

Form 7. Statement of Additional Grounds for Review

[Rule 10.10(a)]

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION I**

FILED  
February 10, 2017  
Court of Appeals  
Division I  
State of Washington

State of Washington ,

Respondent,

v.

Diana Joline Merritt,

Appellant.

Court of Appeals Cause No.

74469 -1- I

STATEMENT OF ADDITIONAL  
GROUNDS FOR REVIEW

I Diana Merritt, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

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**no indication of Doug White anywhere on any of the appraisals at all**

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## **1. Overview**

Your Honor(s), I respectfully appreciate your willingness to consider my statement of additional grounds regarding my conviction of Mortgage Fraud.

The evidence will show that SA Schrank failed to diligently pursue the evidence of an ongoing crime by Doug White in a timely manner. In the Certification for Determination of Probable Cause, except for dates of two meetings with Tom Reed in July 2010 and June 2012, SA Schrank was vague regarding the dates of her actions, using terms like "later I" instead of indicating the dates of her investigative actions. SA Schrank failed to act as legally required after finding substantial evidence, confirming Doug White's identity and probable cause, he was engaging in serial ongoing illegal activity during their July 2010 meeting with Tom Reed.

As a direct result of Schrank's failure to act, several hundred additional victims were impacted by Doug White's fraud in the years that followed. However, there was no one more negatively impacted and victimized by Doug White than I was.

An Appraisal licensing issue discovered by Schank in 2010 metastasized into a huge and costly mortgage fraud debacle. Her failure to act jeopardized the integrity of over 400 mortgages during the four years that lapsed from discovery of probable cause that confirmed Doug White was a suspect. Doug White should have been stopped long before they acted in June 2014. The failure to act in a timely manner is evidence, now a matter of public record, has created a greater

potential risk for the Lenders, should the victims decide to take legal action in the future.

Significant evidence in the form of witness testimony during the trial and 37 letters that were presented to the court describing my honesty, integrity and trust amongst the State's Witnesses, professionals in my industry, friends and members of my family. The Prosecution put forth a false narrative claiming I had manipulated all the 37 people who wrote those letters and masterminded an enormous mortgage fraud scheme.

During the investigation and during the trial, the Investigator and the Prosecutor became aware of potential problems with Reed's business practices and chose not to investigate. These potential problems included Tom Reed's conflicting testimony regarding his on-site supervision of Trainee Appraisers, number of appraisals Doug White and Tom Reed could perform together per day and two examples of appraisals Tom Reed signed he knew were completed by Doug White but was not disclosed on the appraisal. These appraisals were in Tom Reed's possession in his personal business files but no further investigation of Reed's files was conducted. The fact that Tom reed had these incorrectly prepared appraisal reports in his possession proves the failure to disclose Doug White performed the appraisal was not unusual practice at the time and therefore not material to the people involved in the lending process

The real estate and mortgage industry transformed massively from the time of their alleged commission, in 2006 - mid-2009, to the time in which charges were pressed in 2015. In the short time between 2006-2009 the industry went from

zero education, licensing and training to originate mortgage loans to licensing in 2007, to substantial creation of laws in 2008 to 1010. The very reason I exited my own business to work under the leadership and security of a firm that was equipped to manage the regulatory requirements.

Prosecution claimed I did not meet my fiduciary responsibility. In 2010, an entire reform of the appraisal practices no longer allowed mortgage brokers to conduct appraisal activities, it all had to be done by third party as it exists today.

These Acts were in the spirit of consumer protection, yet the State did not reveal one shred of evidence that I ever took advantage of anyone. No over-valued property assessments, excessive fees or predatory interest rates. No falsification of documents or anything that would point to dishonesty. Not even the appraisals themselves were found to be inaccurate.

My hope and prayer is that you will overturn these charges, as they did not belong to me from the beginning.

## **2. Investigation Failed to Act for 4 Years**

### **a. Failed to act against White upon discovery of probable cause.**

Doug didn't conceal his involvement at all. Tom Reed, or anyone could have solved the case immediately by simply looking up the owner of Washington Real Estate Services, Inc. Its public record that Doug White was the owner of the company contained in the appraisal that Tom Reed took to the State in May 2010.

In July 2010 SA Schrank was provided an appraisal by Tom Reed containing everything she needed to act on Doug. Tom had already identified Doug as one of two he suspected and in July 2010.

