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## New FDIC Suit Looks for a Piece of the \$92M Mortgage Fraud Pie

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(CN) - The Federal Deposit Insurance Corp. has set its sights on four co-conspirators alleged to have played a relatively small role in the \$92 million mortgage fraud that took out Washington Mutual Bank, filing a federal complaint that seeks to recover \$1.2 million.

"The concerted action of all the participants in the scheme, including defendants, caused substantial losses to WaMu, which purchased the mortgages in justified reliance on the false representations and documentation created by defendants and other participants in the scheme," the FDIC claims in Brooklyn, N.Y.

It says the schemers helped fraudulent mortgage sellers create bogus loans that were sold to WaMu and others for millions of dollars, without conveying, recording or insuring the property titles.

Named as defendants are United General Title Insurance, Clear View Abstract, its owner Ted Doumazios and New York attorney Thomas Cusack III.

The FDIC, which took over Washington Mutual after its collapse in September 2008, says the defendants conspired with other entities that made mortgage payments to WaMu to create the illusion of legitimate mortgage loans and conceal the fraud.

Doumazios' \$1.2 million scam represents a fraction of the massive \$92 million fraud engineered by Long Island real estate developer Thomas Kontogiannis.

Both men pleaded [guilty](#) last year following their 2009 [indictment](#) along with seven others. Kontogiannis, who is not named as a defendant in the FDIC's present action, controlled several entities that staged sales of properties in Brooklyn and Queens by recruiting straw buyers from among family members and employees.

"As part of the scheme, members of the Kontogiannis family acted with others, including the defendants named herein, using the artifice of separate and independent entities, to create fraudulent mortgage loans with seemingly appropriate documentation, to sell those fraudulent 'mortgages' to WaMu and others for millions of dollars, to retain the proceeds of the sale that supposedly were to be distributed to fictitious mortgagors and purchasers, and to fraudulently convey funds and properties in an effort to avoid detection and the claims of WaMu, and the FDIC as receiver, for the losses resulting from the scheme," the complaint states.

"As a result of the scheme, WaMu purchased sham mortgage loans and suffered many millions of dollars in losses. WaMu purchased these loans in justifiable reliance on false

representations and fraudulent documentation misrepresenting that each mortgage was given by a real mortgagor and borrower who were purchasing the properties at issue, that funds in the amount of the mortgage were dispersed to such borrowers, and that the loans were secured by a validly recorded first lien position on the properties.

"In fact, the mortgages purchased by WaMu, while appearing to be genuine and fully documented, were entirely bogus. The borrowers never purchased the properties, even though each loan package contained a signed deed purportedly conveying the property to the borrower. No funds were ever disbursed to the borrowers, even though each loan package contained a signed mortgage, closing statement and other HUD documents, signed by the straw borrower and identifying Cusack as settlement agent and attorney, stating that such disbursements of funds had been made. Titles to the properties were never conveyed or recorded, even though each loan package contained documents indicating that recordation had occurred. No real appraisals were prepared, even though each loan package contained a purported appraisal. No title insurance was ever procured, even though each loan package contained documents stating that such insurance had been or would be paid for and issued (including statements on official forms signed by title agents and title insurers)." (Parentheses in complaint).

The FDIC claims that Clear View and Doumazios, acting as agents for United General Title, "knowingly prepared and issued falsified title reports, title insurance commitments and certificates, and title insurance policies that they knew would be used to market the mortgages and to defraud WaMu into purchasing these fake loans."

United General Title, a New York insurance underwriting company, provided Clear View with apparently legitimate policy and commitment documents to create the impression that the mortgages were genuine.

Moreover, the defendants assured WaMu that all mortgages had validly recorded deeds and insurance titles, according to the complaint.

"Instead, as a result of the fraudulent scheme, no such title insurance was secured, no mortgages were recorded, and WaMu was induced to purchase worthless and fictitious loans resulting in millions of dollars in losses," the complaint states. "As detailed below, Doumazios has pled guilty to criminal charges of conspiring with Kontogiannis and others to commit bank and wire fraud against WaMu, using defendant Clear View in furtherance of that conspiracy."

The FDIC adds: "As part of the closing of the mortgages on the properties, Doumazios and Clear View were required to ensure, among other things, that monies for title insurance premiums and real estate taxes were collected and paid, legitimate commitments for title insurance and title insurance policies were issued, and deeds and mortgages were properly executed and recorded. They did none of those things. Instead, acting with apparent authority to bind UGT, they issued fraudulent policies and commitments, failed to file the deeds and mortgages, and steered monies not to the fictitious purchasers and mortgagors, but instead to Thomas Kontogiannis or his controlled entities."

Cusack, the closing attorney, also participated in the scheme by signing fraudulent closing forms, falsely reflecting title insurance, tax and insurance payments, and recording fees for each mortgage loan, the FDIC claims.

"The concerted efforts of the participants in the scheme, including defendants, created the appearance of a real mortgage, protected by title insurance and the recording of a first lien position on the subject property, in order to induce justifiable reliance by WaMu on the bona fides of the transaction," according to the complaint. "The fraudulent mortgages were created by the participants in the scheme, with the intent to sell them promptly, and, in fact, the sham mortgages were sold to WaMu within days of the purported 'closings,'" the FDIC added.


To facilitate the fraud, the bogus mortgages were buried among hundreds of valid mortgages that WaMu bought from the defendants and their co-conspirators over several years, according to the complaint.

The FDIC says WaMu, which sold most of the fraudulent mortgages to Fannie Mae, was forced to repurchase them when the fraud was discovered, and suffered huge losses.

WaMu said it learned about the scheme in 2007 as Kontogiannis was facing charges of laundering bribes to a U.S. congressman - a crime for which the 62-year-old is currently serving [eight years](#) in prison.

The FDIC seeks to recover more than \$1.2 million that WaMu lost in buying the fraudulent loans, as well as compensatory and punitive damages for fraud.

It is represented by Alan Gallanty with Kantor, Davidoff, Wolfe, Mandelker, Twomey & Gallanty of Manhattan.

The FDIC sold Washington Mutual to JPMorgan Chase shortly after the takeover. WaMu's closure and receivership in 2008 is considered the largest bank failure in American financial history. 

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