



# SIGTARP

OFFICE OF THE SPECIAL INSPECTOR GENERAL  
FOR THE TROUBLED ASSET RELIEF PROGRAM

ADVANCING ECONOMIC STABILITY THROUGH TRANSPARENCY, COORDINATED OVERSIGHT AND ROBUST ENFORCEMENT

**FOR IMMEDIATE RELEASE**

Monday, October 22, 2012

[www.SIGTARP.gov](http://www.SIGTARP.gov)

Media Inquiries:

202-927-8940

## OFFICERS OF ARIZONA MORTGAGE ORIGINATOR PLEAD GUILTY TO \$27 MILLION FRAUD CONSPIRACY AGAINST TARP RECIPIENT BNC NATIONAL BANK

### *Two Others Also Charged in Fraud Scheme*

WASHINGTON, DC - Two former officers of Arizona-based residential mortgage loan originator American Mortgage Specialists Inc. (AMS) pleaded guilty on Friday for their roles in a \$27 million scheme to defraud North Dakota-based BNC National Bank, announced Christy Romero, Special Inspector General for the Troubled Asset Relief Program (SIGTARP); Assistant Attorney General Lanny A. Breuer of the Justice Department's Criminal Division; U.S. Attorney Timothy Q. Purdon of the District of North Dakota; and Steve A. Linick, Inspector General of the Federal Housing Finance Agency Office of Inspector General (FHFA-OIG).

Scott N. Powers, the CEO of AMS, and David E. McMaster, an AMS vice president, pleaded guilty before U.S. District Judge Daniel L. Hovland in the District of North Dakota to one count of conspiracy to commit bank fraud and wire fraud affecting a financial institution.

Powers and McMaster were charged in a criminal information unsealed on Oct. 2, 2012, in the District of North Dakota. Laretta Horton, the former director of accounting at AMS, and David Kaufman, an outside auditor, were also charged in separate informations unsealed on Oct. 2, 2012, for their roles in the scheme. Both Horton and Kaufman appeared before Magistrate Judge Charles S. Miller Jr. on Friday for arraignment.

"Powers, McMaster, and their alleged co-conspirator took advantage of BNC National Bank receiving \$20 million in TARP funds to defraud BNC out of more than \$27 million in a scheme engineered to cover their losses from the downturn in the housing market," said Special Inspector General Romero. "They used BNC as their personal piggy bank, and the bank was unable to pay millions of dollars in TARP dividend payments owed to American taxpayers. Fraud against TARP banks equals fraud against taxpayers, and SIGTARP and our law enforcement partners will hold perpetrators of TARP fraud accountable for their crimes."

"At the height of the financial crisis, Scott Powers, David McMaster, and their alleged co-conspirators enacted a scheme to systematically defraud BNC Bank," said Assistant Attorney General Breuer. "When their mortgage lending company became unsustainable, they turned to fraud. By deliberately misleading BNC about its assets and activities, Powers and McMaster threatened the viability of BNC and put its employees and customers at risk. Today's guilty pleas demonstrate our commitment to holding individuals accountable for illegal conduct contributing to the housing crisis."

“This prosecution is proof that illegal conduct related to the mortgage crisis impacted banks all across the country and even here in North Dakota,” said U.S. Attorney Purdon. “Through close collaboration with our federal investigative partners and the Justice Department’s Criminal Division, we were able to secure today’s guilty pleas and begin to correct this wrongdoing.”

According to court documents, Powers and McMaster conspired from October 2007 to April 2010 to defraud BNC by making false representations regarding the financial and operational well-being of AMS in order to obtain funding from BNC and personal benefits for themselves. AMS was in the business of originating residential real estate mortgage loans to borrowers and then selling the loans to institutional investors.

In 2006, AMS entered into a loan participation agreement with BNC whereby BNC provided funding for the loans issued by AMS. Powers and McMaster pleaded guilty to causing AMS to delay sending “pay down” emails, which would notify BNC when specific loans were sold. By delaying the sending of pay down emails, Powers and McMaster were able to use funds from newly-sold loans to make payments for earlier-sold loans and inflate the dollar amount in the pay down emails for the earlier-sold loans.

According to their plea documents, Powers and McMaster also caused false financial information about AMS to be sent to BNC, overstating AMS’s cash-on-hand and disguising delinquent tax payments being made to the Internal Revenue Service as marketing and advertising expenses. As part of their plea agreements, Powers and McMaster have agreed to forfeit \$28,564,470, which includes proceeds from the fraud.

Horton was charged in a one count information for conspiring to provide fraudulent financial information to BNC. According to court documents, Horton inflated asset items and altered other financial information in the AMS balance sheet provided to BNC to falsely reflect that AMS had substantial liquid assets when, in fact, it did not. Horton also allegedly concealed payments that AMS was making to the IRS for a delinquency in unpaid payroll taxes by disguising them as marketing and advertising expenses.

Kaufman, a certified public accountant who audited the annual financial statements of AMS, was charged in a one count information for allegedly obstructing the grand jury investigation into the AMS fraud. According to court documents, Kaufman lied to federal agents during the criminal investigation and obstructed the grand jury investigation when he denied that he had a conversation with an AMS executive in which Kaufman explained to the AMS executive that he had combined two expenses in the financial statements in order to conceal the true nature and extent of AMS’s financial condition from BNC.

Although BNC’s holding company had received approximately \$20 million under the U.S. Department of the Treasury’s Troubled Asset Relief Program (TARP) and had injected approximately \$17 million of the TARP funds into BNC, BNC incurred losses exceeding the millions it received from TARP. BNC then did not make its required TARP dividend payments to Treasury for nearly two years.

At sentencing, scheduled for April 15, 2013, Powers and McMaster face a maximum penalty of 30 years in prison.

The investigation was conducted by agents of SIGTARP and FHFA-OIG. The case is being prosecuted by Assistant U.S. Attorney Clare Hochhalter of the District of North Dakota and by Trial Attorney Robert A. Zink and Senior Litigation Counsel Jack B. Patrick of the Criminal Division's Fraud Section with the assistance of Trial Attorney Jeannette Gunderson of the Criminal Division's Asset Forfeiture and Money Laundering Section.

The charges and allegations contained in the informations are merely accusations and the defendants are presumed innocent unless and until proven guilty.

This prosecution was brought in coordination with President Barack Obama's Financial Fraud Enforcement Task Force, which was established to wage an aggressive and coordinated effort to investigate and prosecute financial crimes. SIGTARP is a member of the task force. To learn more about the President's Financial Fraud Enforcement Task Force, please visit [www.StopFraud.gov](http://www.StopFraud.gov).

### **About SIGTARP**

The Office of the Special Inspector General for the Troubled Asset Relief Program investigates fraud, waste, and abuse in connection with TARP.

To report suspected illicit activity involving TARP, dial the **SIGTARP Hotline**: 1-877-SIG-2009 (1-877-744-2009).

To receive alerts about quarterly reports, new audits, and media releases issued by SIGTARP, sign up at [www.SIGTARP.gov/pages/press.aspx](http://www.SIGTARP.gov/pages/press.aspx).

###