SA Schrank and another agent met with Tom Reed in July 2010. During the meeting and immediately thereafter she found overwhelming evidence of 14 appraisal reports containing evidence of ongoing illegal activity, she did not act with any sense of urgency when she was legally compelled to do so.

She had the Department of Licensing records showing Doug White as the owner of Washington Real Estate Services, Inc listed a DBA NW Appraisals, classified as an appraisal company. **State Exhibit 012, Bates 30711 to 30713.**

SA Schrank had the driver's license with Doug Whites current home address. She had his current phone number, email address, and address in which payments for the appraisals would have been mailed.

It would not have taken long at all to have a conversation with Doug White when he was positively identified on or around July 2010 when she had overwhelming evidence of his identity. Had Bozena taken timely action, she could have prevented hundreds of loans from being impacted by Doug White's ongoing illegal activity. Most importantly, I would not have been drug into Mr. White's problem, over 5 years after having a business relationship with Mr. White providing professional appraisals.

**b. SA Schrank's testimony when asked about contacting Doug White.**

**SA Schrank testified, page 977**

*A. Well, we didn't contact Mr. White because we wanted to make sure that we gathered some preliminary information.*

*Q. What kind of preliminary information did you want to gather in July of 2010?*

*A. So after we spoke with Mr. Reed we needed to go back to the office, and essentially take a look at all the lenders that he had said that he had done some work with or had not done some work with, and come up with a letter list, which is why we came up with Stay At Home Mortgage.*

*That's a firm lender that he did not work with. And then we come up with Googling, and what we call Accurant searches, and start looking into the people that he did mention as potential individuals that had, you know, stolen is what his allegation is of his electronic signature. I don't think we had enough information in July 2010 to be able to pursue a conversation with Mr. White until we had a little bit more of an idea that he was a potential suspect.*

**c. SA Schrank's testimony conflicts with statements in Certification for Determination of Probable Cause (CDPC).**

In SA Schrank's testimony, she says she didn't have enough information on Doug White to have a conversation with him In July 2010.

The CDPC form indicates SA Schrank discussed the initial complaint she received May 2010 regarding the Leeper appraisal and 13 other reports with Reed during their first July 2010 meeting.

**As SA Schrank stated in the CDPC:**

*In addition to the appraisal of Leeper's home, I reviewed 13 other appraisals completed by "Tom Reed" for Stay in Home Mortgage.*

**As SA Schrank testified regarding her July 2010 meeting with Tom Reed on page, 781:**

*Q. Did you bring your documentation with you regarding the other FHA loans that your analyst had found?*

*A. I did. I brought the list that I had pared down, and, like I said, I had actually categorized it by lender.*

Therefore, it is reasonable to conclude SA Schank verified the evidence listed below, clearly identifying Doug White as the suspect during or shortly after her July, 2010 meeting with Tom Reed.

**d. SA Schank positively identified Doug White in July 2010.**

Each example of information identifying Doug White below, was provided by SA Schank in the Certification for Determination of Probable Cause and was obtained by her in July 2010.

1. Doug White's name on his driver's license
2. Company Address, Pony Express
3. Company Name
4. Email Address
5. Driver's License
6. Address where he lived from the driver's license issued in 2010
7. Example of signature from checks

8. Example of signature from driver's license
9. Verification from Tom Reed that he suspected it could be Doug White

Each piece of identification confirmed Doug White was a suspect and are **underlined and in bold below** to show where they are in the first two pages of the CDPC.

### **CERTIFICATION FOR DETERMINATION OF PROBABLE CAUSE (pages 1 & 2)**

"I was assigned to investigate a complaint filed by Tom Reed, owner of Washington Appraisal Reviews, Inc., located at 7700 76th Place NE Marysville, Washington. I met with and interviewed Reed on July 29, 2010, at his residence and place of business in Marysville. I again interviewed Tom Reed on October 19, 2012, at the King County Prosecuting Attorney's Office in downtown Seattle."

"I reviewed 13 other appraisals completed by "Tom Reed" for Stay in Home Mortgage between March and October 2009 and corresponding checks for payment (when provided) from the lender and escrow files for properties in King, Pierce and Snohomish Counties between March and October 2009. All of the signature blocks contained Reed's electronic signature, and on two of the appraisals, the listed telephone number for "Tom Reed" as **206-550-5672**. The signature on the back of three of the checks appears consistent with White's signature on his current driver's license, which was issued on March 25, 2010, and obtained from the Department of Licensing."

