

State shutting investment company

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State officials are shutting down Private Capital, a mortgage loan investment company with \$60 million in investor assets, the second time this year that a private lender has failed in Southern Nevada.

The first, USA Capital with \$962 million in assets, filed for bankruptcy court protection April 13, resulting in criticism of the Mortgage Lending Commissioner Scott Bice.

In contrast, a key lawmaker applauded the action by Bice on Tuesday.

"I think that's the way (Bice) ought to respond," said state Sen. Randolph Townsend, R-Reno, chairman of the Senate Commerce and Labor Committee.

In the Private Capital case, Bice "ought to bring it to the (Nevada attorney general) and (district attorney) for prosecution to the full extent of the law," Townsend said.

Bice said \$150,000 was diverted from investor accounts to the firm's operating accounts.

"Manipulating these accounts and moving the money into operating accounts or places they don't belong really is a criminal act," Bice said.

"The division believes this occurred primarily due to lack of proper internal controls and the owner's delegation of financial duties to one key staff member," Bice wrote in a public notice.

The division found Private Capital "to be insolvent" because of the missing money, "which did not belong to Private Capital and their diversion of these funds to the operating accounts."

At her office in northwest Las Vegas, Private Capital owner Sheila Delk said: "This is still kind of up in the air." She declined further comment.

Bice on Tuesday notified Delk that his division "will be placing Private Capital LLC into receivership and winding down all operations." A deputy attorney general will file a lawsuit today with a Clark County district judge, Bice said. Bice said his office will seek to be appointed as the receiver, rather than hiring an outside professional.

U.S. Loan Servicing will charge a 0.5 percent fee for servicing the 38 outstanding loans made by 400 investors, but Bice said the division will not charge investors fees to manage the receivership.

All but one of 38 borrowers who received loans at Private Capital are making payments, Bice said. The one nonperforming loan is for \$217,000 for a single-family residence, and the sole investor in that loan is a former agent, he said.

The problems at Private Capital were mainly operational unlike USA Capital where most of the loans are past due, Bice said.

Delk entrusted Bill Johnson with management functions, and Johnson had agreed to become Delk's partner, but the Mortgage Lending Division was not asked to approve the partnership, Bice said.

About the time that Private Capital's problems emerged, Johnson found a new potential employer. He moved from the West Charleston Boulevard office of Private Capital to Mortgages Galore at 3050 E. Desert Inn Road, Suite 114.

James Diss obtained a license for Mortgages Galore on June 22, but the office was empty and the

suite for rent by September. Bice said the division declared the license for Diss inactive before Mortgages Galore originated any loans.

Johnson did not return calls from the mortgage division, and Bice now doubts Johnson will be found because Johnson lives in a recreational vehicle.

The mortgage division put Private Capital into conservatorship and temporarily took over management on July 27 about one month before Private Capital celebrated its first anniversary.

The intrigue at Private Capital did not end with the disappearance of Johnson, however. DeAnn West, one of Delk's daughters, tried to capitalize on Private Capital's woes.

West started a mortgage brokerage in Washington, Utah, and began soliciting investors at Private Capital, according to the mortgage division. Dan McKimmey, a division investigator, wrote an Aug. 31 letter, demanding that West stop contacting Private Capital investors or Nevadans for mortgage loan investments.

The division received a copy of an e-mail that West sent to an investor requesting the investor's statement at Private Capital, according to the letter.

"Your say you are '...working closely with the MLD to make sure everyone is paid the amounts that they invested,' " the letter said. That was not true, according to officials.

Bice said he plans to issue a formal cease-and-desist order to West, ordering her to stop violations.

SEC to revoke global express registration

The Securities and Exchange Commission on Tuesday filed an order revoking the registration of Global Express Securities, a company affiliated with failed private lender Global Express Capital.

The SEC filed a lawsuit against the Global Express companies in December 2003, persuading U.S. District Judge Kent Dawson to freeze \$48 million in assets at Global Express. Global used money from private investors to make short-term loans secured by real estate. Some investors owned fractional interests in the loans, and others entrusted their money to the Global Express Real Estate Investment Fund I, which operated like a mutual fund for short-term loans.

In August, Dawson issued a final judgment in federal district court against Global Express.

The SEC alleged that between late 2001 and December 2003 that Global Express sold investments in a fund of short-term mortgage loans in a "Ponzi-like investment scheme." However, over one six month period, paid \$2.3 million to investors while it received only \$154,000 in interest income. The commission claimed that Global used cash from new investors to pay existing investors but failed to disclose this to investors.