

Mortgage Fraud Task Force Hits Real Estate Investors Close to Home

By Bradley S. Dornish, Esq.

Beaver Financial Services was for several years a vendor member of Acre of Pittsburgh, and several of its loan officers attended meetings each month, in their light blue shirts with beavers on them, offering to help investors obtain bank financing. The company never joined Acre of Beaver County, but helped several members there with financing as well.

Not long ago, these familiar faces disappeared from the Acre meetings. Recently, several real estate investors who formerly did business with Beaver Financial as buyers and sellers of properties, an attorney as well as at least one Beaver Financial loan officer, have been in various stages of criminal prosecution for their alleged or admitted respective roles in mortgage fraud. From the nature of the allegations, it is anticipated that more loan officers involved with the company, as well as appraisers and others will face similar prosecution.

On June 16th, 2010, Beaver County real estate attorney William Buchko was indicted by a grand jury for a single count of bank fraud in a transaction involving Beaver Financial in June and July of 2009. In the indictment, it is alleged that Buchko prepared a single false settlement sheet, mortgage and deed evidencing a phony transaction for the purchase of a single \$3.2 million dollar property, which false documents were submitted to WesBanco Bank to induce the bank to provide subsequent mortgage financing secured by the property. Buchko pled not guilty, and will go to trial facing fines up to one million dollars and imprisonment up to thirty years if convicted.

On July 14th, 2010, local real estate investor Courtney Hower pled guilty to a mortgage fraud conspiracy involving Beaver Financial, in which Hower admitted making false loan applications and represented that he made down payments which he did not make. Hower faces sentencing November 15th, and may be subject to a fine of up to \$250,000, imprisonment up to twenty years, and restitution of between \$400,000 and \$1,000,000.

On July 14, 2010, real estate investor James Ross of Beaver County pled guilty to a mortgage fraud conspiracy involving Beaver Financial, wherein Ross signed false loan applications as a borrower and false settlement

statements involving those loans. The false documents included false tax returns, false rent rolls, false invoices for improvements to the properties, fictitious leases, fictitious W-2s, false bank statements, and false financial statements. Ross faces sentencing November 15th, with fines up to \$250,000, imprisonment of up to 20 years, or both possibly. He may also have to pay restitution.

On August 9, 2010, real estate investor Ralph Esposito, a Beaver resident, pled guilty to mortgage fraud, in which he as a purchaser through his entity, SPO Capitol, purchased properties with loans through Beaver Financial. The fraud included loan applications overstating the borrowers' income and assets, false appraisals overstating the values of properties, settlement statements indicating down payments when there were none, and misrepresentation that liabilities connected with the real estate were being paid when they were not. Esposito faces sentencing December 10th, which could be up to 20 years in prison and a fine of up to \$250,000, as well as restitution.

On August 10th, former Beaver Financial loan officer Chad Stubbs was charged by the U.S. attorney's office with conspiracy to commit wire fraud in connection with loans in which he originated for Beaver Financial between September of 2007 and January of 2008. Stubbs waived indictment, and will be tried for the offenses. The sentencing range for Stubbs, if convicted, is not yet on the court website.

Besides the common thread to all of these prosecutions that Beaver Financial was involved in the loan transactions, it is striking that a lawyer is facing prosecution from a single transaction, and that most of the other defendants are the real estate investors involved in one or more transactions. The principals of Beaver Financial and the appraiser involved have yet to be prosecuted. Unlike the prior cases by the Mortgage Fraud Task Force, where every defendant had been accused of a conspiracy involving large numbers of different loans on different properties, some of the real estate investors and the attorney who allegedly participated in even a single fraudulent transaction are facing prosecution.

The investors who engaged in the conduct suggested to them by the Beaver Financial loan officers certainly got their properties with their loans. Yet they also got much more. They got to spend money on legal fees to defend themselves, and many will get room and board in Federal Prison, and big bills for fines and restitution, the money to pay back banks and others who lost money as a result of the fraud. In the end, it would have been far

cheaper for them to do fewer, legitimate real estate transactions, and not participate in the fraud.

Yet just yesterday, I met with another investor who was offered the “opportunity” to buy property for “less than its true value.” The seller offered to take back a second mortgage for 20% of an inflated sale price, and to tear up the mortgage later. The investor would get the property for only 80% of the purchase price stated in the agreement of sale, which would be given to the bank to secure what the bank thought was an 80% first mortgage loan, but was really 100% financing.

I told the investor that the extra bonus he could get with the deal was up to 20 years in prison, \$250,000 in fines and getting to pay restitution to the bank. He decided not to take the “opportunity.” I hope none of you take these types of opportunities in real estate investing. I don’t want to write about the indictments or convictions of any other Pennsylvania real estate investors, especially for transactions occurring after these articles have been written. We have so many opportunities in today’s market to benefit from low prices, low interest rates and low demand for residential and commercial property. Take those real opportunities and make money as an investor legally.

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