



SIGTARP

Office of the Special Inspector General
For The Troubled Asset Relief Program

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FORMER CEO AND CHIEF LOAN OFFICER OF FAILED SONOMA VALLEY BANK, AND BORROWER'S CALIFORNIA ATTORNEY, SENTENCED TO MULTI-YEAR PRISON TERMS FOR BANK FRAUD AND OTHER CLAIMS

\$8.6 Million in TARP Funds Were Lost When Bank Failed; Court Ordered Asset Forfeiture of Defendant's Interest in Real Estate Worth Approximately \$20.8 Million as Proceeds of the Crimes

Sean Clark Cutting and Brian Scott Melland, respectively the former chief executive officer and former chief loan officer of Sonoma Valley Bank which failed on August 20, 2010, were sentenced today for their December, 2017 convictions for conspiracy, bank fraud, wire fraud, money laundering, falsifying bank records, lying to bank regulators and other crimes, announced Special Inspector General for the Troubled Asset Relief Program (SIGTARP) Christy Goldsmith Romero; Acting United States Attorney Alex G. Tse; Federal Housing Finance Agency (FHFA), Office of Inspector General Laura Wertheimer; and Federal Deposit Insurance Corporation (FDIC) Inspector General Jay N. Lerner. Also sentenced today was co-defendant David John Lonich for his December 2017 convictions for conspiracy, bank fraud, wire fraud, attempted obstruction of justice, and other offenses. Lonich was an attorney for Bijan Madjlessi, the Marin and Sonoma County real estate developer who, before his death on May 16, 2014, had been indicted on charges of bank fraud, wire fraud, attempted obstruction of justice, and other offenses. The convictions and sentences followed an eight-week trial before the Honorable Susan Illston, U.S. District Judge that concluded in December 2017.

The court sentenced Cutting, 44, of Sonoma, Calif., to eight years and four months in prison; Melland, 45, of Santa Rosa, Calif., to eight years and four months in prison, and Lonich, 59, of Santa Rosa, Calif., to six years and eight months in prison.

"TARP is not a cookie jar, but that's what Sonoma Valley Bank CEO Sean Cutting called it as he applied for \$8 million in TARP dollars all while knowing he was committing a massive fraud that caused holes in the bank's books," said SIGTARP Special Inspector General Christy Romero. "TARP was intended for healthy banks, not to fill holes in fraud-riddled bank books. Former bank CEO Cutting and chief loan officer Brian Melland will now spend years in prison after causing the bank to collapse under the weight of their fraud, leaving taxpayers who funded TARP at a loss of \$8.6 million. I commend Acting U.S. Attorney Alex Tse, prosecutors Adam Reeves and Rob Rees, and our other law enforcement partners, for bringing accountability and justice."

"The defendants' crimes directly caused the failure of a once-beloved community bank resulting in at least \$47 million in losses and other staggering consequences," said Acting U.S. Attorney Alex G. Tse. "Senior bank executives and the corrupt attorneys who help them must always be held accountable for

threatening the safety and soundness of federally insured banks, as today's significant sentences reaffirm."

"Today's sentencing holds senior bank executives and an attorney accountable for their years of deception to orchestrate multi-million-dollar fraud and for their abuse of positions of trust," said FDIC Inspector General Lerner. "We remain vigilant to investigate such fraud schemes that undermine the integrity of financial institutions, and we will continue to work with our law enforcement partners to bring to justice those who commit such offenses and breach their duties."

The evidence at trial demonstrated that Cutting, Melland, and Lonich were involved in multiple schemes to defraud numerous financial institutions including Sonoma Valley Bank, its regulators at the FDIC, and what was then called the California Department of Financial Institutions (DFI). The schemes to defraud involved years of excessive and illegal lending, often using "straw" or nominee borrowers, to Madjlessi for real estate projects in Santa Rosa and Petaluma, Calif.

The defendants' fraud and other crimes caused the failure of Sonoma Valley Bank. Their crimes caused losses to taxpayers of over \$47 million, as well as to the FDIC (approximately \$39.18 million) and to the Troubled Asset Relief Program (TARP) (approximately \$8.65 million) of the United States Treasury. Other victims included the shareholders of Sonoma Valley Bank who suffered losses when the value of their securities collapsed.

In addition to the sentences listed above, Judge Illston ordered the forfeiture to the United States of Lonich's interest in the Park Lane Villas East, an apartment complex located in Santa Rosa worth approximately \$20.8 million. Judge Illston found that the Park Lane Villas East complex constituted the proceeds of Lonich's offenses. Judge Illston also scheduled a hearing on September 18, 2018, to decide the amount of restitution the defendants owe.

