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FDIC BRINGS SUIT AGAINST FORMER OFFICERS OF COMMUNITY BANK & TRUST OF CORNELIA

Mar 12, 2012

On February 24, 2012 the FDIC, in its capacity as receiver, filed suit against the former President & CEO as well as the former Sr. Vice President of the Retail Banking Group for Community Bank & Trust of Cornelia, Georgia. In the complaint, the FDIC seeks to recover losses in excess of $11 million that the FDIC alleges the bank suffered as a result of the defendants' breaches of fiduciary duties, negligence, and gross negligence.

Community Bank & Trust of Cornelia, Georgia failed on January 29, 2010. The Bank had been in existence since 1900, and had 36 branches across northeast Georgia at the time of its closing. Defendant Charles Miller became the CEO of the Bank in 2006, and during the time that he served as CEO, co-defendant Trent Fricks served as Sr. Vice President of a retail banking group of the Bank.

All of the claims in the FDIC suit relate to the Bank's Home Funding Loan Program, and to losses allegedly caused by that program between January 6, 2006 and December 2, 2009. The complaint alleges that the Home Funding Loan Program developed through a relationship between defendant Fricks and Robert Warren, who owned several mortgage brokerage entities, collectively referred to as Home Funding Corporation. The complaint alleges that the Bank provided bridge loans to the customers of the Home Funding Corporation entities, who were ostensibly real estate investors, in return for a commitment letter from Home Funding Corporation to the Bank in which it agreed to purchase the loan back from the Bank at maturity. The loans related to purchases of investment single family residences in the Atlanta low end housing market, and were alleged to have been high risk, short term loans. The complaint alleges that defendant Fricks was directly responsible for the program, and personally approved the loans despite material underwriting deficiencies, and numerous violations of the bank's loan policy, such as failing to obtain complete financial statements, failing to obtain appraisals, and exceeding the bank's LTV ratio limit. Further, the complaint alleges that the numerous deficiencies and problems with the Home Funding Loan Program and with Fricks' conduct were brought to the attention of CEO Miller, and he failed to act on any of the problems that were identified, allowing losses to continue to mount.

Interestingly, the complaint not only alleges gross negligence and breach of fiduciary duty, but also ordinary negligence claims, which would seem to be subject to dismissal under the holding in the

Integrity Bank case, which was handed down three (3) days after the complaint was filed.

MEET THE TEAM

John R. Bielema

Atlanta

john.bielema@bclplaw.com
+1 404 572 4504
