Stober's clients, Leo Wheeler, was indicted for defrauding investors on a Lake County project.



Scott Stober

EQUITY REAL ESTATE LOANS/OLYMPIC MORTGAGE

SIERRA HOME LOANS

PONDEROSA HOME LOANS



Phil Ruble



LenaLou 'Pete' McKnight



Brian Powers

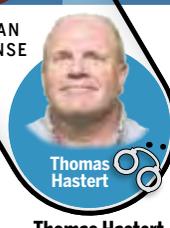
## Phil Ruble

- Bought Olympic Mortgage and Investment Co. from Blanchard in 2001. It has since become one of the largest hard money brokers in the county.
- Disciplined by the Department of Real Estate in 2004 for a \$200,000 shortfall in his trust funds. Ruble blamed the shortfall on an office manager he inherited with the company, LenaLou "Pete" McKnight, who he said was commingling funds.

## LenaLou McKnight

- Worked for David Timoney in early 1980s. Also worked for David's father, Donald Timoney, then Larry Blanchard and then Phil Ruble. Also worked for Thomas Hastert at Loan Sense.
- Ruble fired McKnight after Ruble was cited by the Department of Real Estate for trust fund violations. Hastert ultimately went to prison.
- She was not charged with any crime.

LOAN SENSE



Thomas Hastert

## Thomas Hastert

- Broker, operated Loan Sense.
- Charged with embezzlement and other fraud-related crimes in 2009. Pleaded guilty to 59 felony counts of embezzlement, securities fraud and selling unregistered securities and was sentenced to seven years in prison.

GOLD COUNTRY LENDERS



Philip Lester

## Philip Lester

- Owned Gold Country Lenders.
- Worked in the real estate industry for 35 years. Gold Country Lenders was one of the biggest hard money brokers in the county, with as much as \$40 million in loans at the market peak. In 2009, Department of Real Estate accused Lester of numerous violations of real estate law. Lester surrendered his license effective December 2010.



David Lester

## David Lester

- Operated Able Home Loans.
- Philip Lester's brother. In June 2010, Lester filed for bankruptcy protection claiming \$677,000 in assets and \$5.3 million in liabilities; and the Department of Real Estate accused him of failing to record loan documents and destroying records. Surrendered his license effective September 2010.



Clifford Newell

## Clifford Newell

- Elected Nevada County district attorney in 2006.
- Borrowed \$1.7 million from Olympic Mortgage and Investment Co. in 2004.
- Borrowed up to \$260,000 in late 2007 from Gold Country Lenders, whose owner Philip Lester lost his broker's license in 2010.
- Newell's office did a preliminary review of Thomas Hastert, then turned the case over to the state attorney general's office.

Sources: Nevada County and California court and real estate filings, California Department of Real Estate, California Department of Corrections and Rehabilitation, Bee reporting

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Keith Hysom, who had worked for the younger Timoney, went to prison in 2006 for fraud involving his own company. The Department of Real Estate revoked the license of Brian Powers, an agent who had worked for brokers David Timoney, Philip Lester and Hysom. Powers got into trouble after losing a lawsuit alleging fraud and elder abuse.

Some brokers said their problems started with one bad loan that they tried to cover using money from new investors. Steven Gourley, former chief deputy commissioner of the state Department of Corporations, who co-wrote the hard money lending regulations, called it "the inadvertent Ponzi scheme."

"Then there are the people that are just plain thieves," Gourley said.

Hard money brokers operate under a weak, loosely monitored set of regulations riddled with loopholes and jurisdictional confusion and conflicts. The state Department of Real Estate oversees some brokers, while others fall under the purview of the Department of Corporations. Activities one agency deems illegal might be permitted by the other.

Tom Pool, a Department of Real Estate

spokesman, said a larger enforcement staff would help root out fraud. But when something seems too good to be true, he advised, investors should exercise common sense.

"That's sophisticated stuff," Pool said. "You need to understand what you're getting yourself into."

Borrowers became sleuths

The real estate bubble drew hundreds of local investors to put up more than \$130 million, according to public records and brokers. When that bubble burst, the money vanished.

"A real correction is going to bring out every mistake ever made," David Timoney told The Bee.

As losses mounted, borrowers such as Melissa Kaput and investors such as Margaret Fowler began pressuring regulators and law enforcement to act – turning into advocates and part-time sleuths to investigate their own brokers and the industry as a whole.

In part due to Kaput's efforts, in 2009 Thomas Hastert, an attorney and broker, pleaded guilty to 59 felony counts of embezzlement, securities fraud and selling unregistered securities. He is now serving time in state prison.

