



SIGTARP

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FOR THE TROUBLED ASSET RELIEF PROGRAM

ADVANCING ECONOMIC STABILITY THROUGH TRANSPARENCY, COORDINATED OVERSIGHT AND ROBUST ENFORCEMENT

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FORMER COLONIAL BANK SENIOR VICE PRESIDENT SENTENCED TO 8 YEARS IN PRISON FOR FRAUD SCHEME

WASHINGTON – A former senior vice president and head of Colonial Bank’s Mortgage Warehouse Lending Division was sentenced today to eight years in prison for her role in a more than \$2.9 billion fraud scheme that contributed to the failures of Colonial Bank and Taylor, Bean & Whitaker (TBW). Colonial Bank was one of the 25 largest banks in the United States and TBW was one of the largest privately-held mortgage lending companies in the United States in 2009.

Catherine Kissick was sentenced today by U.S. District Judge Leonie M. Brinkema in the Eastern District of Virginia. The sentence was announced by Assistant Attorney General Lanny A. Breuer of the Criminal Division; U.S. Attorney Neil H. MacBride for the Eastern District of Virginia; Acting Special Inspector General Christy L. Romero for the Troubled Asset Relief Program (SIGTARP); Assistant Director in Charge James W. McJunkin of the FBI’s Washington Field Office; Michael P. Stephens, Deputy Inspector General of the Department of Housing and Urban Development (HUD-OIG); Jon T. Rymer, Inspector General of the Federal Deposit Insurance Corporation (FDIC-OIG); Steve A. Linick, Inspector General of the Federal Housing Finance Agency (FHFA-OIG); and Victor S. O. Song, Chief of the Internal Revenue Service-Criminal Investigation (IRS-CI).

Kissick, 50, of Orlando, Fla., pleaded guilty in March 2011 to one count of conspiracy to commit bank, wire and securities fraud. Co-conspirator Teresa Kelly, a former operations supervisor at Colonial Bank who reported to Kissick, was also sentenced today by Judge Brinkema to three months in prison. Kelly, 35, of Ocoee, Fla., pleaded guilty in March 2011 to one count of conspiracy to commit bank, wire and securities fraud. Kissick and Kelly both admitted to conspiring with Lee Bentley Farkas, the former chairman of TBW, and others, to fraudulently obtain funding for TBW to cover expenses related to operations and servicing payments owed to third-party purchasers of loans and/or mortgage-backed securities.

Farkas was convicted on April 19, 2011, on 14 counts of fraud for his role in masterminding the scheme, which was one of the largest bank frauds in the country. Farkas is scheduled to be sentenced on June 27, 2011. The Securities and Exchange Commission (SEC) has a civil action pending against Farkas in the Eastern District of Virginia.

Co-conspirators Paul Allen, the former chief executive officer of TBW; Raymond Bowman, the former President of TBW; Desiree Brown, the former Treasurer of TBW; and Sean Ragland, a former senior financial analyst at TBW, have also pleaded guilty for their participation in the scheme. Earlier this month, Brown and Bowman were sentenced to six years in prison and 30 months in prison, respectively.

“As a senior bank official of Colonial Bank, Catherine Kissick had a fiduciary duty to speak up and report fraud but instead played an active role in perpetrating and concealing this large-scale fraud, including attempting to deceive the federal government and steal over \$550 million from U.S. Treasury Department’s Troubled Asset Relief Program (TARP),” said Acting Special Inspector General for the TARP Romero. “SIGTARP and its partners in the Financial Fraud Enforcement Task Force skillfully discovered the fraud and prevented the loss of significant taxpayer funds. SIGTARP will continue to vigorously investigate and prosecute persons who commit fraud or attempt to do so in connection with any program implemented under TARP, regardless of whether such person receives TARP funds.”

Investigators working for SIGTARP originally identified suspicious activity in 2009, in connection with Colonial BancGroup’s application for \$570 million in taxpayer funding through the Capital Purchase Program (CPP), a sub-program of the U.S. Treasury Department’s Troubled Asset Relief Program (TARP). Colonial BancGroup’s TARP application was conditionally approved for \$553 million contingent on the bank raising \$300 million in private capital. A subsequent investigation by SIGTARP and other law enforcement agencies uncovered that Farkas and his co-conspirators caused Colonial BancGroup to falsely represent to Treasury that its subsidiary, Colonial Bank, had secured \$300 million in funding from private investors. The investigation later determined that the private capital supposedly invested by TBW and two investors instead was money that the co-conspirators had improperly diverted from Ocala Funding, a mortgage lending facility controlled by TBW. In connection with the application for TARP funds, Colonial BancGroup submitted financial data and filings that included materially false and misleading information related to mortgage loans and securities held by Colonial Bank as a result of the fraudulent activity at TBW. Colonial BancGroup never received the TARP funding. According to court documents, Kissick knew that Colonial BancGroup’s TARP application relied upon false bank financial data; however, Kelly was not aware of this aspect of the fraud scheme.

