



# 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

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## **FORMER BANK LAWYER INDICTED IN MULTI-MILLION DOLLAR FRAUD AND MONEY LAUNDERING CONSPIRACIES**

### ***Attorney Allegedly Assisted Bank President and Senior Lending Officer With Massive Insider Dealing And Fraud That Preceded Bank's Failure***

ATLANTA, GA—ROBERT E. MALONEY, JR., 47, of McDonough, Georgia, was arraigned on federal charges this afternoon before United States Magistrate Judge Janet F. King. A superseding indictment charges MALONEY and two former top officers of “FirstCity Bank” of Stockbridge, Georgia: MARK A. CONNER, 45, formerly of Canton, Georgia, and Tallahassee, Florida, and CLAYTON A. COE, 44, of McDonough, Georgia, with conspiracy to commit bank fraud, bank fraud, conspiracy to commit money laundering, and related crimes in connection with misconduct at FirstCity Bank in the years before the bank’s seizure by state and federal authorities on March 20, 2009.

A federal grand jury in Atlanta returned the superseding indictment against CONNER, COE, and MALONEY on June 22, 2011. The grand jury previously returned an indictment against CONNER and COE on March 16, 2011. Federal agents arrested CONNER and COE on March 20 and March 27, 2011, respectively, upon their return to the United States from the Turks and Caicos Islands in the British West Indies. U.S. District Judge Steve C. Jones has ordered CONNER to remain in the custody of the U.S. Marshals Service pending trial, based on a risk of flight. COE was released to home detention and electronic monitoring. Arraignments for CONNER and COE on the superseding indictment have been scheduled for July 1, 2011 before United States Magistrate Judge Janet F. King.

Christy L. Romero, Acting Special Inspector General for the Troubled Asset Relief Program said, “Today’s indictment involves another unfortunate example of allegedly brazen criminal conduct by senior bank officials who tried to conceal their fraud from regulators and improperly access TARP funds. As the bank’s top legal officer, Maloney maintained a position of trust within the bank and had a special duty to prevent and detect misconduct. The indictment alleges that Maloney violated his important gatekeeper responsibilities and conspired with Conner and Coe in a criminal scheme that victimized unwitting federally-insured banks who invested millions of dollars into fraudulent loans. Fortunately, their attempts to victimize Treasury and the American taxpayers by obtaining TARP funds were unsuccessful. SIGTARP

will continue to work with our law enforcement partners to bring to justice those who sought to cover their fraud with taxpayer dollars through TARP.”

According to United States Attorney Yates, the charges and other information presented in court: CONNER served in a variety of top positions at FirstCity Bank between 2004 and 2009, including as Vice Chairman of the Board of Directors, as a member of the banks' loan committee, as President, and later as acting Chairman and Chief Executive Officer. COE served as a Vice President and as FirstCity Bank's Senior Commercial Loan Officer. MALONEY served as FirstCity Bank's in-house counsel, or corporate counsel, between 2006 and 2009. While serving in these positions, CONNER, COE, MALONEY, and their co-conspirators allegedly conspired to defraud FirstCity Bank's loan committee and Board of Directors into approving multiple multi-million dollar commercial loans to borrowers who, unbeknownst to FirstCity Bank, were actually purchasing property owned by CONNER or COE personally.

The indictment charges that CONNER, COE, MALONEY, and their co-conspirators misrepresented the essential nature, terms, and underlying purpose of the loans and falsified documents and information presented to the loan committee and the Board of Directors. CONNER, COE, and their co-conspirators then allegedly caused at least 10 other federally-insured banks to invest in, or “participate in” the fraudulent loans based on these and other fraudulent misrepresentations, shifting all or part of the risk of default to the other banks. COE's bonus compensation was tied to the origination of FirstCity Bank loans, including the fraudulent loans with which he and CONNER allegedly assisted each other. MALONEY is alleged to have taken extra payments in the form of “legal fees” from the fraudulent transactions, even though as corporate counsel he was actually a salaried employee of FirstCity Bank. He also allegedly helped launder and distribute funds to or for the benefit of CONNER, COE, other co-conspirators, or to himself through an attorney trust account maintained at the bank.

In the process of defrauding FirstCity Bank and the “participating” banks, CONNER, COE, MALONEY, and their co-conspirators allegedly routinely misled federal and state bank regulators and examiners to conceal their unlawful scheme. They also unsuccessfully sought federal government assistance through the U.S. Treasury Department's Troubled Asset Relief Program (“TARP”) and engaged in other misconduct in an attempt to avoid seizure by regulators and prevent the discovery of their fraud.

The superseding indictment charges CONNER, COE, and MALONEY with conspiracy to commit bank fraud, bank fraud, making false entries in the records of an FDIC-insured financial institution, and conspiracy to commit money laundering. It also charges CONNER alone with conducting a continuing financial crimes enterprise at the bank between February 2006 and February 2008, during which CONNER's and his co-conspirators' crimes allegedly generated over \$5 million in unlawful gross proceeds, and it charges COE alone with making a false federal credit application.

The charges for bank fraud conspiracy, bank fraud, false entries, and making a false credit application carry a maximum sentence of 30 years in prison and a potential fine of up to \$1 million on each count. The charge against CONNER for conducting a continuing financial crimes enterprise carries a mandatory minimum sentence of 10 years in federal prison, a

maximum sentence of life in prison, and a potential fine of up to \$10 million. The money laundering conspiracy charge against CONNER, COE, and MALONEY carries a maximum sentence of 10 years in prison and a potential fine of up to twice the value of criminally-derived funds. In determining the actual sentences for each defendant, the Court will consider the United States Sentencing Guidelines, which are not binding but provide appropriate sentencing ranges for most offenders.

Members of the public are reminded that the indictment only contains charges. The defendant is presumed innocent of the charges and it will be the government's burden to prove the defendant's guilt beyond a reasonable doubt at trial.

President Obama established the interagency Financial Fraud Enforcement Task Force to wage an aggressive, coordinated and proactive effort to investigate and prosecute financial crimes. The task force includes representatives from a broad range of federal agencies, regulatory authorities, inspectors general, and state and local law enforcement who, working together, bring to bear a powerful array of criminal and civil enforcement resources. The task force is working to improve efforts across the federal executive branch, and with state and local partners, to investigate and prosecute significant financial crimes, ensure just and effective punishment for those who perpetrate financial crimes, combat discrimination in the lending and financial markets, and recover proceeds for victims of financial crimes.

This case is being investigated by Special Agents of the FDIC, Office of Inspector General; the Office of the Special Inspector General for the Troubled Asset Relief Program ("SIGTARP"), the Federal Bureau of Investigation, and Internal Revenue Service-Criminal Investigation.

Assistant United States Attorneys Douglas W. Gilfillan and David M. Chaiken are prosecuting the case.

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