



U.S. Department of Justice

United States Attorney
Southern District of Florida

99 N.E. 4 Street
Miami, FL 33132
(305) 961-9001

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NEWS RELEASE:

Former Cay Clubs Chief Executive Officer Convicted After 5-Week Trial of Multiple Counts of Bank Fraud and Obstruction of the U.S. Securities and Exchange Commission

The former Cay Clubs Chief Executive Officer was convicted today after a five week trial.

Wifredo A. Ferrer, United States Attorney for the Southern District of Florida, Kelly R. Jackson, Special Agent in Charge, Internal Revenue Service, Criminal Investigation (IRS-CI), Timothy Mowery, Special Agent in Charge, Federal Housing Finance Agency, Office of Inspector General (FHFA-OIG), made the announcement.

Fred Davis Clark, Jr., a/k/a Dave Clark, 57, formerly of Monroe County, was convicted of three counts of bank fraud, and three counts of making a false statement to a financial institution, all in connection with a \$300 million fraud scheme involving the sale of vacation rental units involving Cay Clubs Resorts and Marinas (Cay Clubs), to approximately 1,400 investors in the Florida Keys and elsewhere. Clark also was convicted of obstruction of the U.S. Securities and Exchange Commission (SEC), in connection with the SEC's efforts to investigate his conduct related to Cay Clubs.

U.S. Attorney Wifredo A. Ferrer stated, "We will not stand on the sidelines and allow individuals to defraud investors and financial institutions. As this case demonstrates, the U.S. Attorney's Office will work with its law enforcement partners to hold those accountable who use deceptive practices to satisfy their personal desires for wealth."

Kelly R. Jackson, Special Agent in Charge, IRS Criminal Investigation (IRS-CI), stated, "Today's conviction is a victory for the victims who were caught up in Mr. Clark's tangled financial web of lies. The defendant preyed upon trusting investors and then stole their hard earned money. This case is another example of our commitment to pursue individuals who make fraudulent representations with the intent of deceiving others."

According to evidence submitted in court, Clark was the Chief Executive Officer of Cay Clubs, which operated from 2004 through 2008 from offices in the Florida Keys and Clearwater. Cay Clubs marketed vacation rental units for 17 locations in Florida, Las Vegas and the Caribbean, to investors throughout the United States. Cay Clubs raised more than \$300 million from investors by promising to develop dilapidated properties into luxury resorts, and promising

investors an upfront “leaseback” payment of 15 to 20% of the sales price of the unit at the time of closing. Evidence at trial showed that, in reality, Cay Clubs never developed the properties it had promised to investors and that they remained in a dilapidated condition.

Evidence showed that by at least September 2006, Cay Clubs experienced serious financial difficulties and was unable to meet its commitments. In order to attempt to meet Cay Clubs’ financial obligations and to obtain funds for himself, evidence at trial showed that Clark engaged in a series of fraudulent mortgage transactions totalling more than \$20 million worth of bank loans. According to documents and testimony introduced at trial, during these sham transactions, Clark sold on paper units that Cay Clubs had acquired at a lower price, to himself, but at a dramatically higher price, while causing various lending institutions to fund the transactions. Clark directed his administrative assistant and his bookkeeper to forge signatures on loan documents and falsely notarize mortgage paperwork to make it appear that family members, his significant other, and other insiders listed on paperwork, were in fact executing the documents. In reality, Clark was providing the deposits and down payments, directing his subordinates to execute the loan documents, and then using the proceeds of the transactions to fund Cay Club’s operations and for his own personal benefit. The financial institutions that funded the fraudulently obtained loans were insured by the FDIC.

Evidence at trial showed that while Cay Clubs continued to experience significant financial difficulties, Clark lived a lavish lifestyle, extracting more than \$22 million from the operations of Cay Clubs between 2005 and 2007, including the use of multiple waterfront homes, yachts and aircraft for his personal benefit.

After the collapse of Cay Clubs, the SEC began an investigation into alleged securities fraud at Cay Clubs. According to evidence and transcripts presented in court, Clark thereafter engaged in conduct aimed at concealing the location of assets under his control, including by providing false sworn testimony before the SEC in May 2011. In March 2013, after the SEC filed a civil fraud action against him, Clark transferred more than \$2 million to a corporate account he controlled in Honduras. After this transfer, U.S. law enforcement and authorities in Honduras were able to obtain a court order freezing these funds.

Clark was expelled from Panama in June 2014, and returned to the United States by Panamanian authorities at the request of U.S. law enforcement in connection with the charges set forth in the indictment.

In related cases, former Cay Clubs executives **Barry J. Graham**, 59, and **Ricky Lynn Stokes**, 54, both of Ft. Myers, Florida pleaded guilty to conspiracy to commit bank fraud, in connection with the scheme to defraud Cay Clubs investors. Graham, who was Director of Sales, was sentenced on March 30, 2015, and Stokes, who was the Director of Investor Relations, was sentenced on March 24, 2015. Each was sentenced to 60 months’ imprisonment, and was ordered to pay restitution of \$163,530,377.21 to numerous individual and financial institution victims.

Sentencing in this matter is set for February 25, 2016 before United States District Judge Jose E. Martinez in Key West at the Sidney L. Aronovitz Federal Courthouse.

Mr. Ferrer commended the investigative efforts of the IRS-CI and FHFA-OIG, and the extensive assistance of the SEC's Miami Regional Office. The matter is being prosecuted by Assistant U.S. Attorneys Jerrob Duffy, Thomas A. Watts-FitzGerald and Alison Lehr, and Special Assistant U.S. Attorney Michael Padula. Mr. Ferrer also commended the efforts of U.S. Immigration and Customs Enforcement's Homeland Security Investigations, Key West Regional Office, for its assistance with this matter.

A copy of this press release may be found on the website of the United States Attorney's Office for the Southern District of Florida at www.usdoj.gov/usao/fls. Related court documents and information may be found on the website of the District Court for the Southern District of Florida at www.flsd.uscourts.gov or on <http://pacer.flsd.uscourts.gov>