“Lee Farkas pulled off one of history’s largest bank frauds because he had people inside Colonial Bank with the power to do it and hide it,” said U.S. Attorney MacBride. “Without help from Catherine Kissick – a high-level executive at one of the nation’s top regional banks – the fraud scheme might have been discovered in its infancy. Her conviction and sentence should be a cautionary tale to other financial executives who may be tempted to bend the rules for favored clients.”

“As a senior executive at Colonial Bank, Catherine Kissick helped execute one of the largest bank frauds in history,” said Assistant Attorney General Breuer. “For years, she used her position within the bank to buy hundreds of millions of dollars in worthless assets from TBW, deceiving shareholders, investors and regulators. If she had refused to participate in the fraud, Lee Farkas’ scheme could have been stopped dead in its tracks. Ms. Kissick ultimately

cooperated with the government, and that assistance is reflected in today's sentence. But she, like her co-conspirators, will pay for her crimes with substantial time in prison."

According to court documents and information presented at trial, Kissick and Kelly participated in the scheme from 2002 through August 2009. The fraud scheme caused Colonial Bank and Colonial BancGroup to purchase tens of millions of dollars of worthless assets, caused Colonial BancGroup to report false information in its financial statements, and artificially inflated the value of TBW's mortgage servicing rights.

According to court documents and information presented at trial, TBW began running overdrafts in its master bank account at Colonial Bank because of TBW's inability to meet its operating expenses, which included payroll, servicing payments owed to third-party purchasers of loans and/or mortgage-backed securities and other obligations. In or about 2002, Farkas, Kissick, Kelly and other co-conspirators engaged in a series of fraudulent actions to cover up the overdrafts, first by sweeping overnight money from one TBW account with excess funds into another, and later through the fictitious "sales" of mortgage loans to Colonial Bank, a fraud scheme the conspirators dubbed "Plan B." The conspirators accomplished Plan B by selling Colonial Bank mortgage loans that did not exist or that TBW had already committed or sold to other third-party investors.

As Plan B evolved, co-conspirators at TBW also caused TBW to engage in sham sales of groups of mortgage loans, known as "pools," to Colonial Bank that other entities already owned. As a result, false information was entered on Colonial Bank's books and records, giving the appearance that the bank owned interests in legitimate pools of mortgage loans, when in fact the pools had no value and could not be securitized or sold. According to court documents, Kissick played a leadership role in the sweeping and Plan B portions of the fraud scheme and directed Kelly's activities in the scheme.

Additionally, the co-conspirators at TBW caused TBW to misappropriate more than \$1.5 billion in collateral from Ocala Funding LLC, a mortgage lending facility owned by TBW. The misappropriation caused Colonial Bank and the Federal Home Loan Mortgage Corporation (Freddie Mac) to falsely believe that they each had an undivided ownership interest in thousands of the same loans worth hundreds of millions of dollars. Kissick and Kelly did not participate in the Ocala Funding misappropriations.

In August 2009, the Alabama State Banking Department, Colonial Bank's regulator, seized the bank and appointed the FDIC as receiver. Colonial BancGroup also filed for bankruptcy in August 2009.

The case is being prosecuted by Deputy Chief Patrick Stokes and Trial Attorney Robert Zink of the Justice Department's Criminal Division's Fraud Section and Assistant U.S. Attorneys Charles Connolly and Paul Nathanson of the Eastern District of Virginia. This case was investigated by SIGTARP, FBI's Washington Field Office, FDIC-OIG, HUD-OIG, FHFA-OIG and the IRS-CI. SIGTARP recognizes the substantial assistance of the SEC. SIGTARP also recognizes the assistance of the Financial Crimes Enforcement Network (FinCEN) of the

Department of the Treasury. This prosecution was brought in coordination with President Barack Obama's Financial Fraud Enforcement Task Force.

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