Department of Justice

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FORMER TBW CEO SENTENCED TO 40 MONTHS IN PRISON FOR FRAUD SCHEME

WASHINGTON – The former chief executive officer (CEO) of Taylor, Bean & Whitaker (TBW) was sentenced today to 40 months in prison for his role in a more than $2.9 billion fraud scheme that contributed to the failure of TBW. At one time, TBW was one of the largest privately held mortgage lending companies in the United States.

Paul Allen was sentenced today by U.S. District Judge Leonie M. Brinkema in the Eastern District of Virginia. The sentence was announced 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, Deputy 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 S. O. Song, Chief of the Internal Revenue Service-Criminal Investigation (IRS-CI).

Allen, 55, of Oakton, Va., pleaded guilty in April 2011 to one count of making false statements and one count of conspiring to commit bank and wire fraud. Co-conspirator Sean Ragland, a former senior financial analyst at TBW who reported to Allen, was also sentenced today by Judge Brinkema to three months in prison. Ragland, 37, of San Antonio, pleaded guilty in March 2011 to one count of conspiracy to commit bank and wire fraud. Allen and Ragland both admitted to conspiring with Lee Bentley Farkas, the former chairman of TBW, and others, to defraud financial institutions that had invested in Ocala Funding LLC, a facility wholly-owned by TBW.

Farkas was convicted on April 19, 2011, on 14 counts of fraud for his role in masterminding the scheme, which was one of the largest bank frauds in the country. Farkas is scheduled to be sentenced on June 27, 2011. The Securities and Exchange Commission (SEC) has a civil action pending against Farkas in the Eastern District of Virginia.

Co-conspirators Catherine Kissick, a former senior vice president of Colonial Bank and head of its Mortgage Warehouse Lending Division (MWLD); Teresa Kelly, a former operations supervisor in Colonial Bank's MWLD; Raymond Bowman, the former president of TBW; and Desiree Brown, the former treasurer of TBW, have also pleaded guilty for their participation in the scheme. Earlier this month, Kissick was sentenced to eight years in prison, Brown was sentenced to six years in prison, Bowman was sentenced 30 months in prison and Kelly was sentenced to 3 months in prison.

"As TBW's chief executive officer, Mr. Allen served as an accomplice to Lee Farkas and his massive fraud scheme," said Assistant Attorney General Breuer. "He concealed TBW's staggering deficits through false financial reports, which ultimately caused investors to lose more than $1.5 billion. Today's sentence sends a strong message that corporate fraud by senior executives will not be tolerated. At the same time, it demonstrates that substantial assistance in the government's investigation and prosecution of corporate fraud will be taken into account at sentencing."

"Paul Allen was a well-respected mortgage executive hired by Lee Farkas to be TBW's chief executive officer. Working from Oakton, Va., Mr. Allen led Ocala Funding, a TBW multi-billion dollar lending facility that was used to defraud investors of more than $1 billion," said U.S. Attorney MacBride. "Mr. Allen's sentence reflects his ultimate cooperation with this investigation, but also sends the message that unless executives expose and stop fraud when they first learn of it, they will be punished."

According to court documents and information presented at trial, Allen and Ragland participated in the scheme from early 2005 through August 2009 by distributing materially false documents to investors in Ocala Funding that misrepresented the financial condition of the facility. The fraud scheme ultimately caused investors in Ocala Funding to lose more than $1.5 billion and Colonial Bank to lose $900 million.

According to court documents and information presented at trial, TBW began running overdrafts in its master bank account at Colonial Bank because of TBW's inability to meet its operating expenses, which included payroll, servicing payments owed to third-party purchasers of loans and/or mortgage-backed securities and other obligations. In or about 2002, Farkas and other co-conspirators engaged in a series of fraudulent actions to cover up the overdrafts, first by sweeping overnight money from one TBW account with excess funds into another, and later through the fictitious "sales" of mortgage loans to Colonial Bank, a fraud scheme the conspirators dubbed "Plan B." The conspirators accomplished Plan B by selling Colonial Bank mortgage loans that did not exist or that TBW had already committed or sold to other third-party investors. As Plan B evolved, co-conspirators at TBW also caused TBW to engage in sham sales of groups of mortgage loans, known as "pools," that other entities already owned to Colonial Bank. As a result, false information was entered on Colonial Bank's books and records, giving the appearance that the bank owned interests in legitimate pools of mortgage loans, when in fact the pools had no value and could not be securitized or sold. Neither Allen nor Ragland participated in the effort to cover up TBW's overdrafts or Plan B.

