

Masters Built obtained a loan from First American on May 10, 2006, for \$3,450,000.00 (Loan) to develop 22 acres located on Hwy 22, in Ponchatula, Louisiana, called The Landings subdivision. The Loan was personally guaranteed by the defendant Grow.

The Federal Water Pollution Control Act of 1972, known as the Clean Water Act (“CWA”), states in part that any discharge of dredged or fill materials into a water of the United States was forbidden unless authorized by a permit issued by the United States Army Corps of Engineers (Corps) pursuant to Section 404 of the CWA (33 U.S.C. § 401 *et seq.*). A wetland would be considered a water of the United States if it met certain criteria. Congress authorized the Corps to determine if an area contained wetlands and if so, the Corps was responsible for the issuance of a wetland determination (Wetland Determination) which sets forth the amount of acreage considered a water of the United States and whether a permit (Wetland Permit) was required.

First American required that the defendant Grow provide a Wetland Determination letter issued by the Corps for the 22 acres before it would approve and fund the Loan. Specifically, defendant Grow had to provide “[d]ocumentation from the Corp of Engineers that all required permits and approvals had been obtained in a form satisfactory to First American Bank.”

On May 10, 2006, the defendant Grow submitted to the Bank’s closing attorney a letter purportedly from the Corp to the defendant dated April 13, 2006, knowing that he had created the letter and it was false. The letter appeared to be an official Wetland Determination Letter issued by the Corps reflecting that there was only a small percentage of wetlands on the 22 acres. Based on the material false document, on May 10, 2006 First American closed on the Loan.

The bank learned of the false document when a prospective purchaser of the 22 acres was conducting its due diligence prior to purchasing the property. In a meeting with the Corp the prospective purchaser presented the Letter to the Corp. The Corp researched the permit numbers listed on Grow’s Letter and determined that the information Grow had listed in his Letter applied to a completely different piece of property. The Corp stated that it had never conducted a Wetland Determination on the 22 acres.

By the time First American learned that the contents of Grow's letter were false, all loan funds had been disbursed. First American filed suit and obtained a judgment against Master Built and Grow. As of November 15, 2007, the outstanding principal balance owed to First American was \$3,184,753.83. On August 10, 2010, First American received \$365,000 from a purchaser for the 22 acres and surrendered its interest in the property.

The defendant Grow has admitted that he knew that no Letter was ever prepared by the Corps for The Landings and indeed, large areas on the property contained wetlands. He further admitted that he knew a Wetland Letter was required for the loan and he drew a map reflecting a minimal/inaccurate amount of wetlands. Grow admitted that he created the letter by cutting and pasting information from another Wetland Determination letter.

READ AND APPROVED:

Dorothy M. Taylor
Assistant United States Attorney

Date

Ray H. Grow, III
Defendant

Date

Harry Rosenberg, Esq.
Attorney for defendant

Date