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While properties crumbled, bankers looked the other way

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CM Development president Cary McEntee arrives at the Federal Building in Norfolk for a hearing in November. (Steve Earley | The Virginian-Pilot)

By [Matthew Jones](#)
The Virginian-Pilot
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Part II

It seemed like the perfect opportunity: a home mortgage lender that required no proof of income, wealth or employment from its borrowers. For Cary McEntee and his company, CM Development, Long Beach Mortgage's "no doc" loans made it much easier to tap other people's credit to buy houses.

It was 2004, and soon other national subprime lenders were vying for the company's business. CM Development and its investors received more than \$19 million in loans from more than 20 banks over the next 2-1/2 years. But by March of this year, more than half of the roughly 250 properties controlled by the company sat vacant and efforts to renovate many had stalled. The company has since been forced into bankruptcy.

The company's own loan documents contained warning signs of the trouble to come, some experts now say. What's more, McEntee has testified that the company falsified about 80 percent of these documents, claiming buyers brought money to closing when they hadn't.

As the national subprime mortgage market collapses under risky loans made to borrowers who couldn't afford them, CM Development's case highlights a lesser-known problem: Subprime loans - usually granted to borrowers with poor credit - also made housing fraud a whole lot easier. Earlier this year, a Fitch study of subprime mortgagebacked securities found that roughly a quarter of recent subprime loans were some type of fraud. Other experts say the international credit rating agency's findings are low, and estimate cases of fraud at closer to 50 percent.

"The two words everyone forgot was 'due diligence,'" said Anthony Sanders, professor of finance at Arizona State University. "And now, as soon as the party's over, you say, 'Gosh, I wish we'd been monitoring this all along.' There's going to be hell to pay."

McEntee said the banks weren't particularly concerned about the specifics of the company's sales.

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"They didn't care where the money came from," he testified at a federal bankruptcy hearing last month. "There was such a big push on for the money, they were doing whatever they could to sell those loans."

CM Development's business model relied on bringing in a steady stream of people and using their credit to take out loans.

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In return for \$2,000 to \$3,000 in cash, these "investors" signed their names on mortgages for houses the company was supposed to manage.

As the real estate market heated up and house values appreciated, the company resold its properties repeatedly between investors - squeezing out more equity and taking on larger loans each time. This continued even though most of these borrowers were not equipped to shoulder so much debt.

One investor, for example, couldn't afford to buy a home for himself but qualified for nearly \$350,000 in loans through the company. A 28-year-old teacher received \$722,000 in mortgages on five properties. Two brothers qualified for more than \$4.5 million in loans on more than 50 properties, many of which were uninhabitable.

And a CM Development employee received nearly \$700,000 in mortgages while in the Virginia Beach jail on drug charges.

Their loans had two things in common: They were all subprime - meaning they required less financial documentation than conventional loans and charged higher interest rates - and they all were arranged by Clinton Van Nocker, a longtime friend of McEntee's brother.

In 2004, the subprime market had begun what some banking experts call a "race to the bottom," as banks began lowering their lending standards to feed Wall Street's demand for high-interest loans. Earlier that year, Van Nocker was released from federal prison after serving nearly four years in connection with what prosecutors at the time called the largest case of housing fraud ever to hit Hampton Roads.

By the fall, he was brokering loans for CM Development. With his help, the volume of loans to the company and its investors more than doubled over the next two years.

The subprime loans, which were normally targeted at home buyers with less-than-stellar credit, often required no money down. Others waived credit score requirements. The most extreme subprime products, sometimes referred to as "liar loans," didn't require the banks to verify income or savings - they only asked for the buyer's signature.

CM Development's strategy worked for several years because the banks and the company had the same goal: to get the highest loan amount possible on each house.

For the banks, the high interest rates on subprime loans made them lucrative when they sold the debt to a secondary market that packaged it for trading on Wall Street. Having made their money up front in fees, these lenders and brokers - including Van Nocker - weren't left holding the bag if borrowers defaulted.

"There is a real question about what happened to lending standards," said Eric Halperin, director of the Center for Responsible Lending's Washington office. "The broker got paid right away, the lender got paid. There was absolutely no incentive in the system to make sure people could afford these loans." For McEntee and CM Development, the loans financed daily operations and supported McEntee's lavish lifestyle, including his \$1 million Church Point home in Virginia Beach, the luxury vehicles he and his wife drove, and the condo he kept at the Oceanfront.

In its efforts to get access to as much money as possible, CM Development operated almost entirely outside the normal real estate process.

