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TWO SUBURBAN MEN ALLEGEDLY OBTAINED $16 MILLION FROM 300 INVESTORS IN FRAUDULENT REAL ESTATE INVESTMENT SCHEME

CHICAGO — Two businessmen who operated a defunct northwest suburban real estate investment company were charged today with engaging in an alleged investment fraud scheme that obtained more than $16 million from more than 300 investors. The defendants, **Michael Morawski** and **Frank Constant**, were each charged with one count of mail fraud and one count of wire fraud in a criminal complaint, announced Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, and Robert D. Grant, Special Agent-in-Charge of the Chicago Office of the Federal Bureau of Investigation. The defendants, who operated Michael Franks LLC, and several related business entities in Palatine, allegedly misused money they raised from investors for their own benefit and to make Ponzi-type payments to earlier investors.

Morawski, 53,of Sleepy Hollow, and Constant, 57, of West Dundee, are scheduled to voluntarily appear at 11 a.m. tomorrow before U.S. Magistrate Judge Sheila Finnegan in U.S. District Court.

According to the charges, Michael Franks offered investors passive ownership in multi-family residential properties, including apartment building complexes located in Illinois, Texas and

Alabama. Morawski and Constant offered two types of investments to the public: in one, they represented that investors' funds would be used to acquire, improve and operate specific apartment complexes for a period of three to five years, and for the most part, investors were told they would earn between seven and nine percent annually, and potentially more upon the sale of the property; in the second, they offered real estate-based "funds" to investors, which were executed using promissory notes, and often offered an annual interest payment of between 8 and 30 percent per year to investors. Through these purported investments, the defendants raised more than $16 million from more than 300 investors between 2006 and 2010.

The charges allege Morawski and Constant, through Michael Franks, engaged in a scheme to defraud investors about the nature of their investments and their use of investor funds. It alleges that they engaged in a Ponzi-scheme by continually using funds raised from new investors to pay purported returns to earlier investors, all of which they concealed from both new and earlier investors.

In November 2010, Morawski and Constant turned over Michael Franks, its real estate projects and investment funds to a company called Commercial Recovery Assets to act as a private trustee/receiver. Since then, federal agents learned that many of the real estate properties have gone into foreclosure and the secured lending banks will likely take possession of the properties and any proceeds, leaving investors to lose much, if not all, of the principal they invested in Michael Franks.

The charges allege that certain real estate projects undertaken by Michael Franks performed poorly and failed to generate enough revenue to meet operating expenses. The defendants began transferring funds from various investments to support poorly-performing projects and to pay earlier investors with funds raised from new investors, without disclosing this information, the charges add.

At the same time, they allegedly misused investor funds to pay employees, to make commission payments to individuals who raised new funds, and to pay themselves, as well as to make payments for Constant's company car, country club payments, and to extend loans to certain friends of Morawski.

The government is being represented by Assistant U.S. Attorney Sunil Harjani.

The investigation falls under the umbrella of the Financial Fraud Enforcement Task Force, which 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 on the task force, visit: www.StopFraud.gov.

Each count of mail fraud and wire fraud carries a maximum penalty of 20 years in prison and a $250,000 fine, and restitution is mandatory. The Court may also impose a fine totaling twice the loss to any victim or twice the gain to the defendant, whichever is greater. If convicted, however, the Court must impose a reasonable sentence under the advisory United States Sentencing Guidelines.

A complaint contains only charges and is not evidence of guilt. The defendants are presumed innocent and are entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

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