



Department of Justice



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FORMER DIRECTOR OF ACCOUNTING AND OUTSIDE AUDITOR OF AMERICAN MORTGAGE SPECIALISTS INC. PLEAD GUILTY TO ROLES IN FRAUD AGAINST BNC NATIONAL BANK

WASHINGTON – The former director of accounting and the former outside auditor of Arizona-based residential mortgage loan originator American Mortgage Specialists Inc. (AMS) pleaded guilty in Arizona to conspiracy to defraud BNC National Bank (BNC) and obstruction of justice, respectively, Assistant Attorney General Lanny A. Breuer of the Justice Department’s Criminal Division; U.S. Attorney Timothy Q. Purdon of the District of North Dakota; Christy Romero, Special Inspector General for the Troubled Asset Relief Program (SIGTARP); and Steve A. Linick, Inspector General of the Federal Housing Finance Agency Office of Inspector General (FHFA-OIG) announced today.

Lauretta Horton, 45, and David Kaufman, 69, both residents of Arizona, pleaded guilty yesterday before U.S. District Judge Daniel L. Hovland of the District of North Dakota, who took the pleas in Arizona federal court. Horton and Kaufman were charged in separate criminal informations unsealed on Oct. 2, 2012, for their roles in the fraud scheme against BNC.

“While the nation was reeling from a financial downturn, Lauetta Horton conspired with AMS executives to deceive BNC Bank about AMS’s true financial stability, and AMS auditor David Kaufman lied to federal investigators to impede their investigation,” said Assistant Attorney General Breuer. “Horton and Kaufman’s guilty pleas reflect our continued vigilance in investigating and punishing criminal conduct relating to the financial crisis.”

“Banks in North Dakota were not immune from illegal conduct related to the mortgage crisis that impacted banks all across the country,” said U.S. Attorney Purdon. “These guilty pleas are the result of close collaboration with our federal investigative partners and the Justice Department’s Criminal Division and should send the message that the Department of Justice is committed to prosecuting cases such as these wherever they might arise.”

“As the controller and director of accounting of mortgage originator AMS, Horton sent to TARP-recipient BNC National Bank false financial statements she had prepared so that BNC would continue to fund AMS,” said Christy Romero, Special Inspector General for TARP (SIGTARP). “In a cover-up and an attempt to impede the federal grand jury investigation, AMS’s external auditor Kaufman lied to SIGTARP agents about his telling an AMS executive that he had changed the financial statements so that BNC would not discover the truth. Kaufman

is the third person convicted of lying to SIGTARP agents, which shows that SIGTARP will aggressively pursue those who fail to tell the truth and impede our investigations.”

“This is a significant case because it holds accountable an individual who participated in a scheme to defraud a member bank of the Federal Home Loan Bank System, and another individual who lied to federal investigators,” said Inspector General Linick. “This case is a reminder that there are consequences for giving investigators false information and manipulating numbers.”

AMS was in the business of originating residential real estate mortgage loans to borrowers and then selling the loans to institutional investors. In 2006, AMS entered into a loan participation agreement with BNC whereby BNC provided funding for the loans issued by AMS. According to court documents, Horton, the director of accounting at AMS, conspired from February 2009 to April 2010 to defraud BNC by making false representations regarding the financial well-being of AMS in order for AMS to continue to obtain funding from BNC. Specifically, Horton admitted to inflating asset items and altering financial information in the AMS balance sheet provided to BNC to falsely reflect that AMS had substantial liquid assets when, in fact, it did not.

According to court documents, Kaufman, a certified public accountant and the outside auditor of AMS’ annual financial statements, lied to federal agents during the criminal investigation and obstructed the grand jury investigation. Specifically, Kaufman admitted denying to agents that he had a conversation with an AMS executive in which Kaufman explained to the AMS executive that Kaufman had combined two expenses on AMS’s financial statements in order to conceal the true nature and extent of AMS’s financial condition from BNC.

Although BNC’s holding company had received approximately \$20 million under the TARP and had injected approximately \$17 million of the TARP funds into BNC, BNC incurred losses exceeding the millions received from TARP. BNC then did not make its required TARP dividends to the Department of Treasury for nearly two years.

At sentencing, scheduled for May 6, 2013, Kaufman and Horton face a maximum penalty of 10 years and five years in prison, respectively.

The investigation was conducted by agents assigned to the Offices of the Inspector General of SIGTARP and of FHFA. The case is being prosecuted by Trial Attorney Robert A. Zink and Senior Litigation Counsel Jack B. Patrick of the Criminal Division’s Fraud Section and by Assistant U.S. Attorney Clare Hochhalter of the District of North Dakota, with the assistance of Trial Attorney Jeannette Gunderson of the Criminal Division’s Asset Forfeiture and Money Laundering Section.

This case is part of efforts underway by President Obama’s Financial Fraud Enforcement Task Force (FFETF) which was created in November 2009 to wage an aggressive, coordinated and proactive effort to investigate and prosecute financial crimes. With more than 20 federal agencies, 94 U.S. Attorneys’ offices and state and local partners, it’s the broadest coalition of

law enforcement, investigatory and regulatory agencies ever assembled to combat fraud. Since its formation, the task force has made great strides in facilitating increased investigation and prosecution of financial crimes; enhancing coordination and cooperation among federal, state and local authorities; addressing discrimination in the lending and financial markets and conducting outreach to the public, victims, financial institutions and other organizations. Over the past three fiscal years, the Justice Department has filed more than 10,000 financial fraud cases against nearly 15,000 defendants including more than 2,700 mortgage fraud defendants. For more information on the task force, visit www.stopfraud.gov.

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