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FORMER CHAIRMAN OF TAYLOR, BEAN & WHITAKER CONVICTED FOR $2.9 BILLION FRAUD SCHEME THAT CONTRIBUTED TO THE FAILURE OF COLONIAL BANK

WASHINGTON – Lee Bentley Farkas, the former chairman of a private mortgage lending company, Taylor, Bean & Whitaker (TBW), was convicted today for his role in a more than $2.9 billion fraud scheme that contributed to the failures of Colonial Bank, one of the 25 largest banks in the United States in 2009, and TBW, one of the largest privately held mortgage lending companies in the United States in 2009.

The conviction was announced today by Assistant Attorney General Lanny A. Breuer of the Criminal Division; U.S. Attorney Neil H. MacBride for the Eastern District of Virginia; Acting Special Inspector General Christy Romero for the Troubled Asset Relief Program (SIGTARP); Assistant Director in Charge James W. McJunkin of the FBI's Washington Field Office; Michael P. Stephens, Acting Inspector General of the Department of Housing and Urban Development (HUD-OIG); Jon T. Rymer, Inspector General of the Federal Deposit Insurance Corporation (FDIC-OIG); Steve A. Linick, Inspector General of the Federal Housing Finance Agency (FHFA-OIG); and Victor F. O. Song, Chief of the Internal Revenue Service Criminal Investigation (IRS-CI).

After a 10-day trial, a federal jury in the Eastern District of Virginia found Farkas guilty of one count of conspiracy to commit bank, wire and securities fraud; six counts of bank fraud; four counts of wire fraud; and three counts of securities fraud. At sentencing, scheduled for July 1, 2011, Farkas faces a maximum prison term of 30 years for the conspiracy charge and for each count of bank fraud, 20 years for each count of wire fraud related to TARP, 30 years for each count of wire fraud affecting a financial institution and 25 years for each securities fraud count. Farkas was remanded into custody.

According to court documents and evidence presented at trial, Farkas and his co-conspirators engaged in a scheme that misappropriated more than $1.4 billion from Colonial Bank's Mortgage Warehouse Lending Division in Orlando, Fla., and approximately $1.5 billion from Ocala Funding, a mortgage lending facility controlled by TBW. Farkas and his co-conspirators misappropriated this money to, among other things, cover TBW's operating expenses. The fraud scheme contributed to the failures of Colonial Bank and TBW.

Six individuals have pleaded guilty for their roles in the fraud scheme, including: Paul Allen, former chief executive officer of TBW; Raymond Bowman, former president of TBW; Desiree Brown, former treasurer of TBW; Catherine Kissick, former senior vice president of Colonial Bank and head of its Mortgage Warehouse Lending Division (MWLD); Teresa Kelly, former operations supervisor for Colonial Bank's MWLD; and Sean Ragland, a former senior financial analyst at TBW.

"Lee Farkas, the former chairman of TBW, masterminded one of the largest bank fraud schemes in history," said Assistant Attorney General Breuer. "His shockingly brazen scheme poured fuel on the fire of the financial crisis. It not only led to the downfall of TBW, one of the largest private mortgage lending companies in the United States, but also contributed to the failure of one of the country's largest commercial banks. Mr. Farkas may have thought he could steal nearly $3 billion from investors and taxpayers and sail into the sunset. But now a jury has told him otherwise, and he must face the severe consequences."

"Today a jury convicted Lee Farkas of orchestrating one of the longest and largest bank fraud schemes in the country," said U.S. Attorney Neil H. MacBride. "In 2008, Lee Farkas boasted that he 'could rob a bank with a pencil.' And he did just that. His staggering greed led him to steal nearly $3 billion from Colonial Bank and other investors. Farkas's mammoth fraud contributed to the toppling of a financial institution and the ripple effects were felt from Wall Street to Main Street. Now he's being held responsible for the financial ruin he left in his wake."

"This investigation required thousands of hours of work by investigators, forensic accountants and analysts to sort through complex mortgage and lending documents," said Assistant Director in Charge McJunkin. "I'd like to thank the many other agencies who worked with FBI personnel to build a strong investigative team; a team still out there working today to protect federal funds and innocent victims."

"Today's verdict ensures that Farkas will pay for his crime – an unprecedented scheme to defraud regulators during the height of the financial crisis and to steal over $550 million from the American taxpayers through TARP," said Acting Special Inspector General Romero for SIGTARP. "SIGTARP and its partners in the Financial Fraud Enforcement Task Force stopped the scheme dead in its tracks and will continue to bring to justice those criminals who seek to profit by exploiting TARP through fraud."

According to court documents and evidence presented at trial, the fraud scheme began in 2002, when Farkas and his co-conspirators ran overdrafts in TBW bank accounts at Colonial Bank in order to cover TBW's cash shortfalls. Farkas and his co-conspirators at TBW and Colonial Bank transferred money between accounts at Colonial Bank to hide the overdrafts. Evidence presented at trial showed that after the overdrafts grew to more than $100 million, Farkas and his co-conspirators covered up the overdrafts and operating losses by causing Colonial Bank to purchase from TBW over time more than $1.5 billion in what amounted to worthless mortgage loan assets, including loans that TBW had already sold to other investors and fake pools of loans supposedly being formed into mortgage-backed securities. Farkas and his co-conspirators caused Colonial Bank to report these assets on its books at face value when in fact the mortgage loan assets were worthless. By August 2009, approximately $500 million in fake pools of loans remained on Colonial Bank's books.

