

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	)	Case No. 1:12cr0096
	)	
v.	)	Count 1: Conspiracy
	)	(18 U.S.C. § 371)
DELTON DE ARMAS,	)	
	)	Count 2: False Statements
Defendant.	)	(18 U.S.C. § 1001)
	)	

CRIMINAL INFORMATION

THE UNITED STATES CHARGES THAT:

Count 1

(Conspiracy to Commit Bank Fraud and Wire Fraud)

1. From in or about 2005 through in or about August 2009, in the Eastern District of Virginia and elsewhere, the defendant

DELTON DE ARMAS

did knowingly and intentionally combine, conspire, confederate, and agree with others known and unknown to commit certain offenses against the United States, namely:

- a. bank fraud, that is, to knowingly and intentionally execute a scheme and artifice to defraud a financial institution, and to obtain any of the moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, a financial institution, by means of materially false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1344; and,

b. wire fraud, that is, having intentionally devised and intending to devise a scheme and artifice to defraud a financial institution, and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, to knowingly transmit and cause to be transmitted, by means of wire communication in interstate commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

2. Among the manner and means by which defendant DE ARMAS and others would and did carry out the conspiracy included, but were not limited to, the following:

a. A co-conspirator tracked and reported to DE ARMAS the size of a collateral deficit (the "hole") in Taylor Bean & Whitaker Mortgage Corp. (TBW) financing facility Ocala Funding LLC.

b. In an effort to conceal the hole from Ocala Funding's investors, a co-conspirator and DE ARMAS subordinate, with DE ARMAS's consent, produced reports that concealed the shortfall.

c. DE ARMAS and co-conspirators created a false theory for the Ocala Funding collateral shortfall, termed "loans in transit" or "intercompany receivable," and used this explanation to mislead investors into believing there was no such collateral shortfall.

d. DE ARMAS and co-conspirators falsified mortgage loan data to inflate the valuations of TBW's mortgage servicing rights (MSRs) in order to ensure the MSRs were sufficient to collateralize a TBW line of credit.

e. DE ARMAS instructed subordinates to falsify a loan participation receivable on TBW's books in order to inflate TBW's assets in financial statements provided to Ginnie Mae, Freddie Mac, Colonial Bank, and others, who relied on such financial statements in their dealings with TBW.

f. TBW conspirators caused false statements to be made to the FDIC regarding the identity of potential investors in a \$300 million capital raise on behalf of Colonial BancGroup, Inc., in an effort to secure the bank approximately \$550 million in TARP funding. The federal government had made the capital raise a prerequisite to the bank receiving the TARP funding.

3. In furtherance of the conspiracy and to effect the objects thereof, DE ARMAS and co-conspirators committed or caused others to commit the following overt acts, among others, in the Eastern District of Virginia and elsewhere:

a. On or about May 15, 2008, a co-conspirator sent by email from TBW in Ocala Florida, to DE ARMAS, to a co-conspirator in the Eastern District of Virginia, and to investors and other third parties, an Ocala Funding facility report that inflated the assets reportedly held in Ocala Funding by approximately \$680 million.

(All in violation of Title 18, United States Code, Section 371.)

Count 2

(False Statements)

1. On or about July 6, 2009, in the Eastern District of Virginia and elsewhere, the defendant

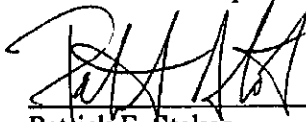
DELTON DE ARMAS

sent to Ginnie Mae, a wholly-owned government corporation within the U.S. Department of Housing and Urban Development, a letter in which DE ARMAS knowingly and intentionally omitted material facts related to the delay in TBW's submission of audited financial statements, as required by the Guaranty Agreement between TBW and Ginnie Mae.

(In violation of Title 18, United States Code, Sections 1001 & 2.)

DENIS J. MCINERNEY  
Chief, Fraud Section  
Criminal Division  
United States Department of Justice

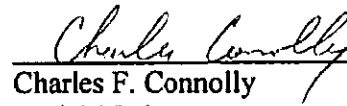
By:



Patrick F. Stokes  
Deputy Chief  
Robert A. Zink  
Trial Attorney

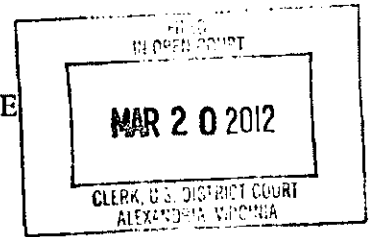
NEIL H. MACBRIDE  
United States Attorney

By:



Charles F. Connolly  
Paul J. Nathanson  
Assistant United States Attorneys

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UNITED STATES OF AMERICA )  
 )  
 v. )  
 )  
 DELTON DE ARMAS, )  
 )  
 Defendant. )

CRIMINAL NO. 1:12cr0096

**STATEMENT OF FACTS**

The United States and the defendant, DELTON DE ARMAS, agree that had this matter proceeded to trial the United States would have proven the facts set forth in this Statement of Facts beyond a reasonable doubt. Unless otherwise stated, the time periods for the facts set forth herein are at all times relevant to the charges in the Information.

