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FORMER CEO OF COBALT FINANCIAL, INC., SENTENCED IN MANHATTAN FEDERAL COURT TO THREE YEARS IN PRISON FOR REAL ESTATE FRAUD SCHEME

PREET BHARARA, the United States Attorney for the Southern District of New York, announced that WILLIAM B. FOSTER, the former owner, President, and CEO of Cobalt Financial, Inc., was sentenced today to three years in prison on charges stemming from a fraud that raised more than $23 million from over 250 investors in private placement real estate offerings. FOSTER was sentenced in Manhattan federal court by U.S. District Judge KIMBA M. WOOD, who presided over the three-week jury trial at which FOSTER, along with co-defendants MARK ALAN SHAPIRO and IRVING STITSKY, were found guilty.

According to the Superseding Indictment, the evidence at trial, and statements made at the sentencing proceeding:

Beginning in late 2003, FOSTER, STITSKY, and SHAPIRO founded a group of companies that operated under the name "Cobalt," which purportedly engaged in the acquisition and development of multi-family real estate properties throughout the United States. Through the Cobalt entities, FOSTER, STITSKY, and SHAPIRO fraudulently induced victims to invest by, among other things, (a) misrepresenting Cobalt's operating history; (b) failing to inform prospective investors that Cobalt was owned and controlled by STITSKY and SHAPIRO, both convicted felons; and (c) misrepresenting and causing others to misrepresent Cobalt's purported ownership interests in certain properties to prospective investors. In fact, Cobalt was a new company with little or no record of real estate investment success, was managed and controlled by STITSKY and SHAPIRO, and did not own several of the properties that it claimed to own.

In order to carry out their scheme, FOSTER, STITSKY, and SHAPIRO established Cobalt’s corporate headquarters in Springfield, Massachusetts, and a telemarketing center in Great Neck, New York. FOSTER, who worked out of Cobalt’s Massachusetts office, was identified in the Cobalt marketing materials as the individual responsible for overseeing all aspects of the operations of all of the Cobalt entities.

The defendants and their employees solicited funds from investors by making false and misleading oral and written representations about the investment for which the investors' funds were solicited, including false representations about: (i) the identities and relevant background information about the individuals controlling the Cobalt entities; (ii) the identities of Cobalt's business partners; (iii) the properties that Cobalt owned; (iv) the properties in which investor funds were to be invested; (v) the history of the Cobalt entities; (vi) the amount of management fees to be taken by Cobalt entities from the investor funds; (vii) the uses of the management fees taken by Cobalt entities from the investor funds; and (viii) SHAPIRO's educational background. FOSTER, STITSKY, and SHAPIRO then caused millions of dollars of investors' funds to be transferred to accounts for the defendants' personal benefit.

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In addition to the prison term, Judge WOOD sentenced FOSTER, 70, of East Hampton, Massachusetts, to three years of supervised release and ordered him to pay $22 million in restitution and to forfeit $23 million in proceeds from his offenses.

IRVING STITSKY, 55, of Milan, New York, was sentenced to 85 years in prison on July 6, 2010. SHAPIRO, 50, of Avon, Connecticut, is scheduled to be sentenced on October 14, 2010.

During the sentencing proceeding, Judge WOOD stated: "It is a very serious, egregious scheme that defrauded hundreds of people of their hard-earned money. Some people in fact face financial ruin." Of Foster's role, Judge Wood said, "Mr. Foster was in a position of trust with respect to the investors and it is a position of trust that he abused."

Mr. BHARARA praised the work of the Federal Bureau of Investigation in this case.

This case was 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.

This case is being handled by the Office's Securities and Commodities Fraud Task Force. Assistant U.S. Attorney MARC P. BERGER is in charge of the prosecution.

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