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Classifieds : Experts/Services : CLE : Search : Logout

TUESDAY WEDNESDAY THURSDAY FRIDAY TODAY

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Previous Next Bookmark Reprints

FDIC Sues Executives at Second California Bank

By Anna Scott

Federal banking regulators filed a lawsuit against former executives of the failed 1st Centennial Bank in Redlands for allegedly approving risky commercial real estate loans despite warnings of a sliding market.

The complaint is only the fourth to be filed out of dozens of lawsuits the Federal Deposit Insurance Corp. has drawn up against failed bank directors nationwide, and the second in California. Still, the growing number of cases seems to show regulators pressing hard against executives they blame for the downward spiral in the banking sector.

The federal lawsuit, filed Jan. 14 in the Central District, accuses 14 former 1st Centennial officers and directors of negligence, willful misconduct and breach of fiduciary duties in connection with 16 loans made between 2006 and 2008 that together caused the bank to lose approximately $26.8 million. The bank's January 2009 failure, according to the suit, cost the FDIC insurance fund $163 million. *Federal Deposit Insurance Corporation v. James R. Appleton et al,* U.S. District Court, Central District of California, CV11-00476

'The FDIC is fond of saying they want to settle and that the vast majority of their investigations don't lead to litigation.' - Jeffrey Tisdale

The 16 loans funded mostly tract residential developments in the Inland Empire. Each demonstrated a "failure to adhere to prudent banking standards and regulations," such as lending to borrowers with no liquidity or ignoring key factors that made the projects unmarketable, the complaint states. It also alleges that the defendants frequently loaned to friends and repeat customers without thoroughly vetting their projects, and "knowingly allowed the Construction Loan Department to be critically understaffed and riddled with conflicts of interest."

The defendants, who have not yet responded in court papers, could not be reached for comment.

FDIC attorney Mary Blasy of Scott + Scott in Los Angeles referred questions to the FDIC. An agency spokeswoman did not respond to a request for comment.

More than 330 banks have failed nationwide since the onset of the credit crisis in 2008, including at least 30 in California.

After taking over a failed bank, the FDIC typically conducts a one- or two-year investigation into what preceded the failure to determine whether former officers and directors carry any civil or criminal liability.

As of the first of the year, the FDIC board had authorized civil suits against more than 109 former bank directors and executives across the country, seeking to recoup $2.5 billion in losses to the nation's bank deposit insurance fund. While many of those cases are likely to be settled before they reach the courts, some industry insiders say the FDIC's actions so far suggest a fairly aggressive approach.

"The FDIC is fond of saying they want to settle and that the vast majority of their investigations don't lead to litigation," said Jeffrey Tisdale, managing partner of Tisdale & Nicholson in Century City who represents several former directors and executives of failed banks but is not involved in the 1st Centennial case. "While it may be true in terms of a majority of these investigations that they won't file civil actions, but if you look at the downturn and resulting litigation of the early '90s, about 25 percent of the failed institutions were engaged in litigation with the FDIC or the Resolution Trust Corp."

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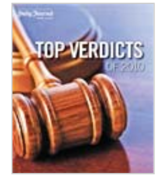

Monday, January 24, 2011

Banking
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Zoning, Planning and Use
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In a case that raised unusual legal issues, a Colton father and son were ordered to pay the city $56,000 for illegally squatting on a long-abandoned railroad easement they claimed they owned because they occupied it for decades.

Labor/Employment
A Customized Approach to Preventing Wage and Hour Claims
Tips on how employers can customize a wage and hour audit. By **Alison Priske Adema** and **Maria C. Roberts** of Stokes Roberts & Wagner.

Constitution
Rejecting O

The first in the wave of lawsuits was filed against the Pasadena-based IndyMac last July. That complaint contains several similarities to the 1st Centennial case. Both target former executives involved in issuing home construction loans, and both allege negligence in approving construction loans for risky projects that were unlikely to be repaid.

Both complaints also accuse the former officers and directors of ignoring blatant warnings that the real estate market was entering a downturn.

Also on Jan. 14, the FDIC filed a lawsuit against eight former officials and board members of the failed Alpharetta bank in Georgia, including Georgia state Sen. Jack S. Murphy, R-Cumming. That case also focuses on high-risk real estate loans.

Previous Next

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