Reed informed me that he has never done an appraisal in association with Stay In Home Mortgage. Reed showed me that the appraisal for the Leeper property contains his electronic signature, which is password protected, and his business name, "Washington Appraisal Reviews," which is listed at the bottom of the appraisal. In contrast, **Washington Real Estate Services**, is listed at the top of the appraisal and as the company name under the electronic signature of "Tom Reed." Reed said that the **business address listed, 16541 Redmond Way, #415, Redmond, Washington**, is

not his, nor is the email address of washingtonrealestate@hotmail.com. Reed also stated that several of the comments on page three of the appraisal are specific comments that he appended to all of his appraisals through the appraisal software program on his computer. In addition to the appraisal of Leeper's home, I reviewed 13 other appraisals completed by "Tom Reed" for Stay in Home Mortgage between March and October 2009 and corresponding checks for payment (when provided) from the lender and escrow files for properties in King, Pierce and Snohomish Counties between March and October 2009. All of the signature blocks contained Reed's electronic signature, and on two of the appraisals, the listed telephone number for "Tom Reed" as 206-550-5612. The signature on the back of three of the checks appears consistent with White's signature on his current driver's license, which was issued on March 25, 2010, and obtained from the Department of Licensing.

**e. Indisputable Evidence of On-going Criminal Activity Discovered in 2010.**

The 14-fraudulent appraisal reports as well as the information SA Schrank had in her possession was more than enough to indisputably identify that Doug White was the suspect of ongoing illegal activity in July of 2010. SA Schrank had no concern or sense of urgency to act to protect the community. Instead the Prosecution said I was a mastermind of a massive fraud, so they could justify the scope of the massive problem that ensued because of SA Schenk's failure to act. If there was enough evidence of probable cause discovered in July 2010 to get a warrant in June 2014, then there was certainly enough information to identify Doug White and justify making a phone call in July 2010? Using evidence discovered 4 years earlier to obtain a

warrant in June 2014 is a violation of the 3-year statute of limitations from discovery of the crime and over 5 years from the alleged commission of my charges. The reason for the Statute of Limitations is to ensure timely action by law enforcement and protect 4<sup>th</sup> Amendment Rights.

### **3. Investigators and Prosecutors Ignored Tom Reed's Poor Business Practices**

The investigators and Prosecution wanted the court to believe I was responsible. However, the responsibility belonged to them to investigate Tom Reed's business practices.

#### **a. No Indication of Doug as Trainee Appraiser in evidence used against me**

Not one of the appraisals the State brought forward as evidence against me had indicated Doug's involvement as a trainee, including those provided by Tom Reed from his own business files. Tom Reed had some responsibility in this happening and the investigators should take responsibility for not doing a proper job in investigating Tom Reeds business records. The evidence brought forward in Trial was ignored by the Prosecution. Evidence showed Tom Reed approved of non-compliant business practices and the investigators failed to uncover this evidence when they had access to Tom Reeds business

records. The Prosecution failed to appropriately acknowledge these issues in Trial, again because it did not support their false assertions and narrative during the trial. If the appraisals were done illegally, why were they within Tom's possession? If they are not illegal, why no verbiage of Doug as a trainee?

**b. Evidence Tom Reed Failed to Disclose Trainee Appraiser on Exhibits**

The first examples of Tom Reed's poor business practices are found in exhibit 15, Bates 48070 and 49926 showing appraisal reports intentionally signed by Tom Reed. Doug White performed these appraisal reports but there is no indication of Doug White or his company Washington Real Estate Services, Inc. found anywhere on the report.

The State believed, as they stated in closing argument, Trial Testimony Page 1123 that they had an example of a report completed by Doug White in Tom Reed's business files with no indication of Doug White on the report but failed to ask Tom Reed why he had this report in his files. This discovery should have triggered a long overdue investigation of Tom Reed's files to ascertain compliance and how the scheme originated.

**c. Prosecutor Submitted Exhibit of 2 Fraudulent Appraisals Found in Tom Reed's Files**

Tom Reed knew Doug White performed the appraisal report but failed to indicate Doug White's name or company name as a trainee appraiser. In fact, White wasn't on the appraisal report at all.

