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Department of Justice

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Eastern District of Missouri

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Banker Shaun Hayes Gets Prison Sentence

St. Louis, MO – Shaun R. Hayes, 58, of Frontenac, was sentenced to 68 months in federal prison today after pleading guilty to participating in a scheme to defraud Excel Bank and to profit from illegal insider loans. The sentence was handed down by United States District Judge Audrey G. Fleissig who also ordered Hayes to pay restitution in the amount of \$5,048,003.67.

Hayes was charged in April, 2016, along with real estate developer Michael Litz on bank fraud and related charges involving a series of insider loans and straw party loans at Excel Bank. The bank failed in October 2012 and Simmons Bank succeeded it. Hayes and Litz each entered guilty pleas in January. Litz was sentenced earlier this month to 36 months in prison. Hayes has been incarcerated since April 2017 when a U.S. Magistrate Judge ruled that he had violated the conditions of his bond by participating in investment activities without getting clearance from his bond officer. There is no parole in federal prison sentences.

Excel Bank was a federally insured bank with main offices in Sedalia, Missouri. Hayes held a controlling stock interest in the bank which, by 2009, had opened a Loan Production Office (LPO) in Clayton. Hayes controlled the loan activities at the LPO. At Hayes's direction the commercial and residential real estate lending at Excel Bank increased dramatically through the operation of the LPO. As part of his guilty plea, Hayes admitted that many of the loans made through the LPO were substandard and placed the bank at risk. He also admitted that he engaged in unlawful self-dealing by causing loans to be made which directly benefitted him and his associates while concealing his interest in the loans.

As part of his guilty plea, Hayes admitted that he helped set up a loan at Excel Bank to a straw party in the amount of \$3.3 million and caused some \$906,000.00 of the proceeds of that loan to be paid to Centru Bank to pay off a loan he and his business associate, Michael Litz, had guaranteed for their entity McKnight Man I LLC. Hayes admitted that his interest in the loan was concealed from bank officials and he and Litz made no payments to Excel Bank. Court documents made part of the guilty plea record also show that Hayes assisted in causing Excel

Bank to make the above loan and millions of dollars in other loans to straw parties in order to cover the delinquent and substandard loans owed by Litz's business, Eighteen Investments, at other banks. According to the charges, Excel Bank lost substantial amounts on these loans.

Hayes was also sentenced on an illegal insider loan through which he and Litz each received \$300,000.00. In April, 2009, they caused Excel Bank to make a loan to Rolling Hills Apartments LLC which operates an apartment complex in north county. They caused Excel Bank to loan much more than was needed by the apartment complex in order to create a pool of money for them. Hayes and Litz structured the payout through several entities so as to insure that their interests were concealed.

In a sentencing memorandum filed with the court, the Government informed the court that Hayes was a principal at three banks which failed in 2011-2012---Excel Bank, Sun Security Bank and Truman Bank. According to the Federal Deposit Insurance Corporation (FDIC), the federal insurance fund loss for those three banks was estimated at slightly more than \$160 million at the close of 2017. It was also noted to the court that Hayes was paid \$1,863,076 by Excel bank in dividends and fees from late 2007 when he gained control of the bank through March 2010 when regulators ordered a stop to the payments.

In its memorandum, the Government also identified the losses suffered by the longtime employees of Excel Bank when the bank failed and the bank stock in their retirement plan had become worthless. These employees relied upon the bank's stock to provide security for their retirement.

"Shaun Hayes abused his position and defrauded Excel Bank to enrich himself and his co-defendants. Their unlawful actions not only caused the bank to fail, but cost hard-working St. Louisans their jobs, homes and financial security," said Special Agent in Charge Richard Quinn of the FBI St. Louis Division. "This case is but one example of how the FBI, along with its law enforcement partners, will relentlessly bring to justice those who harm our communities."

"The conviction and sentence of Shaun Hayes is an important reminder that the FHFA-OIG and our law enforcement partners will aggressively pursue justice in fraud cases which undermine the integrity of and confidence in our banking system, including those that affect the Federal Home Loan Banks. We thank our law enforcement partners for their efforts in bringing justice in this case," said Catherine Huber, Special Agent in Charge of the Federal Housing Finance Agency, Office of Inspector General for the Central Region.

David Anderson, Special Agent in Charge of the Kansas City Region of the FDIC Office of Inspector General said, "Those individuals who engage in bank fraud schemes undermine the integrity of the banking and financial services industry. The FDIC OIG is committed to stopping these illegal acts."

"As the majority shareholder who virtually had complete control of Excel Bank, Shaun Hayes caused devastation by repeatedly abusing his power to commit fraud," said Special Inspector General Christy Goldsmith Romero. "His crime caused millions in losses, threatened the very soundness of the bank that later failed, and caused bank employees to lose much of their nest eggs. The bank failure meant that TARP was never repaid and taxpayers suffered \$5 million in TARP losses, all while he profited from concealing the fraud from regulators. This case is a great

example of law enforcement collaborating to bring justice and I thank our partner U.S. Attorney's Office, the FBI, and other inspector general offices.”

The restitution amount ordered by the court consisted largely of losses incurred by Excel Bank on the straw party loans with most of the restitution being owed to the FDIC.

Timothy Murphy, the former Executive Vice president at Excel bank, pled guilty earlier this year to defrauding Excel Bank and was sentenced to probation based on his cooperation in the investigation.

This case has been investigated by the Federal Bureau of Investigation, the Federal Finance Agency Office of Inspector General, the Federal Deposit Insurance Corporation Office of Inspector General and the Office of the Special Inspector General for the Troubled Asset Relief Program. Criminal Chief James E. Crowe, Jr., and Assistant United States Attorney Gilbert C. Sison are handling the case for the U.S. Attorney's Office.

Topic(s):

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Securities, Commodities, & Investment Fraud

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