Much of the evidence at trial related to Madjlessi's real estate projects at the Park Lane Villas in Santa Rosa and Petaluma Greenbriar Apartments in Petaluma. According to the evidence admitted at trial, Sonoma Valley Bank, between 2004 and 2010, loaned Madjlessi and the persons and entities he controlled in excess of \$35 million, approximately \$24.7 million more than the legal lending limit set by the bank's regulators. To conceal this high concentration of lending, Cutting and Melland, the loan officer who worked most closely with Madjlessi, recommended multi-million dollar loans to nominee or "straw" borrowers, knowing that millions in proceeds from loans to other borrowers would go to Madjlessi and the companies he controlled. At trial, the evidence proved that Cutting and Melland schemed to give Madjlessi and his companies in excess of \$8.6 million in proceeds from loans nominally made in the name of other borrowers.

Melland also was convicted of receiving a bribe in the amount of approximately \$50,000 from Madjlessi. In April 2008, Melland and Cutting recommended a set of loans for approximately \$3.65 million to a nominee or "straw" borrower controlled by Madjlessi. According to the trial evidence, Melland received the bribe the very next day.

Cutting and Melland were convicted of making false statements to Sonoma Valley Bank's regulators, the FDIC and DFI, during joint examinations in May 2008, and again in December 2009, about the true nature and extent of the bank's lending to Madjlessi and the persons and entities he controlled.

Judge Illston also sentenced Lonich, Madjlessi’s lawyer. In early 2009, Lonich conspired with Cutting and Melland to mislead Sonoma Valley Bank into lending millions more to Madjlessi, again in the name of a nominee or “straw” borrower. The conspiracy allowed Madjlessi to illegally buy-back for approximately \$4 million an approximately \$27 million debt he owed to IndyMac Bank. At the time, IndyMac Bank had failed and been taken over by FDIC and FDIC rules specifically prohibited delinquent borrowers, like Madjlessi, from purchasing their own notes at auction. Nonetheless, the defendants were all convicted of an elaborate bank and wire fraud scheme to obtain the defaulted note by misleading Sonoma Valley Bank, the FDIC, and eventually other financial institutions, about Madjlessi’s true role in the scheme.

In addition, in late 2009 and early 2010, Cutting helped Lonich gain control of additional units at the Park Lane Villas by issuing letters on Sonoma Valley Bank letterhead falsely stating that potential nominee buyers had sufficient funds at Sonoma Valley Bank for purchase. The evidence at trial also demonstrated Lonich instructed one nominee to make false claims to federal agents and to a federal grand jury investigating the transactions.

In sum, the defendants were convicted of the following specific crimes:

DEFENDANT	CHARGES
Cutting, Melland, and Lonich	Conspiracy to Commit Bank Fraud, in violation of 18 U.S.C. § 371
Cutting, Melland, and Lonich	Bank Fraud, in violation of 18 U.S.C. § 1344
Cutting (six counts), Melland (eight counts), and Lonich (five counts)	False Bank Entries and Reports, in violation of 18 U.S.C. § 1005
Cutting and Melland	Conspiracy to Make False Statements to the FDIC, in violation of 18 U.S.C. § 371
Cutting and Melland	Misapplication of Bank Funds, in violation of 18 U.S.C. § 656
Cutting and Melland	False Statements to the FDIC, in violation of 18 U.S.C. § 1007
Melland	Receipt of Gifts for Procuring Loans, in violation of 18 U.S.C. § 215
Cutting, Melland, and Lonich	Conspiracy to Commit Wire Fraud, in violation of 18 U.S.C. § 1349

DEFENDANT	CHARGES
Cutting, Melland, and Lonich	Five counts of Wire Fraud, in violation of 18 U.S.C. § 1343
Cutting, Melland, and Lonich	Twelve counts of money laundering, in violation of 18 U.S.C. § 1957
Lonich	One count of attempted obstruction of justice, in violation of 18 U.S.C. § 1512(c)

Judge Illston ordered the defendants to surrender to begin serving their prison sentences by October 1, 2018.

On May 6, 2014, approximately two months after he was indicted in this case, Madjlessi was found dead after the single-person car accident in a steep ravine in the Marin Highlands off Highway 1 in Marin County.

Assistant U.S. Attorneys Robert David Rees and Adam A. Reeves prosecuted the case with the assistance of Philip Villanueva, Maryam Beros, Patricia Mahoney, and Bridget Kilkenny. The prosecution is the result of a multi-year investigation by the Special Inspector General for the Troubled Asset Relief Program, the Federal Housing Finance Agency Office of Inspector General, and the Federal Deposit Insurance Corporation Office of Inspector General, with the assistance of the Marin County Sheriff’s Office, the Sonoma County Sheriff’s Office, and the Santa Rosa Police Department.

About SIGTARP

The Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP) is a federal law enforcement agency that targets crime at financial institutions or in TARP housing programs and is an independent watchdog protecting the interests of the America people. SIGTARP investigations have resulted in the recovery of \$10 billion and 251 defendants sentenced to prison.

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