**I. OVERVIEW**

1. In or about June 2000, DE ARMAS joined Taylor, Bean & Whitaker Mortgage Corp. (TBW), in Ocala, Florida, as its Chief Financial Officer. DE ARMAS was licensed as a certified public accountant in or around 2004. DE ARMAS reported to Lee Farkas, the Chairman of TBW, and later to the Chief Executive Officer, Paul Allen.

2. From in or about 2005 through in or about August 2009, co-conspirators, including DE ARMAS, engaged in a scheme to defraud investors in Ocala Funding. One of the goals of the scheme to defraud was to mislead investors and auditors about Ocala Funding's assets. This scheme allowed certain individuals at TBW to misappropriate over \$1 billion in collateral from Ocala Funding. Although DE ARMAS was not involved in the misappropriation of the funds, in participating in the scheme described below, DE ARMAS knowingly and intentionally

participated in the issuance of false financial reports which overstated the assets in Ocala Funding in order to mislead investors in Ocala Funding to invest in the facility and/or to dissuade them from pulling their investments out of the facility.

## II. OCALA FUNDING

3. In or about January 2005, TBW established a wholly-owned special purpose entity called Ocala Funding. Ocala Funding was a bankruptcy-remote facility designed to provide TBW additional funding for mortgage loans. The facility obtained funds for mortgage lending from the sale of asset-backed commercial paper to investors.

4. Ocala Funding was managed by TBW and had no employees of its own. DE ARMAS had accounting responsibility for TBW and Ocala Funding. DE ARMAS knew and understood that Ocala Funding was a bankruptcy remote facility and that its assets, including mortgage loans and cash, had to be greater than or equal to its liabilities, including outstanding commercial paper held by investors and a relatively small amount of subordinated debt.

5. Shortly after Ocala Funding was established, DE ARMAS was told by a co-conspirator that there was a shortage of assets in Ocala Funding and that by in or around September 2006, the collateral deficit had grown to about \$150 million. By September 2007 the deficit had grown to about \$500 million, and by June 2008 the deficit had grown to over \$700 million. As DE ARMAS knew, these collateral deficits were misrepresented in Ocala Funding's financial statements and, as a result, in TBW's financial statements as well.

6. DE ARMAS was told by Sean Ragland and others that cash from Ocala Funding was being used by TBW for purposes unrelated to Ocala Funding.

7. DE ARMAS knew that, as part of the effort to cover up the collateral shortfall and to mislead investors, Sean Ragland, who reported to DE ARMAS, produced reports that

concealed the shortfall in Ocala Funding. DE ARMAS knew, both from discussions with co-conspirators and via the receipt of emails, that these materially misleading reports were sent to Ocala Funding investors and to other third parties. DE ARMAS made no effort to object to, or correct, these reports even though he knew that the books of Ocala Funding and TBW did not adequately support the information given to these third parties.

8. DE ARMAS and Paul Allen also created a false explanation for the deficit in Ocala Funding's collateral. DE ARMAS and co-conspirators used the terms "loans in transit" or "intercompany receivable," among others, to explain to investors and regulators that there was no collateral shortfall in Ocala Funding, when in fact DE ARMAS knew there was a shortfall.

9. On or about June 30, 2008, TBW restructured the Ocala Funding facility. The new facility consisted of two investors, Deutsche Bank and BNP Paribas, and was capped at \$1.75 billion. At that time, Ocala Funding had a collateral deficit of approximately \$700 million. DE ARMAS understood that cash from the new investors was to be used to pay down commercial paper investors in the old facility.

10. In or about late 2008, DE ARMAS learned that Farkas had directed Sean Ragland who reported to DE ARMAS to delay making any pay-downs of Ocala Funding loans. DE ARMAS described this process to Ragland as "FIFO" in an effort to mask the collateral shortfall and avoid the potential consequences of detection, and DE ARMAS made no effort to object to or correct Farkas' directions to Ragland.

11. At or about the time that TBW ceased operations in August 2009, Ocala Funding had outstanding commercial paper of approximately \$1.7 billion. DE ARMAS was told by Paul Allen shortly thereafter that Ocala Funding had less than \$200 million in collateral.

12. As a result of the Ocala Funding fraud scheme, Freddie Mac, Colonial Bank, and

the Ocala Funding investors believed they had an undivided ownership interest in thousands of the same mortgage loans.

13. DE ARMAS did not personally receive any funds misappropriated from Ocala Funding or otherwise benefit from the fraud scheme, though he did receive salary and perquisites associated with his work at TBW generally.

