



Florida Loan Officer Sentenced in Connection with \$2.5 Million Reverse Mortgage and Loan Modification Scheme

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 8:33 AM December 20, 2011

The Federal Bureau of Investigation (FBI) on December 19, 2011 released the following:

“Wifredo A. Ferrer, United States Attorney for the Southern District of Florida, Tony West, Assistant Attorney General for the Civil Division of the U.S. Department of Justice, Timothy A. Mowery, Special Agent in Charge, U.S. Department of Housing and Urban Development, Office of Inspector General (HUD-OIG), Jose A. Gonzalez, Special Agent in Charge, Internal Revenue Service, Criminal Investigation Division (IRS-CID), Henry Gutierrez, Inspector in Charge, U.S. Postal Inspection Service, John V. Gillies, Special Agent in Charge, Federal Bureau of Investigation (FBI), Miami Field Office, and Tom Grady, Commissioner, State of Florida’s Office of Financial Regulation, announce that a Florida loan officer was sentenced today by U.S. District Court Judge William P. Dimitrouleas in Ft. Lauderdale, Fla., for his participation in a nationwide \$2.5 million reverse mortgage fraud scheme.

John Incandela, 25, of Palm Beach, Fla., was sentenced to 41 months in prison, three years of supervised release and ordered to pay over \$1.9 million in restitution. Louis Gendason, 42, of Delray Beach, Fla., is scheduled to be sentenced on Jan. 20, 2012.

A reverse mortgage, also known as a Home Equity Conversion Mortgage, allows borrowers who are at least 62 years of age to convert the equity in their homes into a monthly stream of income, or a line of credit. Unlike the traditional mortgage loan scenario, in which borrowers make monthly payments to a mortgage lender in satisfaction of their outstanding loan, in a reverse mortgage loan scenario, the mortgage lender purchases borrowers’ equity and makes installment payments to the borrower.

According to the information and statements made during the August 2011 hearing in the case, from May 2009

through November 2010, the defendants engaged in a reverse mortgage scheme that defrauded unwitting borrowers, Genworth Financial Home Equity Access Inc. and the Federal Housing Administration (FHA). Working as a loan officer, Incandela, along with co-defendant Marcos Echevarria, 29, of Palm Beach, solicited seniors to refinance their existing mortgages with a reverse mortgage loan financed by Genworth. To qualify the borrowers for these loans, co-defendant Gendason altered real estate appraisals to fraudulently inflate the value of the borrowers’ properties. In fact, however, none of the borrowers had sufficient equity in their properties to qualify for a reverse mortgage. The defendants then submitted the fraudulently inflated appraisals to Genworth. Based on the false documentation, Genworth approved and the FHA insured more than \$2.5 million in reverse mortgage loans.

As part of the scheme, co-defendant Kimberly Mackey, 47, of Pittsburgh, a licensed title agent, fraudulently closed the Genworth loans and did not pay off the borrowers’ existing mortgage loans. Mackey attempted to conceal the fraudulent loan closings by preparing false settlement documents that showed that the existing mortgages had, in fact, been paid off. The defendants divided up the loan proceeds and used the money for their personal benefit. On Nov. 3, 2011, Mackey and Echevarria received prison sentences of 60 and 24 months, respectively, for their roles in the scheme.

The defendants further engaged in a loan modification scheme to conceal the existence of the Genworth reverse mortgage transactions from the original mortgage lenders, whose loans remained unpaid. To this end, Gendason, Incandela and Mackey conspired to create fictitious offers to buy some of the borrowers’ properties, in the form of “short sales.” A short sale is a sale of real estate in which the sale proceeds are less than the balance owed on the loan to the mortgage lender, but avoids foreclosure and related costs. In other instances, to hide the existence of

the Genworth reverse mortgage loan from the original lenders, the defendants made monthly mortgage payments to the borrowers’ original lenders.

The case was investigated by the U.S. Department of Housing and Urban Development Office of Inspector General, the U.S. Postal Inspection Service, the FBI and the Florida’s Office of Financial Regulation, with assistance from the U.S. Secret Service and Genworth Financial Home Equity Access. The case was prosecuted by Kevin J. Larsen, a Trial Attorney in the Justice Department’s Consumer Protection Branch, and Assistant U.S. Attorneys Jeffrey H. Kay and Thomas Lanigan of the Southern District of Florida.

A copy of this press release may be found on the website of the United States Attorney’s Office for the Southern District of Florida at <http://www.usdoj.gov/usao/fls>. Related court documents and information may be found on the website of the District Court for the Southern District of Florida at <http://www.flsd.uscourts.gov> or on <http://pacer.flsd.uscourts.gov>.”

