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District of Massachusetts

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Mortgage Short Sale Negotiator Sentenced for Defrauding Mortgage Lenders

BOSTON – The principal and co-founder of a mortgage short sale assistance company was sentenced yesterday in connection with defrauding mortgage lenders and investors out of nearly \$500,000 in proceeds from about 90 short sale transactions.

Gabriel T. Tavarez, 40, of Westminster, was sentenced by U.S. District Court Judge Nathaniel M. Gorton to seven months in prison and two years of supervised release. Tavarez was also ordered to pay restitution in the amount of \$475,458. In June 2020, Tavarez pleaded guilty to conspiracy to commit wire fraud and aggravated identity theft.

Tavarez founded and co-operated Loss Mitigation Services, LLC, a short sale assistance company in North Andover, with co-conspirator Jaime L. Mulvihill. A short sale occurs where a mortgage debt on a home is greater than the home's market value—such a mortgage loan is commonly referred to as being “under water”—and a mortgage lender agrees to a sale of the home even though it will take a loss on the transaction. Loss Mitigation Services, purportedly acting on behalf of homeowners whose mortgage loans were under water, 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.

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 such fees. When the short sales closed, at the instruction of Tavarez, 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. In addition, Tavarez created, or directed others to create, 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.

Mulvihill pleaded guilty to his role in the conspiracy and was sentenced in February 2020 to six months in prison.

United States Attorney Rachael S. Rollins; Joseph R. Bonavolonta, Special Agent in Charge of the Federal Bureau of Investigation, Boston Division; Robert Manchak, Special Agent in Charge, 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 Joleen D. Simpson, Special Agent in Charge of the Internal Revenue Service's Criminal Investigation in Boston made the announcement. Assistant U.S. Attorney Brian M. LaMacchia of Rollins' Affirmative Civil Enforcement Unit prosecuted the case.

Topic(s):

Mortgage Fraud

Component(s):

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