**The following is the Prosecutor's argument:**

*MS Atchison: "Next two appraisals in time as Mr. Reed testified about were the appraisals for David Matsumoto and Juliana Berg. That's one. And then another one for the Fliiger's. One in September '06. Both of these appraisals came back with Mr. Reed's full information. Everything matching. His name. His company. Address. Electronic signature. No deviation on these two.*

As a matter of fact, there was significant deviation. The Fliiger appraisal in Tom Reed's possession was completed by Doug White. There was no indication of Doug White's name or company name indicated anywhere on the appraisal as required by WA State law. This is proof the prosecution ignored evidence that Tom Reed's business practices were not in compliance with WA State law or with his testimony.

**d. Tom Reed's conflicting testimony regarding doing business with Diana Merritt**

Tom did confirm I sent work to his company from Pacific Northwest, yet the Prosecutor stated in her closing argument that Tom Reed never did business with MS Merritt.

**The prosecutors closing argument was designed to fit their narrative. The Prosecutor stated, page 1123:**

*Next two appraisals in time as Mr. Reed testified about were the appraisals for David Mastumoto and Juliana Berg. That's one. And then another one for the Flaggers. One in September '06. Both of these appraisals came back with Mr. Reed's full information. Everything matching. His name. His company. Address. Electronic signature. No deviation on these two. Yet Mr. Reed testified that he could not recall actually performing these appraisals **because he never did any business with Ms. Merritt.***

The Prosecutor used the above statement to mislead the court about Tom Reed not doing business with Diana Merritt. However, the testimony below is in direct conflict with the Prosecutor's statements above.

**The testimony below supports that Reed did do business with MS Merritt:**

**Examination by Torres, Respondent Tom Reed, Page 164 and 165:**

*Q. Did you ever have any sort of professional relationship or interaction with Ms. Merritt?*

*A. Mr. white commented about his girlfriend that she worked at a mortgage company I believe, and he—I believe he said to me that she would like to send work to my company.*

*Q. Did she ever send work to your company?*

*A. **Yes, she did.** And then Doug said at that time that if she sent work to my company could he do it. Do the appraisal.*

*Q. And what did you say to that?*

*A. I said fine. Yes. If she wants to send work to my company, I said Doug, you and I will do the job.*

*Q. So you would it as you mention—*

*A. as a trainee.*

Q. in accordance with the exhibit that we are looking at where you do the appraisal and list him as a trainee?

A. Right.

**Skip down now to PR 282**

Q. I think last week you said you maybe recall doing something for Pacific Northwest?

A. Yes I recall. Not for Merit though.

**e. Tom Reed Allowed Doug White to Perform Appraisals on His Own**

Tom Reed's conflicting testimony is proof he was letting Doug White perform appraisals independently without performing site inspections per his testimony.

**Tom Reed testified, page 123** about the time involved in preparing an appraisal, yet his numbering system indicated nearly double the amount he could have performed as it pertained to the time of year. Tom Reed could not have performed this volume with Doug as his only employee, unless they were working separately. If they performed 5 appraisals per week, they would be at a number of approximately 60168 in August, yet evidence for Fliger and Burg show that they were at 60463 by August and 60484 by September.

**Tom Reed testified Sept 2, Page 123** that one appraisal equals 8 to 10 hours.

Q. So that sounds time consuming?

A. Yeah, it would be on, even back in those days, on average day, an average house it would be about oh, geez, eight to ten hours approximately for one.

In mid-August of 2006 as Tom Reed described his numbering system, these reports were at a count of 463 done by August and 484 done by mid-September.

**These are the two exhibits that show Tom Reed's numbering system:**

- Exhibit 15, Bates 48070-Fliger, File #60484 September 14, 2006 for Pacific Northwest Mortgage Services
- Exhibit 15, Bates 49926-Burg, File #60463 – August 16, 2006 for Pacific Northwest Mortgage Service.

**f. Prosecution and Investigators Were Unaware or Ignored Exculpatory Evidence**

The Prosecution did however know the facts indicated above in section a, b, and c of this outline, yet failed to recognize them in trial. Prosecution and investigators chose not to investigate further. The Judge erred in his determination, as my involvement was not “knowingly” or “intentional”. The artifice the Judge refers to in his verdict was created by Doug White and used to mislead me and others. The Investigator and Prosecutor instead ignored the evidence.

## **4. Responsibilities of Mortgage Brokers versus Mortgage Lenders**

This section will show the differences in roles and fiduciary responsibilities between Mortgage Brokers and Mortgage Lenders defined in the Fannie Mae Selling Guide and Freddie Mac Seller/Service Guide and supported by expert witness testimony. First, I will describe the proactive steps I took to ensure that I could meet or exceed my fiduciary responsibilities.