Douglas McNabb – McNabb Associates, P.C.’s

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Douglas McNabb and other members of the U.S. law firm practice and write and/or report extensively on matters involving Federal Criminal Defense, INTERPOL Red Notice Removal, International Extradition and OFAC SDN Sanctions Removal.

The author of this blog is Douglas McNabb. Please feel free to contact him directly at mcnabb@mcnabbassociates.com or at one of the offices listed above.



Manhattan U.S. Attorney Announces Guilty Plea of Former Controller at Bernard L. Madoff Investment Securities LLC

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 9:27 AM December 20, 2011

The Federal Bureau of Investigation (FBI) on December 19, 2011 released the following:

“Preet Bharara, the United States Attorney for the Southern District of New York, announced today that ENRICA COTELLESA-PITZ, the former Controller at Bernard L. Madoff Investment Securities LLC (“BLMIS”), pled guilty in Manhattan federal court to a fourcount Superseding Information charging her with conspiracy, as well as substantive counts of falsifying books and records of a broker-dealer, falsifying books and records of an investment adviser, and making false filings to the Securities and Exchange Commission (“SEC”). COTELLESA-PITZ pled guilty before U.S. District Judge Laura Taylor Swain. As part of her guilty plea, COTELLESA-PITZ has agreed to cooperate with the Government in its ongoing investigation of the fraud that occurred at BLMIS.

According to the Superseding Information, plea agreement and other documents filed in connection with the case:

COTELLESA-PITZ was employed at BLMIS from 1978 through December 11, 2008. In 1998, COTELLESA-PITZ became the Controller of BLMIS. Beginning in the late 1990s until the collapse of BLMIS in 2008, COTELLESA-PITZ, allegedly along with other coconspirators, created false and misleading entries in the books and records of BLMIS and in reports filed with the SEC. The false and misleading entries were used to disguise transfers of funds from the BLMIS Investment Advisory (“IA”) business to BLMIS’s Market Making and Proprietary Trading operations. The transfers made the Market Making and Proprietary Trading operations of BLMIS appear profitable when they were not.

In addition, COTELLESA-PITZ,

allegedly along with other co-conspirators, created false and fraudulent documents that were given to the SEC in connection with its audit of BLMIS. COTELLESA-PITZ, and allegedly other co-conspirators, also created false and fraudulent documents in connection with tax audits of Bernard L. Madoff.

* * *

COTELLESA-PITZ, 53, faces a statutory maximum sentence of 50 years in prison. The statutory maximum sentences for each of the charged offenses are set forth in the attached chart. COTELLESA-PITZ is also subject to mandatory restitution and criminal forfeiture and faces criminal fines up to twice the gross gain or loss derived from the offense. Pursuant to the agreements entered into with the Government, COTELLESA-PITZ has agreed to forfeiture of more than \$97 billion. The net proceeds from the sale of the forfeited property will be used to compensate victims of the fraud, consistent with applicable Department of Justice regulations.

Following the guilty plea, Judge SWAIN released COTELLESA-PITZ on a \$2.5 million bond on the condition that the bond be co-signed by eight financially responsible individuals and secured by \$800,000 in cash and property. In addition, COTELLESA-PITZ’s travel is restricted to the Southern and Eastern Districts of New York. COTELLESA-PITZ has surrendered her passport.

Judge Swain set a sentencing date for COTELLESA-PITZ of June 22, 2012.

Mr. Bharara praised the investigative work of the Federal Bureau of Investigation. He also thanked the U.S. Securities and Exchange Commission and the Internal Revenue Service, Criminal Investigations Division for their assistance.

These cases were brought in coordination with President Barack Obama’s Financial Fraud Enforcement Task Force, on which Mr. Bharara serves as a Co-Chair of the Securities and Commodities Fraud

Working Group. 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.

The case is being handled by the Office’s Securities and Commodities Fraud Task Force. Assistant United States Attorneys Lisa A. Baroni, Julian J. Moore, Arlo Devlin-Brown, Barbara A. Ward, and Matthew L. Schwartz are in charge of the prosecution.”

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Three Operators of Miami Home Health Company Plead Guilty in \$60 Million Health Care Fraud Scheme

(USDOJ: Justice News)

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Roberto Gonzalez, 61, Olga Gonzalez, 57, and their son, Fabian Gonzalez, 39,

each pleaded guilty before U.S. District Judge Ursula Ungaro in the Southern District of Florida to one count of conspiracy to commit health care fraud.



**Deputy Assistant Attorney
General Roy L. Austin Jr.
Speaks at the East Haven Police
Department Investigative
Findings Announcement**

(USDOJ: Justice News)

Submitted at 10:34 AM December 20, 2011

"Based on our investigation, we find that the East Haven Police Department engages in discriminatory policing against Latinos," said Deputy Assistant Attorney General Austin.