Description of document: Closing documents for Federal Housing Finance Agency (FHFA) Inspector general (OIG) Investigation of Fraud at Colonial Bank, 2013

Requested date: 19-February-2016

Released date: 18-March-2016

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Source of document: Federal Housing Finance Agency
FOIA Requester Service Center
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OFFICE OF INSPECTOR GENERAL
Federal Housing Finance Agency
400 7th Street, S.W., Washington DC 20024

March 18, 2016

By Electronic Mail:

RE: Freedom of Information Act

This letter responds to your February 19, 2016 request pursuant to the Freedom of Information Act (FOIA)/Privacy Act (PA), 5 U.S.C. §552, which was forwarded by the Federal Housing Finance Agency (FHFA) and received by the Federal Housing Finance Agency's Office of Inspector General (FHFA-OIG) on February 19, 2016 for separate processing and response in accordance with FHFA's FOIA regulations at 12 C.F.R. Part 1202. Your request has been assigned the tracking number 2016-FOIA-00006 and seeks the following information:

- ***A copy of the closing memo, final report, referral memo, referral letter and report of investigation (ROI) for the following FHFA OIG closed investigation: - I-11-0010. You may omit enclosures, attachments, exhibits and appendices.***

FHFA-OIG has conducted a search and has determined that it possesses **5** pages of records responsive to your request. These are attached.

Certain information contained in these records have been exempt and withheld under the following FOIA Exemptions:

- (b)(7)(C), Permits withholding of records when an unwarranted invasion of personal privacy could reasonably be expected.

- (b)(7)(E), Permits withholding of records when techniques and procedures for law enforcement investigations or process would be disclosed or provided such disclosure could reasonably be expected to risk circumvention of law.

This is the final decision on your request. If you believe this decision denies your request in whole or in part, you may appeal it in writing within 30 days, per 12 C.F.R. § 1202.9, by writing directly to the FOIA Appeals Officer via electronic mail, mail, delivery service, or facsimile. Your appeal must cite the applicable tracking number(s) for the request(s) you contend to have been denied. Your appeal must include a copy of the request(s) you contend to have been denied, a copy of the decision letter, and a statement of circumstances, reasons, or arguments you believe support disclosure of the requested record(s). Your appeal must also be clearly marked "FOIA Appeal: FHFA-OIG." The electronic mail address is: foia@fhfa.gov. For mail or delivery service, the mailing address is: FOIA Appeals Officer, Federal Housing Finance Agency, 400 7th Street, SW, Washington, DC 20024. The facsimile number is: (202) 649-1073.

Sincerely,

Katarina Hake
FOIA/Privacy Act Officer

FEDERAL HOUSING FINANCE AGENCY
OFFICE OF INSPECTOR GENERAL

Report of Investigation (ROI)

Title:	LEE FARKAS; TBW; COLONIAL BANK
Type of Investigation:	CRIMINAL
Type of Report:	FINAL
Period of Investigation:	September 10, 2011 through November 13, 2013

Basis for Investigation

This investigation was opened on January 10, 2011, by the Federal Housing Finance Agency, Office of Inspector General. Beginning in early 2002, Taylor, Bean, and Whitaker (TBW), a wholesale mortgage lender, began to experience significant cash flow problems. It was alleged that in an effort to cover these shortfalls, a group of co-conspirators devised various schemes that involved Colonial Bank and Ocala Funding LLC (Ocala Funding), the latter of which was a special purpose entity designed for TBW to purchase home mortgages. By the middle of 2009, the co-conspirators misappropriated approximately $3 billion from Colonial Bank and Ocala Funding, and attempted to secure $570 million from the Troubled Asset Relief Program (TARP).

Details of Investigation

This investigation involved the following individuals:

1. Lee Farkas, President, TBW
2. Paul Allen, Chief Executive Officer, TBW
3. Raymond Bowman, Vice President/Director of Secondary Marketing, TBW
4. Delton De Armas, Chief Financial Officer, TBW
5. Teresa Kelley, Operations Supervisor, Colonial Bank
6. Catherine Kissick, Vice President, Colonial Bank
7. Sean Ragland, Senior Financial Analyst, TBW
8. Desiree Brown, Vice President, TBW

Distribution:	*No.*	Case No. I-11-0010	
Inspector General		Signature of Person Making Report	
Ass't U.S. Attorney		Signature of Person Examining Report	(b)(7)(C)
Other (*specify below*)		Title Acting SAC	Office Washington DC
		Div. Office Investigations	Date of Report 11/13/2013

Form FH4-12 ROI (Word)

These individuals were charged in a criminal scheme to misappropriate more than $400 million from Colonial Bank's Mortgage Warehouse Lending Division in Orlando, Florida, and approximately $1.5 billion from Ocala Funding to cover TBW's operating losses. The fraud scheme contributed to the operational failure of both Colonial Bank and TBW. The defendants also committed wire and securities fraud in connection with their attempt to convince the government officials to provide Colonial Bank with approximately $570 million in TARP funds.