### **a. I Contracted an Experienced Loan Processor to Provide Additional Scrutiny**

I demonstrated my fiduciary responsibility by contracting with a Loan Processor to add another layer of due diligence in my business practices.

When I entered the industry in 2005, I recognized there was no training available for loan officers. Being aware of the responsibility and owning my company, in 2007 or early 2008 I decided to leverage 10 plus years' experience of Sassy Logsdon and The Loan Source. This added an additional layer of accuracy and scrutiny in my business practices.

The Loan Source was contracted to professionally process my loans for me and Sassy Logsdon processed all my loans during the charge period. I purposely contracted The Loan Source for their professional experience to process my loan documents and submit the loan package to the lender for approval and funding. Sassy knew Doug White performed my appraisals,

she reviewed each appraisal and testified in detail about the brokers/processors role in the appraisal process.

Sassy speaks specifically about the role of a loan officer versus a loan processor. Loan officers being basically the sales person bringing in the loans and the processor bringing all of the documents together as a first look for underwriting. Sassy describes the details which she would be responsible for reviewing on the appraisal. She tells the court that she knew Doug White was my appraiser and recognized his email address because she dealt with him on several occasions.

### **Sassy's Trial Testimony, Page 733**

*Q. Were you responsible for double-checking whether or not the appraiser who completed the report had a license?*

*A. No.*

*Q. Okay. Did you go through any specific training during those years or was it mostly on the job?*

*A. In those years, it was hands-on experience. It was just something you learned, you know. You got trained by senior processor to learn how to process and move forward.*

Why would I put these precautions in place if I intended to do what the judge asserted? That I intentionally employed an artifice, scheme, or device to materially mislead borrowers or lenders alike, knowing full well that those involved in the lending process would rely upon these misrepresentations. The implication is false, I did not know they were misrepresentations. The Judge found me innocent on Identity Theft, as the State's evidence did not support I knew Doug was not licensed.

**b. Differences in Roles and Fiduciary Responsibilities Between  
Mortgage Brokers and Mortgage Lenders**

The following guidelines define the different roles and responsibilities of Mortgage Brokers as compared to Mortgage Lenders. While a Mortgage Broker has a responsibility to provide accurate information to the best of their knowledge, the Mortgage Lender has the ultimate responsibility and is uniquely accountable to verify all Appraiser licenses are valid and current, and review for consistency and completeness.

**2007 Fannie Mae Selling Guide - Guidelines Part XI, Chapter 1**

"We hold the lender responsible for the accuracy of both the appraisal and its assessment of the marketability of the property; therefore it is important for a **lenders underwriters** to understand their role in the appraisal process and their relationship to the Appraiser"....."Because a lender is **solely** accountable for the performance of the appraisers it selects, the **lender** must take appropriate steps to ensure that an appraiser is qualified to perform appraisals for the particular types of property and the property locations that it intends to refer to the appraiser."

**Freddie Mac: Qualify Control Best Practices - Appraisal  
Report Checklist**

**(first bullet point)** Determine whether an experienced state certified or licensed real estate appraiser from the state in which the property is located performed the appraisal

**(forth bullet point)** Review the original appraisal report for **consistency** and completeness

The Lender/Underwriter is held **solely** responsible by Fannie Mae and Freddie Mac to verify appraisals. The Lender is the final level of review. The underwriter is specifically trained to review the appraisal, resolve discrepancies, verify licenses and they approved the payment to Washington Real Estate Services, owned by Doug White. They saw the inconsistency in the headers names versus the signature line. It may have required them to look up the company name listed throughout the appraisal, but as part of their job, they are trained to look for discrepancies, it is written instructions from Fannie Mae and Freddie Mac. Despite the Lender specifying payment go to Tom Reed, escrow wrote the check to Washington Real Estate Services without verifying, proving they trusted that Tom Reed and Washington Real Estate Services were one in the same. Exhibit 12, Bates 29984 and 29989.

**c. Mortgage Broker Responsibilities**

The Mortgage Broker responsibilities are outlined in the Mortgage Broker Practices Act of 2008, RCW 19.146.005 Findings and Declaration and RCW 19.146.095 Fiduciary duties

There is no explicit requirement in the Mortgage Broker Practices Act of 2008 or any others I am aware of in existence in 2008, requiring a Mortgage Broker to validate Appraiser licenses.

