# Department of Justice

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**FORMER CHAIRMAN OF TAYLOR, BEAN & WHITAKER INDICTED FOR HIS ROLE IN A MORE THAN $1.9 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 arrested last night in Ocala, Fla., and charged in a 16-count indictment for his alleged role in a more than $1.9 billion fraud scheme that contributed to the failures of Colonial Bank, one of the 50 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 charges were announced today by members of the Financial Fraud Enforcement Task Force, including Assistant Attorney General Lanny A. Breuer of the Criminal Division; U.S. Attorney Neil H. MacBride for the Eastern District of Virginia; Special Inspector General Neil Barofsky for the Troubled Asset Relief Program (SIGTARP); Assistant Director in Charge Shawn Henry of the FBI's Washington Field Office; Kenneth M. Donohue, 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); and Victor F. O. Song, Chief of the Internal Revenue Service (IRS) Criminal Investigation.

An indictment unsealed today in U.S. District Court for the Eastern District of Virginia charges Farkas, of Ocala, Fla., with one count of conspiracy to commit bank, wire and securities fraud; six counts of bank fraud; six counts of wire fraud; and three counts of securities fraud. The indictment also seeks approximately $22 million in forfeiture from Farkas.

According to the indictment and a motion seeking Farkas's detention filed in U.S. District Court for the Middle District of Florida, Farkas and his co-conspirators allegedly engaged in a scheme to misappropriate more than $400 million 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 allegedly misappropriated this money to cover TBW's operating losses. According to the government motion seeking Farkas's detention, the fraud scheme contributed to the failures of Colonial Bank and TBW. The indictment further alleges that Farkas and his co-conspirators committed wire and securities fraud in connection with their attempt to convince the United States government to provide Colonial Bank with approximately $553 million in TARP funds.

"This alleged fraud scheme is an example of the damaging and destabilizing impact financial crimes can have on our nation's financial institutions. Individuals and companies that violate the law in a reckless pursuit of profits must be held accountable for their crimes," said Assistant Attorney General Breuer. "The Department of Justice and our partners in the Financial Fraud Enforcement Task Force will continue to act vigilantly, quickly and aggressively in order to ensure that boardroom and back office fraudsters alike are brought to justice."

"Taxpayers have paid a hefty price for the crimes related to the current financial crisis, and investors in Colonial and Ocala Funding were among those directly affected by this conspiracy," said U.S. Attorney MacBride. "The indictment we are announcing today is a great example of the productive partnership the Eastern District of Virginia has with the Criminal Division's Fraud Section and of our intention to meet the Attorney General's call to aggressively pursue financial fraud cases of national significance."

"Today's indictment describes an unprecedented scheme by executives at two large financial institutions to steal more than $550 million from the American taxpayer. Due to the efforts of SIGTARP agents, our law enforcement partners, and the SEC, this scheme was stopped dead in its tracks, taxpayers were protected, and Lee Farkas has joined the growing list of financial industry executives who have been charged with TARP-related frauds.," said Special Inspector General Barofsky. "Today's charges should send a powerful message to those who try to profit criminally from our national economic crisis that SIGTARP and its partners will work tirelessly to protect the American taxpayer, and we will be relentless in our pursuit to bring such criminals to justice."

Court documents allege that the 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 allegedly transferred money between accounts at Colonial Bank to hide the overdrafts. After the overdrafts grew to tens of millions of dollars, Farkas and his co-conspirators allegedly covered up the overdrafts and operating losses by causing Colonial Bank to purchase from TBW more than $400 million in what amounted to fake mortgage loan assets, including loans that TBW had already sold to other investors and fake interests in pools of loans. Farkas and his co-conspirators allegedly caused Colonial Bank to hold these purported assets on its books at their face value when in fact the mortgage loan assets were worthless.

Court documents also allege that Farkas and co-conspirators caused TBW to hide impaired-value mortgage loans that it was unable to sell. Through a series of sham transactions, the conspirators allegedly hid impaired-value loans on Colonial Bank's books for a period of years in some cases.

According to court documents, Farkas and his co-conspirators at TBW also misappropriated hundreds of millions of dollars 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.

The court documents allege 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 allegedly sent false information to Deutsche Bank, BNP Paribas Bank and other financial institution investors to lead them to falsely believe that they had sufficient collateral backing the commercial paper they had purchased. According to court documents, in or about August 2009, Deutsche Bank and BNP Paribas Bank held approximately $1.68 billion in Ocala Funding commercial paper that had only approximately $150 million in cash and mortgage loans collateralizing it. When TBW failed in August 2009, the banks were unable to redeem their commercial paper for full value.

According to the indictment, 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 loan and securities assets held by Colonial Bank as a result of the fraudulent scheme described above.

According to the indictment, Treasury conditionally approved Colonial BancGroup's TARP application contingent on the bank raising $300 million in private capital. Farkas and his co-conspirators allegedly led an effort to raise the $300 million. On or about March 31, 2009, the conspirators falsely informed Colonial BancGroup that they had identified sufficient investors to satisfy the TARP contingency. Farkas and his co-conspirators allegedly caused $30 million to be placed in escrow, falsely claiming it represented payments by investors, when in fact Farkas and another co-conspirator had diverted $25 million of the escrow amount from Ocala Funding. The indictment alleges that Farkas and his co-conspirators committed wire and securities fraud in connection with these misrepresentations. Ultimately, Colonial BancGroup did not receive any TARP funds.

The indictment also alleges that Farkas and his co-conspirators caused Colonial BancGroup to file materially false financial data with the Securities and Exchange Commission (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 allegedly included overstated assets for mortgage loans that had little to no value that Farkas and his co-conspirators caused Colonial Bank to purchase. The indictment also alleges that Farkas and his co-conspirators 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, Farkas also personally misappropriated over $20 million from TBW and Colonial Bank.

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.

Farkas faces a maximum prison sentence of 30 years for the conspiracy charge and for each count of bank fraud. The maximum prison sentence for each count of wire fraud related to TARP is 20 years and for each count of wire fraud affecting a financial institution is 30 years. Farkas also faces a maximum sentence of 25 years in prison for each securities fraud count.

An indictment is merely a charge, and the defendant is presumed innocent until proven guilty.

In a related action, the U.S. Securities and Exchange Commission (SEC) has filed an enforcement action against Farkas in the Eastern District of Virginia.

The case is being prosecuted by Deputy Chief Patrick Stokes and Trial Attorneys Brigham Cannon, Charles Reed and 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, and the IRS Criminal Investigation. The Financial Crimes Enforcement Network (FinCEN) of the Department of the Treasury also provided support in the investigation.

This prosecution is part of efforts underway by 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.

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