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VIRGINIA DEVELOPER PLEADS GUILTY TO MASSIVE BANK FRAUD WHICH CONTRIBUTED TO FAILURE OF BANK OF THE COMMONWEALTH

WASHINGTON, DC – Eric H. Menden, 53, of Chesapeake, Va., pled guilty today to engaging in a $41 million bank fraud scheme that contributed to the failure of the Bank of the Commonwealth. He also pled guilty to a separate fraud involving a six-year historic tax credit scheme that cost state and federal governments over $12 million and investors more than $8 million.

Christy Romero, Special Inspector General for the Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP); Neil H. MacBride, United States Attorney for the Eastern District of Virginia; John Boles, Special Agent in Charge of the FBI's Norfolk Field Office; Eric C. Hylton, Acting Special Agent in Charge of the Internal Revenue Service Criminal Investigation's Washington, D.C., Field Office; and Jon T. Rymer, Inspector General of the Federal Deposit Insurance Corporation (FDIC-OIG), made the announcement today after the plea was accepted by United States Magistrate Judge F. Bradford Stillman.

"Menden's scheme helped insiders at the Bank of the Commonwealth fraudulently conceal the extent of the bank's non-performing assets, contributed to the bank's eventual collapse, and ultimately had an impact on everyone in the community who relied on the bank," said Special Inspector General Romero. "At the time of its failure, Menden and his business partner owed the bank, which applied for TARP funds in late 2008, more than $40 million. Fraud of this type contributed to and severely worsened our nation's financial crisis, and perpetrators of white collar crime will be brought to justice by SIGTARP and our partners in law enforcement."

"Today, Eric Menden admitted to carrying out a massive fraud that played a part in the collapse of the Bank of the Commonwealth," said U.S. Attorney MacBride. "Mr. Menden used his relationship with Bank insiders to use the Bank as his own personal ATM. He raked in millions telling big fat lies to get loans, secure funding from investors, and defraud state and federal tax authorities. Over the last few years, many people in this country have begun to understandably question our financial institutions. Unfortunately, this case indicates that those concerns are sometimes well founded."

"The IRS-Criminal Investigation takes allegations of this nature very seriously," said Eric Hylton, Acting IRS Special Agent in Charge. "IRS Criminal Investigation will vigorously investigate those individuals who willfully exploit our tax system for personal gain."

"The Federal Deposit Insurance Corporation (FDIC) Office of Inspector General is pleased to join the U.S. Attorney for the Eastern District of Virginia and our law enforcement colleagues in announcing the charges against Mr. Menden for his role in this complex fraud scheme," said FDIC Inspector General Rymer. "It is especially important for us to investigate and prosecute cases where unscrupulous individuals use financial institutions to carry out fraudulent activities that cause harm to the institution and undermine the integrity of the financial services industry as a whole. We are committed to preventing and addressing such threats to the safety and soundness of FDIC-insured banks throughout the country."

Today, Menden pled guilty to conspiracy to commit wire fraud, making false statements, and conspiracy to commit bank fraud. He faces a maximum penalty of five years in prison for each count when he is sentenced on July 23, 2012, by United States District Judge Raymond A. Jackson.

According to the statement of facts filed with his plea agreement, from January 2008 through August 2011, Menden admitted that he and his business partner performed favors for insiders at the Bank of the Commonwealth in exchange for preferential lending treatment and assisted insiders in concealing the extent of the Bank's non-performing assets by purchasing Bank-owned property.

At the time the Bank failed on September 23, 2011, Menden and his business partner owed the Bank approximately $41 million and the total approximate loss related solely to the loans outlined in court records is at least $13,263,443.

Favors and Bank-Owned Property

In court papers, Menden admitted that, starting in January 2008, he and his business partner conspired with Bank insiders to purchase underperforming Bank-owned properties. Bank insiders would typically advance loan proceeds to the two men to facilitate the purchases, loans that the Bank would later write off at significant losses.

On multiple occasions, at the request of a Bank insider, Menden and his business partner would bid on Bank-owned properties being sold at a foreclosure auction up to a specific price so that the Bank could pay off the underlying loan for the properties. Again, the Bank insiders conspired to fund loans to the two men to facilitate these fraudulent transactions. In one instance, the bank funded more than $900,000 to purchase property at auction in 2008. In April 2011, the Bank obtained an appraisal that indicated that the building had no useful life, and the Bank charged off more than $500,000 of this loan as a loss.

