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Two Bank of America Fraud Whistleblowers Settle Claims, Including Former LandSafe/Countrywide Employee Who Earned \$14 Million Reward

Seattle – May 29, 2012 – Attorneys representing former home appraisal manager Kyle W. Lagow, who blew the whistle on widespread fraud at Countrywide Financial, today announced the final settlement of Mr. Lagow’s whistleblower action. Mr. Lagow’s whistleblower suit sparked an investigation culminating in the historic \$1 billion settlement between the Department of Justice and Bank of America (NYSE: BAC), a settlement that was itself part of the larger global bank settlement announced last month, the second largest government civil settlement in history.

Also announced was final settlement of fraud claims by Gregory Mackler, a whistleblower who challenged Bank of America’s fraudulent handling of the Home Affordable Modification Program meant to help millions of struggling homeowners. His claim, which led to the return of over \$6 million to the Department of Treasury from Bank of America, was also part of the global bank settlement.

Lagow worked at LandSafe, Inc., an appraisal company owned by Countrywide Financial and ultimately acquired by Bank of America, from 2004-2008. According to his unsealed complaint, Mr. Lagow observed widespread disregard for laws that regulate Federal Housing Administration (FHA) underwriting and home appraisals.

Specifically, he claimed that Countrywide conspired with LandSafe and homebuilder KB Homes to inflate the appraised value of homes, boosting the size of the lending giant’s loans to homebuyers. In order to accomplish this, the lending giant allegedly used a number of strong-arm tactics to pressure appraisers to report favorable home values.

The law requires that appraisers act neutrally and without regard to the lender’s interests, a safeguard meant to protect the government, who insures low- and moderate-income loans.

“We believe that the defendants’ behavior resulted in inflated home prices for buyers,” said Steve Berman, Mr. Lagow’s attorney and managing partner at Hagens Berman who handled the case along with firm partner Shayne Stevenson. “Even worse, we believe the scheme both directly and indirectly cost the United States government billions of dollars and played an important role in the wave of foreclosures that fueled the financial meltdown of 2008.”

Lagow hired Hagens Berman, a national law firm with a large whistleblower practice, to represent him as a whistleblower under the False Claims Act, a law that provides rewards for whistleblowers who disclose original information leading to a successful recovery of taxpayer funds lost due to fraud. His inside information led to an expanded investigation that culminated in the \$1 billion settlement between Bank of America and the U.S. Government, of which Lagow received over \$14.5 million as a reward.

Mr. Lagow became suspicious shortly after he was hired, when in early 2005 he met with LandSafe’s President Todd Baur. According to Lagow, Baur said that LandSafe’s role was to facilitate closing of home sales, a role that was in stark contrast to LandSafe’s legal responsibility; to provide accurate and safe home appraisals.

“The entire purpose of hiring an appraiser is to discover a fair and accurate market value for a home,” said Berman. “However, from the start LandSafe made clear that its function would be to rubber stamp Countrywide’s desire to close loans without regard for proper valuation.”

The second warning sign came a few months later, when Lagow learned of a joint venture between home developer KB Homes and Countrywide. Lagow hired staff appraisers, who were sent to homes to perform inspections only to be turned away, told by KB Homes sales representatives that the homebuilder would alone decide who would perform appraisals on its properties.

Disturbed by the potential for a conflict of interest which could allow KB Homes to assign an inflated value to a home and then cherry-pick appraisers who would agree with its judgment, Lagow claimed he did additional research.

However, as he dug deeper, he found that KB Homes had hired one person to handle all appraisals in Houston, an impossible task for one person. Yet, the appraiser turned in more than 400 appraisal orders per month. Lagow was further shocked to find that the appraiser was paid an inflated rate of nearly \$450 per report.

Lagow also claimed that his appraisers were denied access to key documents that contained final sale prices for similar properties, an essential data point for appraisals. Instead, his team had to rely on the Multiple Listing Service (MLS) sales price, which he believes KB Homes manipulated by reducing the sale price of homes at the last minute while reporting the original, higher price.

Appraisers were also subjected to intimidation and even blacklisting, according to the lawsuit, for failing to appraise homes at the inflated values demanded by KB Homes and Countrywide. The companies established an audit process that Lagow believes was solely designed to intimidate appraisers who bucked the system.

Lagow repeatedly raised these and other concerns with his superiors, but his claims were disregarded, according to the lawsuit. His employment was terminated in 2008.

According to the lawsuit, KB Homes, Countrywide and LoanSafe's behavior contributed to the financial crisis of 2008. The overvalued homes quickly lost their value and homeowners found themselves underwater with no ability to refinance their loans.

Taxpayers also allegedly suffered millions in losses because the government, through the Federal Housing Administration (FHA), offers mortgage insurance to lenders who provide loans to lower- and middle-class homebuyers. Under the program, if a home goes into foreclosure, the government pays the lender for the remaining balance due on the loan and takes ownership of the property. When Countrywide's loans went bad, it made claims under the insurance program, costing the government millions and potentially billions.

Mr. Mackler's complaint, filed last year under seal, alleged that Bank of America violated its agreement with the Department of Treasury to assist qualified homeowners in obtaining modifications of their mortgages under the HAMP requirements. The Treasury Department itself last year suspended its incentive payments to Bank of America for its substantial noncompliance with the terms of that agreement.

Mackler, represented by Hagens Berman partner Shayne Stevenson, alleged that instead of attempting to help qualified homeowners whose mortgages the bank serviced, it instead undermined their ability to get mortgage relief.

"As the Department of Treasury recognized in June of last year when it suspended its payments to Bank of America," Stevenson said. "The bank was not in compliance with the obligations it had to both homeowners and the Government when it operated its HAMP program."

The government investigated both Lagow's claims of widespread origination and appraisal fraud and Mackler's claims of servicing fraud at Bank of America.

"We are proud to have handled these cases," said Stevenson. "Both Lagow's and Mackler's stories demonstrate the important role that whistleblowers play in exposing fraud and holding corporations accountable for their misuse of taxpayer dollars."

Stevenson also thanked the Department of Justice for its efforts. "Our clients are very grateful to Assistant United States Attorneys Richard Hayes and Kenneth Abel, and their investigative team, for their outstanding efforts in these cases. The Eastern District of New York is a phenomenal office which treated our clients with respect throughout this process," said Stevenson.

More information can be found at <http://hb-whistleblower.com/work/BofA.html>

Hagens Berman takes whistleblower cases brought under the False Claims Act as well as more recently adopted programs at the Internal Revenue Service (IRS), the Securities and Exchange Commission (SEC) and the Commodities Futures Trading Commission (CFTC).

The firm recently launched a new whistleblower website, which can be found at www.hb-whistleblower.com.

About Hagens Berman

Seattle-based Hagens Berman Sobol Shapiro LLP is a nationwide law firm that represents whistleblowers, consumers, investors, workers and inventors in complex litigation. The firm has offices in 10 cities and has been named to the National Law Journal's Plaintiffs Hot List five times. More about the law firm and its successes can be found at www.hbsslaw.com. The firm's blog can be found at www.classactionlawtoday.com and whistleblowers can contact the firm through its new whistleblower website at www.hb-whistleblower.com.

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