The scheme began in 2002, when the 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 transferred money between accounts at Colonial Bank to hide the overdrafts. When the overdrafts grew to more than $100 million, Farkas and his co-conspirators covered up the overdrafts and operating losses by causing Colonial Bank to purchase from TBW more than $400 million in what amounted to worthless mortgage loan assets, including loans that TBW had already sold to other investors, as well as fictitious pools of loans supposedly being formed into securities. The co-conspirators caused Colonial Bank to report these purported assets on its books at their face value, when in fact the mortgage loan assets were worthless.

The 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 defendants working at TBW 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 co-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.

On or about August 2009, Deutsche Bank and BNP Paribas Bank held approximately $1.68 billion in Ocala Funding commercial paper that was only collateralized with approximately $150 million in cash and mortgage loans. When TBW failed in August 2009, the total collateral deficit in Ocala Funding was approximately $1.5 billion. The defendants also 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.

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, a sub-program of the 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. The approval of Colonial BancGroup's TARP application was contingent on the bank raising $300 million in private capital. Some of the co-conspirators then allegedly led an effort to raise the $300 million.

On or about March 31, 2009, the co-conspirators falsely informed Colonial BancGroup that they had identified sufficient investors to satisfy the TARP contingency. They caused $30 million to be placed in escrow, falsely claiming it represented payments by investors, when in fact the co-conspirators had diverted $25 million of the escrow amount from Ocala Funding. Ultimately, Colonial BancGroup did not receive any TARP funds.

The co-conspirators also caused Colonial BancGroup to file materially false financial data with the Securities and Exchange Commission (SEC) regarding assets listed in public filings. 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.

Prosecutive Disposition

This case was prosecuted by the Department of Justice in the Eastern District of Virginia. The following defendants were charged and sentenced in connection with this investigation. See Attachment A for the specific amounts of restitution ordered.

Lee Farkas, President, TBW, was convicted by trial of conspiracy to commit bank fraud, wire fraud, and securities fraud, six counts of bank fraud, four counts of wire fraud, and three counts of securities fraud. On June 30, 2011, Farkas was sentenced to 360 months of imprisonment, 39 years of supervised release, and a $1,400 special assessment fee. See Attachment A for the amount of ordered restitution.

Paul Allen, CEO, TBW, plead guilty to conspiracy to commit bank fraud and wire fraud, and one count of false statements. On June 21, 2011, Allen was sentenced to 40 months of imprisonment, 4 years of supervised release, and a $200 special assessment fee.

Raymond Bowman, Vice President and Director of Secondary Marketing, TBW, plead guilty to conspiracy to commit bank fraud, wire fraud, and securities fraud, and one count of false statements. On June 10, 2011, Bowman was sentenced to 30 months of imprisonment, 4 years of supervised release, and a $200 special assessment fee.

Delton De Armas, Chief Financial Officer, TBW, plead guilty to conspiracy to commit bank and wire fraud, and one count of false statements. On June 15, 2012, De Armas was sentenced to 120 months of imprisonment, 6 years of supervised release, and a $200 special assessment fee. De Armas was ordered to pay restitution to the following entities: $1,201,785,000 to Deutsche Bank, $898,873,958 to FDIC, and $500,000 to BNP Paribas.

Teresa Kelley, Operations Supervisor, Colonial Bank, plead guilty to conspiracy to commit bank fraud, wire fraud, and securities fraud. On June 11, 2011, Kelley was sentenced to 3 months of imprisonment, 3 years of supervised release (9 months of home confinement), and a $100 special assessment fee.

Catherine Kissick, Vice President, Colonial Bank, plead guilty to conspiracy to commit bank fraud, wire fraud, and securities fraud. On June 17, 2011, Kissick was sentenced to 96 months of imprisonment, 3 years of supervised release, and a $100 special assessment fee.

Sean Ragland, Senior Financial Analyst, TBW, plead guilty to conspiracy to commit bank fraud and wire fraud. On June 21, 2011, Ragland was sentenced to 3 months of imprisonment, 2 years of supervised release, 9 months of home confinement, and a $100 special assessment fee.

Desiree Brown, Vice President, TBW, plead guilty to conspiracy to commit bank fraud, wire fraud, and securities fraud. On June 10, 2011, Brown was sentenced to 72 months of imprisonment, 3 years of supervised release, and a $100 special assessment fee.

Systemic Implications

(b)(7)(E)

Case Title: LEE FARKAS;TBW; COLONIAL BANK
Case Reference No.: I-11-0010

(b)(7)(E)

The Audit Section for FHFA-OIG issued a report stating that contingency planning may have reduced Freddie Mac's losses. For example, Freddie Mac could have implemented a contingency plan that outlined procedures to monitor and curtail TBW's existing or new activities when it learned that TBW's financial condition was deteriorating. FHFA recognizes that contingency planning can reduce the Enterprises' counterparty risk exposure, but FHFA has not published written policy guidance for the Enterprises requiring such contingency plans or describing what should be included in them.