Trial expert witness Laura Kiel's testimony provided clarification about specific responsibilities (including fiduciary) within the mortgage industry. Kiel did not reference the industry requirements of Fannie Mae and Freddie Mac and Federal Housing Finance Agency (FHFA), their oversight, however, it was established throughout the trial. Kiel testified about the responsibilities of the Mortgage Broker and the Lender/Underwriter.

**Expert witness Laura Kiel's testimony supports this. starting on Page 852:**

*Q. What's the difference between mortgage brokers and a consumer lending company?*

*A. --Mortgage broker works on behalf of a customer. Has a fiduciary responsibility, and represents several different products with several different companies, but is not the lender for that company. So, it's a third-party provider.*

*-- A consumer lender has their own financing, their own money, their own line of credit. The consumer lender will fund the loan with their own funds, and then they sell the loan subsequently to an investor.*

*Q. You mentioned that mortgage brokers have a fiduciary duty to their client?*

*A. Yes.*

*Q. Who is the client of the mortgage broker?*

*A. The borrower.*

**And on Page 875**

*Q. So based on your experience, an underwriter, and I'm assuming the underwriter works with the lender; is that correct?*

*A. That's correct.*

*Q. And what responsibilities does the underwriter have in terms of reviewing the documents?*

*A. The underwriter has ultimate responsibility for the lender themselves. So the underwriter is looking out for the*

*protection of the lender, and it's their job to review every document, and get all questions answered, if anything, that they see that is of concern to them with a loan file.*

**Expert Testimony, Page 478 - Steve Sherman – Enforcement  
Chief for Dept. of Finance testifies about a fiduciary  
responsibility.**

Steve Sherman does not explain roles and responsibilities of a Lender, versus the roles and responsibilities of a Mortgage Broker. Underwriters are responsible for carrying out the rules and guidelines of Fannie Mae and Freddie Mac, as well as having a fiduciary relationship with the borrower in the transaction.

*Q. Okay. And given the department's concern about protecting the public are there specific fiduciary duties imposed upon mortgage brokers?*

*A. There is. And in the Mortgage Broker Practices Act there is a specific fiduciary duty imposed on mortgage brokers. I believe that went into effect in 2008.*

*Q. So turning back to my original question. What fiduciary duties do mortgage brokers owe, and to whom do they owe them?*

*A. The mortgage broker owes a fiduciary duty to the borrower that has contracted for the mortgage broker services. And the fiduciary duties essentially to act in the best interest of the bar of the client. The act sets forth some specific things that the mortgage broker has to do or notify the bar of, but it all boils down to acting in the best interest of the borrower.*

The Mortgage Broker has a fiduciary relationship with the borrower, as testified by the **States Expert Witness Laura Kiel's Trial**

**Testimony, Page 869** – when asked about how lenders address there being fraud in the transaction.

A. “.... You are required to always present files that don't contain any fraud, to your knowledge.”

As indicated in Steve Sherman's testimony above, “*but it all boils down to acting in the best interest of the borrower*”.

There was no evidence in the trial or otherwise that I did anything that anyone would question my commitment to my fiduciary responsibility. I took extra precautions in my review process and my clients, as testified in trial were happy and felt they received appropriate representation throughout the process.

## **5. The Judges Findings Are Incorrect**

The Judge found I intentionally employed an artifice, scheme, or device to materially mislead borrowers or lenders alike, knowing full well that those involved in the lending process would rely upon these misrepresentations.

**a. The Judge's finding is incorrect, I did not know there were misrepresentations.**

Furthermore, it was not proven that those involved in the lending process would rely on these misrepresentations.

Per Federal and WA State law there is nothing that would bar Tom Reed, in a supervisory role, from allowing Doug White to perform the

appraisals on his own, even as a subcontractor such as Washington Real Estate Services, Inc. Tom Reed would be required to review the appraisal report and insert his signature in the appropriate place.

Per Fannie Mae and Freddie Mac Guidelines, disclosure of Trainee Appraisers was not required. Only at the WA State level was the trainee required to be disclosed (and I am not sure this was even in effect as of 2007 to 2009).

This provides support that the practice of an Appraiser Trainee completing appraisal reports signed by a Supervisory Appraiser was legal practice and therefore was not material to those involved in the lending process, including myself.

This is a good example why Lenders/Underwriters approved over 400 loans.