Additionally, the co-conspirators at TBW caused TBW to misappropriate more than $1.5 billion in collateral from Ocala Funding. According to court documents, both Allen and Ragland played significant roles in the Ocala Funding misappropriation. The misappropriation caused Colonial Bank and the Federal Home Loan Mortgage Corporation (Freddie Mac) to falsely believe that they each had an undivided ownership interest in thousands of the same loans worth hundreds of millions of dollars.

According to court documents, the fraud scheme also included an effort by certain conspirators in the fall of 2008 to obtain $570 million in taxpayer funding through the Capital Purchase Program, a sub-program of the U.S. Treasury Department's TARP. In connection with the application, Colonial BancGroup submitted financial data and filings that included materially false information related to mortgage loan and securities assets held by Colonial Bank as a result of the fraudulent activity at TBW. Colonial BancGroup never received the TARP funding. According to court documents, Allen played a key role in causing materially false information to be submitted to and received by the government in connection with Colonial Bank's TARP application. Ragland was not aware of this aspect of the fraud scheme.

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.

"Instead of upholding his position of power and trust as CEO of TBW, Paul Allen chose the path of fraud and deception in helping facilitate the long-running fraud carried out by TBW and Colonial Bank. Fortunately, the scheme came to a halt when an attempt was made to steal more than a half billion dollars from the TARP," said Acting Special Inspector General for the TARP Romero. "Today's sentence appropriately recognizes the severity of Allen's participation in the fraud along with his cooperation in the Government's investigation."

"As a result of this complex fraud scheme, these defendants cost investors and our financial markets billions of dollars," said Assistant Director in Charge McJunkin. "Today's sentence shows that those who take advantage of investors and our banking and mortgage systems will be held accountable. The FBI will continue to work with our law enforcement partners and remain vigilant in investigating these illegal transactions."

"Today's sentencing marks the culmination of a large effort on the part of this agency and of the law enforcement and regulatory community," said Deputy Inspector General Stephens of HUD-OIG. "More importantly, however, it shows our nation that is slowly recovering from a damaged housing market that we are committed to bringing to justice those whose pernicious behavior contributed to this condition."

"The Federal Deposit Insurance Corporation (FDIC) Office of Inspector General is pleased to join our law enforcement colleagues in announcing this sentencing," said Inspector General Rymer of FDIC. "We are particularly concerned in cases like this one where fraudulent activities involving employees of Colonial Bank in association with officials of Taylor, Bean and Whitaker contributed to the failure of Colonial Bank, resulting in a $3.8 billion loss to the Deposit Insurance Fund. We are committed to continuing our investigations of such criminal misconduct to help ensure the integrity of the financial services industry and maintain the safety and soundness of the nation's financial institutions and the viability of the fund."

“Paul Allen used his extensive experience gained from employment with the government sponsored enterprises (GSEs) to assist Lee Farkas in his massive fraud scheme,” said Inspector General Linick of FHFA-OIG. “This sentence sends a strong message to individuals who would try to defraud Freddie Mac and American taxpayers, who have invested over $163 billion in the GSEs to date.”

The case is being 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 SIGTARP, FBI’s Washington Field Office, FDIC-OIG, HUD-OIG, FHFA-OIG and the IRS-CI. The department recognizes the substantial assistance of the SEC. The department also recognizes the assistance of the Financial Crimes Enforcement Network (FinCEN) of the Department of the Treasury.

This prosecution was brought in coordination with President Barack Obama’s Financial Fraud Enforcement Task Force. President Obama established the interagency Financial Fraud Enforcement 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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