



# Department of Justice

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District of Oregon

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## **Thirteen Defendants Charged in \$19 Million Bank Fraud**

*Cases Relate to the Collapse of Desert Sun Development in Bend, Oregon*

Eugene, Ore. - A federal grand jury sitting in Eugene, Oregon, yesterday returned indictments against thirteen individuals on a variety of mortgage and loan fraud charges arising out of the collapse of Desert Sun Development (DSD), a company previously headquartered in Bend, Oregon. From 2004 through 2008, DSD built commercial buildings and residential housing throughout Central Oregon. According to the indictments, DSD principals and other defendants caused financial institutions to lose more than \$19 million. In total, five separate indictments were returned. Arraignments of all defendants are scheduled for December 16, 2009, before the Honorable Magistrate Judge Thomas Coffin in Eugene.

“These indictments represent a significant step in the government’s efforts to detect and prosecute mortgage fraud,” said Acting U.S. Attorney Kent S. Robinson. “The conduct alleged in these indictments is typical of what has caused so much havoc in the mortgage and financial sectors. We will continue to seek charges whenever developers, businessmen, bankers, or loan officers are alleged to have made false statements to financial institutions.” Robinson thanked the Federal Bureau of Investigation, the Internal Revenue Service, and the State of Oregon, Division of Finance and Corporate Securities, for their combined investigative efforts.

The first indictment charges three DSD principals (Tyler Fitsimons, 31, of Prineville; Shannon Egeland, 35, of La Grande; and Jeremy Kendall, 33, of Redmond); and a Bend businessman (John Partin, 65) with conspiracy, bank fraud, making false loan applications to banks, and money laundering, focusing on commercial construction projects. In total, it is alleged that various lending institutions loaned in excess of \$25 million to DSD for its commercial construction projects, and suffered a loss of more than \$9 million. The indictment alleges that the defendants sought construction financing for five commercial buildings in Bend and Redmond, Oregon which were never built. As part of the scheme, the defendants are alleged to have made representations that construction was underway, when it was not. John Partin, owner of Advance Steel in Bend, is alleged to have issued false invoices for steel building kits for the non-existent buildings. The indictment also seeks forfeiture of a Ferrari, two Viper automobiles, and other assets related to the fraud and money laundering allegations.

In a separate indictment, Robert Brink, 58 of Junction City, is charged with making false statements to Umpqua Bank regarding DSD’s construction loans. Brink was a construction loan officer at Umpqua Bank. The indictment alleges that on five separate occasions he filed

inspection reports with Umpqua Bank certifying that construction was underway on DSD projects, when in fact it was not.

A third indictment charges conspiracy, bank fraud, and false statements to banks in connection with DSD's residential real estate investment program. The defendants in that indictment include Fitsimons, Egeland, Kendall, a fourth DSD employee (Garret Towne, 29, of Culver, Oregon), as well as two mortgage brokers (Shaun Little, 41, of Bend; and Del Barber, Jr., 44, of Bend), a bank loan officer (Jeffrey Sprague, 46, of Bend), a loan processor (Barbara Hotchkiss, 40, of Redmond), and a building materials supplier (Kevin Palotay, 46, of Bend). The indictment alleges that defendants schemed to provide false statements to financial institutions to finance the purchase or construction of residential properties. The allegations include that defendants inflated applicant's income and temporarily parked DSD funds in the applicant's accounts to obtain false proof that the borrowers had independent funds available to them. The two mortgage brokers, loan officer and loan processor are alleged to have assisted in preparing and approving false loan applications, causing them to be sent to financial institutions. Finally, Palotay is alleged to have provided a false invoice to create the false appearance that DSD had purchased construction materials.

In a separate indictment, Teresa Ausbrooks, 47, of Bend, is charged with bank fraud. She is alleged to have made false statements relating to her income and debts in an application to finance DSD's construction of a house for her.

In the final indictment, Michael Wilson, 58, of Murrells Inlet, South Carolina, is charged with bank fraud. Wilson is alleged to have been DSD's residential construction superintendent. The indictment alleges that DSD president Tyler Fitzsimons agreed to sell Wilson a \$500,000 home built by DSD. The indictment alleges that, to qualify for the loan to purchase this property, Wilson made false statements about his income and assets.

"The economic hit that a community like Bend takes in a case like this one is very real," said Arthur Balizan, Special Agent in Charge of the FBI in Oregon. "When a development company collapses under the pressure of fraud - as is alleged in this case - we are left with millions of dollars in losses, empty lots and abandoned buildings. Everyone loses."

"The impact from the types of crimes alleged in these indictments cannot be overstated," said Kenneth J. Hines, the IRS Special Agent in Charge of the Pacific Northwest. "Similar conduct surely played a role in shaking the confidence in our financial system last year. Identifying and exposing those who enrich themselves through criminal means is a duty we wholeheartedly accept as federal law enforcement officers. "

An indictment is only an allegation of a crime, and all defendants should be presumed innocent until proven guilty.

This case is being prosecuted by Assistant U.S. Attorney Scott Bradford.

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