



# Department of Justice

**United States Attorney Melinda Haag  
Northern District of California**

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## **MONTEREY BUSINESSMAN PLEADS GUILTY TO REAL ESTATE INVESTMENT FRAUD**

SAN JOSE - David A. Nilsen pleaded guilty in federal court in San Jose today to conspiracy to commit mail and wire fraud, United States Attorney Melinda Haag announced.

In pleading guilty, Nilsen admitted to deceiving investors in his Monterey-based private money lending company, Cedar Funding, and agreed to pay \$69,828,833 in restitution. Cedar Funding, founded by Nilsen in 1980, connected residential real estate developers seeking to borrow money using real property as collateral with individual investors who were willing to make such loans.

In the plea agreement, Nilsen admitted that, from 2004 through 2008, an increasing number of borrowers defaulted on loans funded by Cedar Funding investors, due to market conditions and management and construction problems. In response to those developments, and in an attempt to salvage the real estate projects that secured Cedar Funding loans, Nilsen and his loan servicing manager failed to inform investors of certain material facts about the true condition of their investments. In particular, they failed to inform investors that borrowers had defaulted, that Nilsen had taken over many of the loans, and that Cedar Funding had advanced substantial additional investor funds into those loans. Nilsen further admitted in the plea agreement that the increasing loan balances, combined with the declining value of the underlying real estate collateral, resulted in the amount of the loan exceeding the value of the collateral. Nilsen also acknowledged in the agreement that he and his loan servicing manager did not properly record investors' fractional deeds of trust, and did not inform investors that, because the loans were not performing, Cedar Funding used a significant portion of the investment money advanced into the non-performing loans to meet interest payment obligations to investors in those loans.

Nilsen, 61, of Seaside, Calif., was indicted with co-defendant Manoel Errico by a federal Grand Jury on Sept. 8, 2009. Errico is a fugitive. Nilsen was charged with thirty-one counts of conspiracy, mail, wire and securities fraud in violation of 18 U.S.C. §§ 1349, 1341, 1343 and 15 U.S.C. §§ 78j(b) and 78ff. Under the plea agreement, Nilsen pled guilty to one count of conspiracy to commit mail and wire fraud.

After his initial appearance in federal court in San Jose in Sept. 2009, Nilsen was released upon a secured \$1 million bond, and has been out of custody since. Nilsen is next scheduled to appear in court in San Jose on February 27, 2012, before Judge Edward J. Davila, who will consider whether to accept the plea agreement. If the plea agreement is accepted, Nilsen will be sentenced on that date. The maximum statutory penalty for a violation of 18 U.S.C. § 1349 is 20 years imprisonment and a fine of \$250,000 or twice the gross gain or loss, whichever is greater, plus restitution. However, any sentence following conviction would be imposed by the court after consideration of the U.S. Sentencing Guidelines and the federal statute governing the imposition of a sentence, 18 U.S.C. § 3553.

Thomas E. Stevens and Jonathan D. Schmidt are the Assistant U.S. Attorneys who are prosecuting the case with the assistance of Special Assistant U.S. Attorney Annie Michaels of the Monterey County District Attorney's Office, and legal assistant Rawaty Yim. The prosecution is the result of a sixteen-month joint investigation by the United States Postal Inspection Service, the Federal Bureau of Investigation and the Monterey County District Attorney's Office.

United States Attorney Melinda Haag recognizes and thanks the Monterey County District Attorney's Office for its substantial assistance in the investigation and prosecution of this case.

**Further Information:**

Case #: CR-09-0895 EJD

A copy of this press release may be found on the U.S. Attorney's Office's website at [www.usdoj.gov/usao/can](http://www.usdoj.gov/usao/can).

Electronic court filings and further procedural and docket information are available at <https://ecf.cand.uscourts.gov/cgi-bin/login.pl>.

Judges' calendars with schedules for upcoming court hearings can be viewed on the court's website at [www.cand.uscourts.gov](http://www.cand.uscourts.gov).

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