

## Department of Justice

U.S. Attorney's Office

District of Massachusetts

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FOR IMMEDIATE RELEASE

Friday, November 8, 2019

### **Mortgage Short Sale Negotiators Charged with Defrauding Mortgage Lenders**

BOSTON – The principals and co-founders of a North Andover mortgage short sale assistance company were charged today in connection with defrauding mortgage lenders and investors out of nearly \$500,000 in proceeds from about 90 short sale transactions. The defendants allegedly defrauded the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and the U.S. Department of Housing and Urban Development.

Gabriel T. Tavarez, 39, and Jaime L. Mulvihill, 40, who together founded and operated Loss Mitigation Services, LLC, were charged with conspiracy to commit wire fraud. Tavarez also was charged with aggravated identity theft.

The charges arise out of the defendants' alleged scheme to steal undisclosed and improper fees from mortgage lenders in connection with short sales of homes. A short sale occurs where the mortgage debt on the home is greater than the sale price, and the mortgage lender agrees to take a loss on the transaction.

Loss Mitigation Services, purportedly acting on behalf of underwater homeowners, negotiated with mortgage lenders for approval of short sales in lieu of foreclosure. Mortgage lenders typically forbid short sale negotiators, such as Loss Mitigation Services, from receiving any proceeds of a short sale.

According to the court documents, from 2014 to 2017, Tavarez and Mulvihill, directly or through their employees, falsely claimed to homeowners, real estate agents, and closing attorneys that mortgage lenders had agreed to pay Loss Mitigation Services fees known as "seller paid closing costs" or "seller concessions" from the proceeds of the short sales. In reality, the mortgage lenders had never approved Loss Mitigation Services to receive those fees. When the short sales closed, at the instruction of Tavarez or Mulvihill, or others working with them, settlement agents paid Loss Mitigation Services the fees, which typically were 3% of the short sale price above and beyond any fees to real estate agents, closing attorneys and others involved in the transaction. To deceive mortgage lenders about the true nature of the fees, Tavarez or Mulvihill filed, or caused others to file, false short sale transaction documents with mortgage lenders, including altered settlement statements and fabricated contracts and mortgage loan preapproval letters. Tavarez and Mulvihill

fabricated the transaction documents, or caused them to be fabricated, in order to justify the additional fees and conceal that they were being paid to Loss Mitigation Services. In addition, Tavarez created fake letters from mortgage brokers claiming that the brokers had approved buyers for financing, in order to convince mortgage lenders to approve the additional fees.

The charge of conspiracy to commit wire fraud provides for a sentence of up to 20 years in prison, three years of supervised release, and a fine of \$250,000 or twice the gross gain or loss. The charge of aggravated identity theft carries a mandatory two-year sentence that must run consecutively to any other sentence imposed, one year of supervised release, and a fine of \$250,000, or twice the gross gain or loss. Sentences are imposed by a federal district court judge based upon the U.S. Sentencing Guidelines and other statutory factors.

United States Attorney Andrew E. Lelling; Joseph R. Bonavolonta, Special Agent in Charge of the Federal Bureau of Investigation, Boston Field Division; Robert Manchak, Special Agent in Charge of the Federal Housing Finance Agency, Office of Inspector General, Northeast Region; Christina Scaringi, Special Agent in Charge of the U.S. Department of Housing and Urban Development, Office of Inspector General, Northeast Regional Office; and Kristina O'Connell, Special Agent in Charge of the Internal Revenue Service's Criminal Investigation in Boston made the announcement today. Assistant U.S. Attorneys Sara Miron Bloom and Brian M. LaMacchia of Lelling's Office are prosecuting the case.

The details contained in the charging documents are allegations. The defendants are presumed to be innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

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**Topic(s):**  
Mortgage Fraud

**Component(s):**  
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