Other local brokers recently have been ac-

cused of misdeeds or had their licenses revoked by the Department of Real Estate.

Philip Lester was one of the county's leading businessmen, a prominent construction lender and local philanthropist. His business has collapsed and late last year he surrendered his license to the Department of Real Estate.

His brother, David Lester, surrendered his own license just months earlier.

David Lester, operating under the name Able Home Loans, had brokered several million dollars in loans.

He made some of those loans to himself. Lester acknowledged in an interview that he took a \$380,000 loan from his investors. He said he used the funds to pay for his wife's medical bills. He defaulted on that loan. Investors said they were unaware that Lester was going to take their money for himself until after the fact.

"If they had said anything I would have taken it back out," he told The Bee.

In June 2010, the Department of Real Estate accused Lester of not recording a deed of trust – the legal document that secures a piece of property as collateral for a loan and gives the lender the right to foreclose if the borrower defaults – for a \$10,000 loan. He had brokered that for investor Lisa Wheeling.

When the loan went bad, Wheeling sued Lester in small claims court. She won but was unable to collect after he filed for bankruptcy protection, she said. In his bankruptcy filing, Lester claimed about \$677,000 in assets as compared to \$5.3 million in liabilities – mostly investor money.

"The heartbreaking part for me is I don't come across that kind of money very easily," Wheeling said.

June 16, 2011

## Crackdown sought on 'hard money' financiers

By CHARLES PILLER  
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Rampant fraud in a little known sector of the lending industry has prompted two state legislators to explore ways to tighten regulation of "hard money" brokers who provide high-interest loans to people who often would not qualify for conventional bank loans.

The moves were prompted by a recent Bee investigation that uncovered widespread hard money fraud, particularly in Nevada County, where investors involved in such transactions have lost more than \$50 million in recent years. One banking expert called hard money lending "legalized loan sharking."

"We're going to be looking into it to see how the state can provide more oversight as these loans are made," said Sen. Curren Price, D-Inglewood, who chairs the Committee on Business, Professions and Economic Development. "We want to make sure consumers are not taken

advantage of."

Price expressed concern about jurisdictional confusion between the state agencies that regulate hard money brokers, the Department of Real Estate and the Department of Corporations. Apparently conflicting or unclear rules often have failed to prevent illegality or improper dealings by brokers.

He said he planned a public hearing on the matter within three months.

In Nevada County, many elderly investors and borrowers who trusted hard money brokers lost their life savings.

Assemblyman Mike Eng, D-Monterey Park, who chairs the Assembly Committee on Banking and Finance, said The Bee report has prompted meetings with stakeholders to address regulatory gaps, with an eye toward protecting seniors who have been particularly susceptible to fraudulent claims about high profits from hard money deals.

Sept. 27, 2011

## Citizens Bank seized and sold

### FDIC COVERAGE PROTECTS ALL ITS DEPOSITORS

BY CHARLES PILLER  
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Nevada County's only locally based community bank, Citizens Bank of Northern California, was seized by federal authorities on Friday.

Its operations were purchased by Tri Counties Bank of Chico, which began operating Citizens' seven branches on Monday morning. Federal insurance covers all \$253 million in bank deposits, according to the Federal Deposit Insurance Corp. Depositors have access to their funds either by check or by ATM. Citizens Bank borrowers should make their payments as usual, according to the FDIC.

While no depositors lost money in the seizure, it will cost the federal government about \$37 million.

The bank, founded in 1995, had lost millions of dollars in recent years, primarily due to the collapse of the local real estate market. The bank received \$10.4 million in federal bailout funds under the TARP program. Since early last year it had been operating under an FDIC order to raise sufficient capital to continue operations. The bank's failure to do so led to its seizure.

Citizens also loaned millions of dollars to local "hard money brokers" who charge high rates

of interest to borrowers who often don't qualify for normal bank loans. A Bee investigation earlier this year found that one such broker and Citizens client, Philip Lester, is under criminal investigation by the California attorney general.

Also earlier this year, a former loan officer from the troubled bank was sentenced to federal prison for embezzlement.

While depositors are protected, unsecured creditors and bank shareholders should inquire about recovering funds. In bank seizures, shareholders often lose their holdings. The FDIC has set up a toll-free line for inquiries, (800) 430-6165.

"Our top priority is to assure all customers that their deposits are safe and remain readily available to them," said Rick Smith, chief executive of Tri Counties, in a prepared statement.

Tri Counties, which has operated in Northern California for 36 years, had about \$2.17 billion in total assets, including outstanding loans, as of June 30. The bank has 61 branches in 23 California counties.

Citizens was the 72nd insured institution closed by the government this year nationwide, but just the first shuttered in California since February.