Department of Justice

United States Attorney André Birotte Jr.
Central District of California

FOR IMMEDIATE RELEASE CONTACT: THOM MROZEK
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WWW.JUSTICE.GOV/USAO/CAC

FIVE ARRESTED IN ORANGE COUNTY, CALIFORNIA-BASED 'BUILDER BAILOUT' MORTGAGE FRAUD SCHEME THAT FRAUDULENTLY PURCHASED CONDOS

SANTA ANA, Calif. – Federal authorities have arrested five people allegedly involved in a "builder bailout" real estate scheme that fraudulently purchased more than 100 condominium units around the country with mortgages that mostly went into default, resulting in foreclosures and millions of dollars in losses.

The scheme, which was operated out of Excel Investments and related companies that were based in Irvine, Calif. and then Santa Ana, allegedly identified new condominium developments in which the builder owners were struggling to sell units, and arranged with the builders to sell the units in return for large commissions. The builders benefitted by making it appear that their condos were selling and maintaining their value, while those involved with the fraudulent sale of the units financially benefitted from the hefty commissions that were concealed from the mortgage lenders. The defendants recruited a number of straw buyers to purchase the properties as "investors," and ensured that they qualified for financing by fabricating important aspects of their loan applications.

The five defendants were arrested yesterday by special agents with the FBI, the Federal Housing Finance Agency's Office of Inspector General, and IRS Criminal Investigation. Those taken into custody are: Aref Abaji, 31, of Aliso Viejo, a real estate agent; Maher Obagi, 26, of Huntington Beach, the brother of Aref Abaji; Jacqueline Burchell, 52, of Orange, an escrow agent; Mohamed Salah, 37, of Mission Viejo, all of California; and Mohamed El Tahir, 35, of Glen Burnie, Md.

A sixth defendant named in the indictment – mortgage loan officer Wajieh Tbakhi, 48, of Corona, Calif. – is being sought by federal authorities.

According to an indictment returned last Friday by a federal grand jury in Los Angeles, the defendants involved in the scheme negotiated with the builders of new housing developments in California, Florida and Arizona to sell condominium units on behalf of builders in exchange for a hefty commission, which they often misleadingly referred to as "marketing fees" and did not disclose to the lenders. In each of the transactions – the indictment alleges there were more than 100 of them – the defendants earned commissions of $50,000 to $100,000, and sometimes more. The defendants bought units for themselves, their relatives, and on behalf of “investors” with good credit scores who served as “straw buyers.” They allegedly recruited the straw buyers by presenting the scheme as an investment opportunity which required no down payment and would generate income through rental payments.

To obtain mortgages for the properties, the defendants allegedly prepared loan applications with false information about the buyers’ employment, income and assets. They allegedly submitted fabricated and altered W-2 forms, pay stubs and bank statements in support of those applications.

According to the indictment, they concealed the huge commissions from mortgage lenders by submitting false settlement statements – or Form HUD 1s – which omitted these large payments.

When many of the loans defaulted and led to foreclosure, the lending institutions suffered losses of at least $6.2 million. The Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Association (Fannie Mae) purchased dozens of these loans on the secondary mortgage market and suffered losses of at least $2.37 million as a result of delinquencies, defaults and foreclosures on the properties.

The six defendants named in the indictment are all charged with conspiring to commit bank fraud and wire fraud. Abaji, Obagi, Tbakhi and Burchell are additionally charged with six counts of wire fraud.

The four defendants who were arrested in California were arraigned yesterday afternoon by U.S. Magistrate Judge Robert N. Block. All four pleaded not guilty, and a trial was scheduled for March 5. Obagi, Burchell and Salah were released last night on bond, and Abaji is expected to be released later today.

El Tahir, who has been in custody since yesterday, was scheduled to make his initial appearance this afternoon in U.S. District Court in Baltimore.

An indictment contains allegations that a defendant has committed a crime. Every defendant is presumed to be innocent until and unless proven guilty in court.

The conspiracy charge in the indictment carries a statutory maximum sentence of 30 years in federal prison and a potential $1 million fine. The wire fraud charges carry a statutory maximum sentence of 20 years in federal prison and a potential $250,000 fine.

This case is the result of an investigation by the FBI, the Federal Housing Finance Agency’s Office of Inspector General and IRS Criminal Investigation.

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