

Met trial set to begin

Former executive charged in accounting scandal

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The criminal trial of a leading executive of defunct Spokane financial conglomerate Metropolitan Mortgage & Securities Co. begins Tuesday in Seattle, three years after the company filed for bankruptcy amid an accounting scandal.

Thomas Turner worked as president of Summit Securities Inc., a sister company of Metropolitan, controlled by common owner C. Paul Sandifur Jr.

He has pleaded not guilty to two felony counts of making false and misleading statements to accountants of a publicly traded company and one felony count of material omissions to accountants.

The trial centers on whether Turner lied to auditors about questionable real estate deals that brightened the company's 2002 financial results. The transactions enabled the company to post immediate gains and thus report to brokers and investors that the company was profitable when it actually was losing money and may have been insolvent.

As the alleged accounting scandal unraveled, the bookkeeping irregularities cast doubt on the truthfulness of executives and the roles and responsibilities of its independent auditors. It led some investors to call Metropolitan "our own little Enron."

In fact, Turner's defense team plans to ask potential jurors if they had been Enron investors before the Houston-based energy company failed – a collapse that also brought down Arthur Andersen, one of the nation's most prestigious accounting firms. Several Enron executives have been imprisoned.

The Turner trial is an important moment in the aftermath of the Metropolitan debacle. He remains the only executive charged with crimes, and testimony at the trial could shed further light on whether others – including Sandifur – may face charges.

Sandifur, Turner and others have been sued by investor groups and the U.S. Securities and Exchange Commission.

Metropolitan's failure wiped out about a half-billion dollars in investments belonging to 16,000 people, according to court records. Most were people who had bought unsecured bonds called debentures.

They became creditors in the worst corporate failure in Spokane history; so far, investors have recovered between 6 cents and 9 cents on the dollar. A second round of repayments could happen this year. It is not related to the outcome of Turner's criminal trial.

According to court records, Turner's defense depends in part on undermining the credibility of key government witnesses who worked as auditors for accounting giant Ernst & Young.

Turner will call a Portland accountant to testify as an expert witness. His testimony will underscore the defense assertion that witnesses from Ernst & Young have a powerful motive to testify in such a way that will convict Turner.

By accusing Turner of lying about circuitous real estate deals and misrepresenting the true nature of the transactions' funding, they can blame Turner and provide Ernst & Young with a scapegoat to shed their own legal liabilities.

Special bankruptcy trusts and class action lawsuits have placed much of Metropolitan's demise at the feet of Ernst & Young and another big accounting firm, PriceWaterhouseCoopers LLP. Metropolitan paid the firms to audit its books.

What's next

- The criminal trial of a leading executive of defunct Metropolitan Mortgage & Securities Co. is scheduled to begin Tuesday in Seattle.

- Thomas Turner is the only former Metropolitan executive who has been charged with crimes so far in the company's collapse.

- Metropolitan's bankruptcy wiped out about a half-billion dollars in investments belonging to 16,000 people.

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The best chance creditors have to recapture most of their lost investments lies in the success of these lawsuits and arbitration hearings – not in the conviction of Turner and other executives.

Turner's lawyers say the accounting firms want to blame the collapse on "Metropolitan's in-house dishonesty, established by a conviction of Turner in this case, as opposed to their own negligence."

Instead, they say the auditing firms should face criminal liability for destroying papers relating to Metropolitan.

"In this case there will be evidence that E&Y altered their work papers after the close of the 2002 audit period and discarded critical audit files relevant to the ... transactions," according to court records.

The case centers around a series of business dealings that began in 2001 when a Bellingham timber and development firm called Trillium Corp. borrowed \$5 million from Metropolitan and \$20 million from Met's insurance affiliate, Western United Life Assurance Co., to help it develop property in Denver.

Interest-only payments were due starting in early 2002, and Trillium soon defaulted. The problem was going to be a major setback for Metropolitan, which was already having financial problems as it shifted its business focus into higher-risk commercial real estate loans.

The two companies tried to restructure the loan in mid-2002. Some of their ideas were initially rejected by auditing firm Ernst & Young.

Then in the late summer of 2002, Metropolitan and Trillium agreed upon a borrowing venture that would ease Trillium's cash crunch while at the same time transforming the pending default – which threatened to scar Metropolitan's books – into a remarkable paper gain.

The way the deal was structured, however, didn't pass muster with Ernst & Young auditors. So, according to court records, Turner devised a plan that resulted in a shell company being set up to act as a go-between.

With the arms-length business dealings established, the structure received approval from the auditors.

But the shell company was a fraud, according to court records. It was incorporated and put under the control of the teenage son of a Trillium business associate.

All the money for the transactions came from Metropolitan and its affiliates, a violation of accounting rules governing how such dealings can be reported for financial purposes.

The result: the U.S. government has accused Turner of misleading the auditors about the structure and financial details of the deal. When the scheme later unraveled, Ernst & Young resigned as auditors, distanced itself from the accuracy of Metropolitan's financial reporting and questioned the credibility of certain executives, although it didn't mention anyone by name.

Within weeks Metropolitan was in bankruptcy.

Trillium and its owner, David Syre, have been sued by the SEC, along with Metropolitan chief executive C. Paul Sandifur Jr., in a civil action that alleges many of the same facts as the criminal case against Turner.