### III. MSR VALUATIONS

14. TBW used its mortgage servicing rights (MSRs) to collateralize a working capital line of credit at Colonial Bank. In order to ensure that the MSRs were sufficient to collateralize the working capital line, TBW retained third-party companies to conduct periodic MSR valuations.

15. On a number of occasions, the MSRs were not sufficient and DE ARMAS, Farkas, and other co-conspirators changed the mortgage loan data in order to inflate the MSR valuations specifically to avoid a margin call. Other co-conspirators then provided the inflated valuation and borrowing base to third parties in order to meet the necessary collateral thresholds.

### IV. FALSE TBW FINANCIAL STATEMENTS

16. In or about the spring of 2008, DE ARMAS directed Sean Ragland to materially inflate, without proper substantiation, a loan participation receivable on the books of TBW. The effect of this "plug" was to substantially and materially increase the assets TBW allegedly owned. DE ARMAS knew the receivable figure was false and not supported by documentation at TBW. DE ARMAS later learned that Catherine Kissick of Colonial Bank had confirmed the "plug" figure as accurate in connection with TBW's audit procedures.

17. DE ARMAS knew that TBW provided materially inflated financial statements containing the falsified loan participation receivable to Ginnie Mae and Freddie Mac for purposes



of renewing TBW's authority to sell and service securities guaranteed by Ginnie Mae and Freddie Mac. DE ARMAS also knew that the materially inflated financial statements were provided to Colonial Bank and other banks.

18. In or about mid-2008, DE ARMAS knowingly caused TBW to send materially inflated financial statements to Ginnie Mae and Freddie Mac, which were transmitted through the Eastern District of Virginia. DE ARMAS knew that the financial statements were materially inflated because, among other things, an entry in the financial statements reflected the loan participation receivable that had been materially inflated at DE ARMAS's direction.

#### V. FALSE STATEMENTS TO HUD

19. Pursuant to applicable Guaranty Agreements between TBW and Ginnie Mae, TBW was required to submit to Ginnie Mae, a wholly-owned government corporation within the U.S. Department of Housing and Urban Development, by June 30, 2009, audited financial statements for TBW's fiscal year ending on March 31, 2009.

20. In or about mid-June 2009, TBW's independent auditor, Deloitte LLP (Deloitte), notified certain executives at TBW that Deloitte had serious concerns about certain debt transactions between TBW and Colonial Bank. Deloitte also recommended that TBW retain outside counsel to conduct an independent investigation into the matter. On or around June 19, 2009, TBW retained the law firm of Troutman Sanders LLP (Troutman) to investigate the issues raised by Deloitte.

21. DE ARMAS reviewed and edited a letter that was sent to Ginnie Mae by Paul Allen on or about July 6, 2009. The letter attributed TBW's delay in submitting audited financial statements to Ginnie Mae to TBW's switch to a compressed 11-month fiscal year, TBW's acquisition of Platinum Bancshares, Inc., and TBW's planned equity investment in Colonial

BancGroup. DE ARMAS and Allen knowingly and intentionally omitted disclosing in the letter the material facts that: (1) Deloitte had raised concerns about the propriety of the financing relationship between TBW and Colonial; and (2) TBW, at Deloitte's request, had retained Troutman to conduct an investigation into the matter.

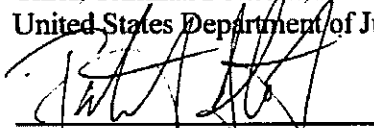
## VI. CONCLUSION

22. DE ARMAS admits that this statement of facts does not represent and is not intended to represent an exhaustive factual recitation of all the facts about which he has knowledge relating to the scheme to defraud described herein.

23. DE ARMAS admits that his actions, as recounted herein, were in all respects intentional and deliberate, reflecting an intention to do something the law forbids, and were not in any way the product of any accident or mistake of law or fact.


Denis J. McInerney  
Chief, Criminal Division, Fraud Section  
United States Department of Justice

By:

  
Patrick F. Stokes, Deputy Chief  
Robert Zink, Trial Attorney

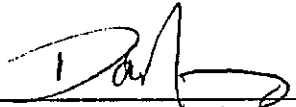
Neil H. MacBride  
United States Attorney

By:

  
Charles F. Connolly  
Paul J. Nathanson  
Assistant United States Attorneys

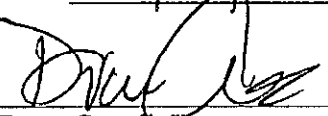
After consulting with my attorney and pursuant to the plea agreement entered into this day between the defendant, DELTON DE ARMAS, and the United States, I hereby stipulate that the above Statement of Facts is true and accurate to the best of my knowledge, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

Date: 2.22.12

  
\_\_\_\_\_  
Delton de Armas, Defendant

I am DELTON DE ARMAS's attorney. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.

Date: 2/29/12

  
\_\_\_\_\_  
Drew Carroll, Esq.,  
Counsel for the Defendant