

Department of Justice

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SENECA FALLS COUPLE ARRESTED AND CHARGED WITH MORTGAGE-RELATED FRAUD AND CONSPIRACY

ROCHESTER, N.Y.-- U.S. Attorney William J. Hochul, Jr. announced today that Calvin Brainard, Esq., 66, and Mary Brainard, 52, both of Seneca Falls, NY, were arrested and charged by Criminal Complaint with mail fraud and conspiracy to commit bank fraud. Each charge carries a maximum penalty of 30 years in prison, a \$1,000,000 fine, or both.

Assistant U.S. Attorney John J. Field, who is handling the case, stated that the Brainards owned and operated a mortgage business known as BMC Capital. According to the Criminal Complaint, in 2009, a client of the defendants sought to refinance a mortgage through BMC Capital. Calvin Brainard, a practicing lawyer, represented the client in this transaction, and also acted as the closing agent for the bank. The Complaint further alleges that instead of applying the refinanced loan proceeds to pay off the client's pre-existing mortgage with Bank of America totaling \$95,208, the defendants diverted the money to themselves and spent it. To conceal their wrongdoing, the Brainards forged various official bank records to try to make it appear that Bank of America had been repaid but lost the money.

The defendants made an initial appearance on the Complaint this afternoon before Magistrate Judge Marian W. Payson and were released on their own recognizance. Mary Brainard is due back in court for further proceedings on January 6, 2012, at 9:30 a.m. and Calvin Brainard is due back in court for further proceedings on January 26, 2012, at 9:30 a.m.

The Criminal Complaint is the result of investigation by Special Agents of the Federal Bureau of Investigation, under the direction of Special Agent in Charge

Christopher M. Piehota and the New York State Police, Troop E, under the direction of Major Mark Koss.

The fact that a defendant has been charged with a crime is merely an accusation and the defendant is presumed innocent until and unless proven guilty.

The Government's investigation into the activities of BMC Capital and the Brainards is continuing.

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