Although not one underwriter was interviewed, it's a good indication the information Doug White was stating on the Appraisal Reports was not material because it was indicative of accepted practice.

The Judge found me innocent on Identity Theft, as the State's evidence did not support I knew Doug was not licensed. Doug's convictions of identity theft are the reason that the appraisals contained fraud, not that he was not indicated anywhere on the appraisal.

Not one of the appraisals the State brought forward as evidence against me had indicated Doug's involvement as a trainee, including those provided by Tom Reed from his own business files.

**b. The Judge's finding is incorrect, I did not know Doug White was a trainee**

Therefore, there were no intentional misrepresentations on my part.

The problem with the appraisal reports was Doug's status as a trainee was not disclosed on reports he prepared. He did this because if he indicated he was a trainee I would have confronted him for making me believe through his words, actions, business forms, business cards and business practices, that he had his appraiser license.

Anyone reading the appraisal would reasonably assume that the Company which is listed on the face is performing the appraisal within the scope of the requirements and law.

Had I ever seen an appraisal report with Doug White listed as the appraiser trainee and Tom Reed as supervisor, I would have known Doug had lied to me. Had I ever saw an appraisal and the verbiage in the body of the appraisal that Doug was a trainee, I would have known Doug had lied to me about being a licensed appraiser. I would have challenged him immediately.

Tom Reed had some responsibility in this happening, yet the evidence was ignored by the Prosecution.

**c. The Judges finding is incorrect. Judge said there was no indication of Doug White anywhere on any of the appraisals at all**

In his verdict, the Judge said there was no indication of Doug White anywhere on any of the appraisals at all when Doug White's company name was disclosed in the report.

Washington Real Estate Services, Inc. and Doug White are one in the same. Anyone reading the appraisal would reasonably assume that the Company which is listed on the face is performing the appraisal within the scope of the requirements and law. My attorney, Casey Grannis makes a good argument about the Judges assertions, therefore, I would only add that from my point of view, I lived with Doug White and he always claimed to have a business partnership with Tom Reed instead of only being an employee. Even if others may not have immediately come to that conclusion, I did because I believed they were partners. It is undisputed to me that Doug White was in fact involved in the preparation of the appraisal, as Doug White and Washington Real Estate Services are one in the same.

**The Judge found in his verdict....**

*Likewise, it's undisputed that there is no indication anywhere on the appraisals that Douglas White was involved in the preparation at all, regardless of whether he had a license to do the work or not. The appraisals repeatedly made assertions and certifications on behalf of the appraiser, Tom Reed, regarding his opinions, qualifications, and the work done. Anyone reading these appraisals would reasonably conclude*

*that the appraisals were done by a licensed appraiser named Tom Reed.*

**d. The Earliest Examples of Fraudulent Appraisals Were Found in Tom Reed's Personal Files**

At least two, and possibly more, non-compliant appraisal reports were found in Tom Reed's possession by SA Schank of appraisal reports Tom Reed provided the appraisal reports to her as examples of appraisals he knew were performed by Doug White with his full knowledge under his supervision. In fact, there was no indication of either Doug White's name or his company name Washington Real Estate Services or any disclosure Doug White had participated in the performance or preparation of these appraisal reports at all. SA Schank failed to resolve with Tom Reed why he failed to disclose Doug White's participation. Despite the deficiencies, the Prosecutor provided both of these non-compliant appraisal reports as an exhibit to the court as examples of two appraisal reports Tom Reed knew Doug White completed.

Doug White performed these appraisal reports but there was no disclosure of Doug White or his company Washington Real Estate Services, Inc. found anywhere on the report because Tom Reed thought it was not material to the lending process.

This established, I was misled, Tom Reed knew I was Doug's girlfriend, he knew I ordered these appraisals, his signature is on these appraisals, yet it is established nowhere within the appraisal or otherwise that Doug White was a trainee. Tom Reed even confirmed through testimony that he didn't recall participating on these two appraisals.

Tom Reed couldn't remember the two appraisals because evidence and Tom Reed's testimony proves he signed off on 462 appraisals by August which is twice as many than he could have personally participated in.

The other reason Tom said he couldn't remember could be because it was not material to the process. Tom Reed may not have answered the question truthfully. Therefore, Tom Reed failed to disclose the fact that Doug White performed the appraisal at all. He also failed to disclose Doug was a Trainee Appraiser. Either the Prosecutor was not aware of the fact she submitted an exhibit to the court containing two examples of noncompliant appraisal reports found in Tom Reed's personal files or she failed to recognize this to the court or in investigation.