According to court documents and evidence presented at trial, Farkas and his co-conspirators at TBW also misappropriated more than $1.5 billion from Ocala Funding. Ocala Funding sold asset-backed commercial paper to financial institution investors, including Deutsche Bank and BNP Paribas Bank. Ocala Funding, in turn, was required to maintain collateral in the form of cash and/or mortgage loans at least equal to the value of outstanding commercial paper.

Evidence presented at trial established that Farkas and his co-conspirators diverted cash from Ocala Funding to TBW to cover its operating losses, and as a result, created significant deficits in the amount of collateral Ocala Funding possessed to back the outstanding commercial paper. To cover up the diversions, the conspirators sent false information to Deutsche Bank, BNP Paribas Bank and other financial institution investors and led them to falsely believe that they had sufficient collateral backing the commercial paper they had purchased. When TBW failed in August 2009, the banks were unable to redeem their commercial paper for full value. Farkas and his co-conspirators also caused approximately $900 million in loans to be held on Colonial Bank's books when in fact the loans had already been sold to Freddie Mac and other investors.

According to court documents and evidence at trial, in the fall of 2008, Colonial Bank's holding company, Colonial BancGroup Inc., applied for $570 million in taxpayer funding through the Capital Purchase Program (CPP), a sub-program of the U.S. Treasury Department's Troubled Asset Relief Program (TARP). In connection with the application, Colonial BancGroup submitted financial data and filings that included materially false information related to mortgage loans and securities held by Colonial Bank as a result of the fraudulent scheme perpetrated by Farkas and his co-conspirators. Colonial BancGroup's TARP application was conditionally approved for $553 million contingent on the bank raising $300 million in private capital.

Evidence at trial established that Farkas and his co-conspirators falsely informed Colonial BancGroup that they had identified sufficient investors to satisfy the TARP capital contingency. Farkas and his TBW co-conspirators diverted $25 million from Ocala Funding into an escrow account and falsely represented that the money was on behalf of capital raise investors. Farkas and his TBW co-conspirators caused Colonial BancGroup to issue a false and misleading financial statement to the Securities and Exchange Commission (SEC) and press release announcing the success of the capital raise. Ultimately, Colonial BancGroup did not receive any TARP funds.

Evidence at trial also established that Farkas and his co-conspirators caused Colonial BancGroup to file materially false financial data with the SEC regarding its assets in annual reports contained in Forms 10-K and quarterly filings contained in Forms 10-Q. Colonial BancGroup's materially false financial data included overstated assets for mortgage loans that had little to no value that Farkas and his co-conspirators caused Colonial Bank to purchase. Farkas and his co-conspirators also caused TBW to submit materially false financial data to the Government National Mortgage Association (Ginnie Mae) in order to extend TBW's authority to issue Ginnie Mae mortgage-backed securities.

According to court documents and evidence presented at trial, Farkas also personally misappropriated more than $20 million from TBW and Colonial Bank to finance his lifestyle, including purchasing multiple homes, scores of cars, a jet and sea plane, and restaurants and bars.

In August 2009, the Alabama State Banking Department, Colonial Bank's regulator, seized the bank and appointed the FDIC as receiver. Colonial BancGroup also filed for bankruptcy in August 2009.

"The successful prosecution of Farkas and his associates highlights the commitment and combined efforts of DOJ and federal law enforcement to hold those responsible from all levels of a mortgage company," said Acting Inspector General Stephens for HUD-OIG. "Efforts to protect FHA and Ginnie Mae are strengthened by this verdict."

"Today's verdict confirms that the former chairman of one of the leading mortgage lending firms in the Southeast engaged in criminal conduct during the mid-2000s," said Inspector General Rymer of FDIC-OIG. "We are proud to work with our partners at the Justice Department's Criminal Division and in the U.S. Attorney's Office for the Eastern District of Virginia to bring to justice individuals whose fraud contributed significantly to the financial crisis and the failure of a major financial institution."

"This conviction represents a victory for Freddie Mac and American taxpayers, who have invested $64.2 billion in Freddie Mac to date," said Inspector General Linick of the FHFA-OIG. "The fraud that Farkas perpetrated on Freddie Mac directly affected its bottom line and, in turn, American taxpayers. FHFA-OIG looks forward to future cooperative efforts with law enforcement partners to combat fraud against Freddie Mac, Fannie Mae, and the Federal Home Loan Banks."

The case was prosecuted by Deputy Chief Patrick Stokes and Trial Attorney Robert Zink of the Criminal Division's Fraud Section and Assistant U.S. Attorneys Charles Connolly and Paul Nathanson of the Eastern District of Virginia. This case was investigated by the FBI's Washington Field Office, SIGTARP, FDIC-OIG, HUD-OIG, FHFA-OIG, and the IRS Criminal Investigation. The Financial Crimes Enforcement Network (FinCEN) of the Department of the Treasury also provided support in the investigation. The Department of Justice would like to thank the SEC for their assistance.

This conviction is part of efforts underway by President Barack Obama's Financial Fraud Enforcement Task Force. President Obama established the interagency task force to wage an aggressive, coordinated and proactive effort to investigate and prosecute financial crimes. The task force includes representatives from a broad range of federal agencies, regulatory authorities, inspectors general and state and local law enforcement who, working together, bring to bear a powerful array of criminal and civil enforcement resources. The task force is working to improve efforts across the federal executive branch, and with state and local partners, to investigate and prosecute significant financial crimes, ensure just and effective punishment for those who perpetrate financial crimes, combat discrimination in the lending and financial markets, and recover proceeds for victims of financial crimes. For more information about the task force visit: www.stopfraud.gov.

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