The company would hold on to a house for several months, or in some cases, a year or two, until it could justify reselling it at a profit. Then it essentially worked its sales in reverse, according to a former employee who spoke on condition of anonymity because he was embarrassed about the situation and continued to work in real estate.

First, McEntee would determine the price of a house to be transferred from one investor to another, and then CM Development would commission an appraisal in the hopes of justifying that amount.

Because CM Development sometimes hadn't determined which investor would buy the house, the appraisals would at times have blank spaces for the buyer's name. Karen Crowley, an attorney representing several creditors in CM Development's bankruptcy, said in a hearing that she's seen multiple appraisals issued on the same day, for the same property, but naming different buyers.

Usually, banks order an appraisal only after the buyer and seller agree to the sale and a contract price. The appraisal is supposed to be an arm's-length assessment of the home's value and is meant to protect the lender.

CM Development's appraisals often were based on what the property would be worth once totally renovated. However, the company would inflate the renovation costs to justify a higher price and in many cases never completed the work, the former employee said.

Van Nocker would find a willing lender, then suggest using the already-completed appraisal. Appraisals obtained by The Virginian-Pilot show that in almost every case, lenders did so.

Testimony in bankruptcy hearings included an example of a Portsmouth house worth \$79,000, on which the company obtained a \$110,000 mortgage. Other banks have reported deficiencies of \$30,000 or \$40,000 between the amount lent and the actual value.

While nothing in the settlement statements concerned Fay Silverman, immediate past president of the Virginia Mortgage Lenders Association, other mortgage experts questioned how the company was doing business.

Curt Novy, a California mortgage broker who testifies as an expert witness in mortgage fraud cases, said lenders should have realized the sales were questionable because they involved no earnest money as a deposit and rarely involved real estate agents.

The lack of a deposit and agent also bothered Steve Baugher, executive director of the Virginia Association of Mortgage Brokers.

"It's just not a normal real estate transaction," he said.

An analysis of nearly 400 sales over the past four years shows that while CM Development made, on average, less than \$3,000 per transaction, Van Nocker's mortgage brokerage took in roughly \$4,500 each time.

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His latest employer, Home Mortgage Source of Lansing, Mich., usually charged the borrower multiple fees for brokering its loans and received a premium from the banks for making the loan. The brokers' fees were high, but within reason, Baugher said.

But Baugher and **Novy** questioned \$56,000 that Van Nocker received through the sales for his own company, Chartway Financial. The payments were listed on settlement statements as "consultant fees" or "payoffs."

McEntee has testified that Van Nocker, who assumed increasing responsibility for the company's day-to-day business in its final year, received this money to pay for a Michigan answering service that handled maintenance calls for CM Development tenants.

McEntee referred questions to his attorney, who did not respond to a request for comment.

The lack of oversight wasn't confined to the national subprime lenders, according to testimony from McEntee.

CM Development also took out construction loans to renovate some properties.

One lender was Virginia Beach-based Resource Bank. When the company needed money, McEntee would e-mail Resource Bank and ask for cash from such loans, McEntee testified at a November creditors' hearing as part of his bankruptcy.

The bank usually didn't follow up to see whether work was actually done on the properties, he added. "They very rarely did inspections," McEntee said at the hearing.

"So you would just tell them and they would send you the money?" asked Crowley, the creditors' attorney.

"Yes."

A Resource Bank officer notified McEntee in late January that, due to a nearly \$40,000 overdraft, the bank had stopped payment on McEntee's checks and suspended the advancing of any more money on his loans, according to an e-mail.

Resource Bank President Ted Grell declined to comment.

CM Development eventually tapped out nearly all of its construction loans. Many of the company's houses sit half-finished.

Van Nocker has retained his own attorney and chosen to exercise his Fifth Amendment right not to incriminate himself. He has refused to provide creditors' attorneys with documents in McEntee's bankruptcy hearing and his lawyer declined to comment about the situation.

Several investors have declared bankruptcy and several more expect to soon. Lenders are slowly lining up to foreclose on the houses.

McEntee has been looking to start over, calling up old investors and trolling for capital via online sites such as Craigslist.

As for whether anyone has learned any sort of lesson from the run of CM Development and other operations like it around the country, time will tell.

"I am a touch of a cynical person," Baugher said. "Yes, they will learn it. And some will forget it within the next six or seven years. I think if you get somebody who wants to beat the system, then they probably will. For as long as it takes before it blows."


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