**Trial Testimony, page 212.**

*Q. So these two files that we just looked at, this Matsumoto file, and the Leeper file we just looked at before, do you have any recollection of doing these appraisals yourself?*

*A. 2006?*

Q. *That's a long time ago?*

A. *Long time ago. Lots and lots of houses. Let me look at the photo of the house. I don't recall doing them but I can't remember.*

**The State believed, as they stated in closing argument, Trial  
Testimony Page 1123**

*"Next two appraisals in time as Mr. Reed testified about were the appraisals for David Matsumoto and Juliana Berg. That's one. And then another one for the Flinger's. One in September '06. Both of these appraisals came back with Mr. Reed's full information. Everything matching. His name. His company. Address. Electronic signature. No deviation on these two.*

Purposely or not, Tom Reed created an artifice.

When I started working with Doug White in 2006, I received appraisals at Pacific Northwest Mortgage Services, and they never disclosed Doug White was a trainee.

Two unasked questions are evidence that Tom Reed approved of this practice.

1. If the above appraisals were done illegally, why were they within Tom's possession?
2. If they are not illegal, why no verbiage of Doug as a trainee?

**e. Many Brokers and Lenders were doing business with Doug White, knowing Tom Reed was the signature of the appraisal report**

In addition to my Loan Processor, the State's exhibits also indicate additional Loan Originators/Broker or Lenders knew the appraisals were performed by Doug White and signed by Tom Reed. These are additional examples that individuals in the lending process had full knowledge Doug White completed the appraisals and they knew Tom Reed signed the appraisal because this known practice was not material to my Loan Processor or others in the lending process.

**Exhibit 16, 50059 where Brian Bailey, from Stay at Home Mortgage said,**

"I did not see a copy of yours or Tom's license within the report?"

Obviously, Brian Bailey knew Doug White performed the appraisal and Tom Reeds signature was on the McFarland Appraisal. This proves the disclosure that Doug White did the appraisal and that Tom Reed signed the appraisal report was not material to Brian Bailey.

Since this was one of the original 14 loan files, the State would have had the opportunity to interview Brian Bailey in 2010 and failed to do so.

**Exhibit 15, Bates 50044 and 50045, July 2008, Shu from NW Home Loans converses with Doug in regards to payment of the last appraisal done for her.**

Doug wrote: "Hi Shu, I hope everything is OK. I show 1 appraisal order past due and was wondering if I could come by and pick up a check?", in which she replies "Please remind me which one".

**Also, on Bates 50057 where Doug White sent a copy of "tom license" to Shu Xie.**

This is another example that Shu Xie of NW Home Loans knew and did not care Tom Reed signed the appraisal when she knew Doug White performed the appraisal because it was not material to the lending process.

## **6. Summary**

In conclusion, it is quite troubling that the spirit of this investigation and prosecution was very distorted. Prosecution had their conviction, by admission of guilt from Doug White.

Prosecution continually made assertions about my character without evidence, in the face of 37 people, including my employer, industry friends and colleges, clients, business professionals in my community, friends and family, that came forward to support me in the trial.

I believe in 50,000 plus pages of discovery, the Investigators and Prosecution could have and should have concluded I was unaware Doug White was not a licensed real estate appraiser. That's an enormous amount of evidence to not actually produce anything of substance of knowing, intentional or misleading in the trial or in evidence.

I had personal relationship with Doug White, and struggled with him in regards transparency. Prosecution used that to assert that I should not have professionally trusted him. Which somehow translates into my nefarious nature.

The final and most troubling accusation of Jennifer Atchison is in her sentencing, **Vol 4 (12-30-15) Page 195**

SA Atchison used my Trial Testimony to motivate the Judge to impose a greater jail sentence. She claims to be most concerned that I somehow bamboozled my attorney, which happens to be her close friend. SA Atchison made a professional commitment to not allow their friendship to be a conflict in this case. I trusted that the relationships between my attorney Mr. Fligeltaub and MS Atchison, as well as the Judge and MS Atchison would not be a problem. I trusted a bench trial as my attorney told me that a Judge would be able to better assess a personal character than a likely jury. I trusted as they all made that commitment to not allow personal relationships to impact the trial. I hope that didn't ultimately have an effect in the outcome of my trial.

Date: 2/10/17 Signature: *Diana Golino Meritta*