In addition, Menden admitted that he and his partner also purchased properties owned by a Bank insider through loans facilitated by other Bank insiders to complete the purchases. In these instances, the Bank insider was either no longer liable for large loans or made a profit on the sale. As with the other loans to Menden and his partner, the Bank eventually was required to charge off these loans at a considerable loss.

Menden also admitted that he paid more than $6,000 to help upgrade a Bank conspirator's kitchen.

TARP Application

Court records indicate that in November 2008, the Bank sent to the Federal Reserve an application requesting approximately $28 million from the Troubled Asset Relief Program (TARP). Based on its regulator's concerns about the health of the Bank, the Federal Reserve later requested that the Bank withdraw its TARP application, which the Bank did.

In July 2010, the Bank entered into an agreement with the Federal Reserve and other regulators that specifically prohibited the Bank from extending, renewing, or restructuring any loans to specific troubled borrowers, which included Menden and his business partner.

Despite this prohibition, Bank insiders continued to sell and attempt to sell underperforming Bank-owned property to Menden through a nominee borrower.

345 Granby Street (Norfolk, Va.) Project

Menden admitted that he and his business partner submitted construction draw requests to the Bank with inflated amounts owed subcontractors and included work that was not completed. However, a Bank conspirator approved and funded the requests without performing an inspection or requiring any support for the requested amounts. With the help of a Bank conspirator, Menden and his business partner cashed multiple six-figure checks drawn on this construction account but used for their own personal purposes.

By July 2009, the original loan of $16 million was fully funded but the renovations were far from complete. Bank conspirators caused the Bank to approve an additional $2.45 million loan to Menden and his business partner, who used $550,000 of the loan to pay down negative balances the partners had incurred in their checking accounts.

By April 2011, the Bank charged off approximately $12.5 million of this loan relationship as a loss, and the property - which a Bank conspirator had fraudulently appraised at $20 million in 2008 - was appraised anew in September 2011 as being worth $2.8 million.

Historic Tax Credit Fraud

According to court records, Menden admitted that, from January 2006 through March 2012, he and his business partner borrowed funds from financial institutions to purchase and renovate properties that could qualify for historic rehabilitation tax credits.

Menden admitted that they purchased and renovated properties located at 345 Granby Street and 742 West Princess Anne Road in Norfolk, as well as two additional properties located at 430 Boush Street and 3700 Hampton Boulevard in Norfolk. During these renovation projects, Menden and his partner applied for federal and state historic tax credits; they had no personal use for the tax credits, but they instead sold them to investors in need of reducing their own tax liability.

In total, corporate investors paid Menden and his business partner approximately $8.7 million for illegitimate tax credits. As a result, the United States of America suffered a loss of approximately $6.2 million and the Commonwealth of Virginia suffered a loss of approximately $6.3 million.

Menden's business partner, George P. Hranowskyj, 47, of Chesapeake, Va., was charged on April 18, 2012, in a 14-count indictment involving the alleged historic tax credit fraud scheme. The public is reminded that criminal indictments are only charges and not evidence of guilt. A defendant is presumed to be innocent until and unless proven guilty.

This ongoing investigation is being conducted by SIGTARP, the FBI's Norfolk Field Office, IRS-CI, and the FDIC-OIG, with cooperation from the Virginia Department of Historic Resources and U.S. Department of the Interior National Park Service. Assistant United States Attorneys Melissa E. O'Boyle, Katherine Lee Martin, and Uzo Asonye are prosecuting the case on behalf of the United States.

Related court documents and information may be found on the website of the District Court for the Eastern District of Virginia at http://www.vaed.uscourts.gov<http://www.vaed.uscourts.gov/ or on https://pcl.uscourts.gov.

This prosecution was brought in coordination with President Barack Obama's Financial Fraud Enforcement Task Force, which was established to wage an aggressive and coordinated effort to investigate and prosecute financial crimes. SIGTARP is a member of the task force. To learn more about the President's Financial Fraud Enforcement Task Force, please visit www.stopfraud.gov.

About SIGTARP

The Office of the Special Inspector General for the Troubled Asset Relief Program investigates fraud, waste, and abuse in connection with TARP.

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