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## MADIGAN ANNOUNCES CHARGES AGAINST PREMIER BANK BOARD OF DIRECTORS IN \$70 MILLION CRIMINAL FRAUD SCHEME

### *Attorney General Alleges Failed Wilmette Bank Defrauded Troubled Asset Relief Program*

**Chicago** — Attorney General Lisa Madigan today joined with the Special Inspector General for the U.S. Department of the Treasury's Troubled Asset Relief Program (TARP) and the Office of the Inspector General of the Federal Deposit Insurance Corporation (FDIC) to announce charges against former board of directors and officers of a state-chartered bank, alleging a wide-ranging criminal enterprise that cost the government more than \$70 million.

Defendants Zulfikar Esmail, Shamim Esmail, Robert McCarty and William Brannin were formally arraigned earlier today in Cook County Criminal Court on a multi-count indictment for their roles in the alleged scheme at Premier Bank in Wilmette that failed more than a year ago.

The defendants are charged for their alleged roles in a long-running fraud scheme that defrauded the U.S. Treasury Department of \$6.8 million from TARP and cost the FDIC \$64.1 million when the bank failed on March 23, 2012.

The indictment alleged that from 2006 until the bank's failure, the defendants hid the poor financial condition of the bank from state regulators. It alleges that Zulfikar Esmail engaged in a criminal shakedown scheme, soliciting and demanding bribes in connection with applications made for business loans and lines of credit to open and operate several Michael's Fresh Market grocery stores in Naperville, Downers Grove and Chicago's Hyde Park neighborhood. The indictment alleged Zulfikar Esmail demanded his children be given ownership stakes in the stores in exchange for loans and lines of credit.

The Attorney General also alleged Zulfikar Esmail ordered construction and improvement work done on his Evanston home and rental properties he owned, including the construction of an underground tunnel on the property of his home. The indictment alleges Esmail directed the contractor to prepare invoices that fraudulently showed the work was done at the bank in order to bill the bank for the work.

"The perpetrators of this criminal enterprise are charged with using taxpayer funds to further their own shakedown scheme at time when our country was on the brink of disaster," Madigan said. "Their brazen actions to cover up this fraudulent scheme led to the failure of Premier Bank at the expense of its trusting customers and American taxpayers."

Over the six-year period, the indictment alleged the bank officers submitted numerous fraudulent reports to the Illinois Department of Financial and Professional Regulation, misrepresenting the financial condition of the bank's numerous loans and lines of credit. To cover up the true condition of the bank, the indictment alleged money from third parties was used to make payments on several loans that were past due, including payments from a limited liability corporation owned in part by Zulfikar Esmail's children.

By late 2008, when authorities allege the bank was nearing failure, the bank applied for and received the first of two payments from TARP, ultimately receiving a total of \$6.8 million in taxpayer dollars, in order to further the criminal scheme.

"On July 10, 2013, SIGTARP federal agents participated in the arrest of the individuals charged today, which represents the first criminal enterprise charges brought against officers and directors of a TARP bank," said Christy Romero, Special Inspector General for TARP (SIGTARP). "Esmail, the former Chairman of TARP recipient Premier Bank, stands charged of orchestrating a criminal enterprise by using Premier Bank as his personal fiefdom and of exploiting TARP to finance an alleged long-running criminal enterprise while fattening his own pockets at the expense of customers and federal taxpayers. Esmail, his wife who was a senior officer and general counsel of the bank, and two bank directors are charged with a massive bank fraud conspiracy that hid the true

financial condition of the bank. They are also charged with theft by deception for using allegedly fraudulent bank records to get \$6.8 million in TARP bailout funds from Treasury, all of which was lost when the bank collapsed under the weight of this alleged fraud. SIGTARP and our law enforcement partners will aggressively investigate allegations of TARP fraud and ensure that TARP funds are used for their intended purpose, not to fund criminal activity.”

The bank’s failure in 2012 resulted in a total loss to FDIC of \$64.1 million.

“We are pleased to join our law enforcement colleagues in announcing today’s charges. The FDIC Office of Inspector General is committed to investigating and prosecuting cases where trusted insiders abuse their positions and engage in activities that harm their institutions,” said John Lucas, Special Agent in Charge, FDIC Office of the Inspector General’s Office of Investigations. “The alleged fraud in this case contributed to Premier Bank’s failure and corresponding losses to the Deposit Insurance Fund. We will continue to pursue such threats to the safety and soundness of FDIC-insured institutions throughout the country.”

The defendants were arrested at their homes on July 10 and appeared in court today to formally face charges.

Zulfikar Esmail, 70, of Evanston, was charged with: Financial institution fraud, organizer of a financial crimes enterprise, continuing a financial crimes enterprise, theft by deception, commercial bribery of a financial institution and conspiracy to commit a financial crime. He faces a mandatory prison sentence for the Class X felony charges of theft by deception and organizer of a financial crimes enterprise, which each carry a mandatory prison sentence of six to 30 years. The remaining charges are Class 1 felonies punishable by four to 15 years in prison.

Defendants Shamim Esmail, 65, of Evanston; Robert McCarty, 51, of Geneva; and William Brannin, 53, of Chicago; were charged with financial institution fraud, continuing a financial crimes enterprise and conspiracy to commit a financial crime, each a Class 1 felony punishable by four to 15 years in prison. The three defendants additionally face the charge of theft by deception, a Class X felony with a mandatory prison sentence of six to 30 years.

Zulfikar Esmail and Shamim Esmail have been released on a collective \$850,000 bond. McCarty was released on a \$400,000 bond, and Brannin was released on a \$350,000 bond.

The public is reminded that the defendants are presumed innocent until proven guilty in a court of law.

This case was investigated by the Office of the Special Inspector General for TARP and the Office of the Inspector General of the FDIC. Bureau Chief Edward Carter and Assistant Attorneys General Edward Snow and Anshuman Vaidya are handling prosecution of the case for Madigan’s Special Prosecutions Bureau.

For copies of the indictment and booking photographs, contact Madigan’s press office at (312) 814-3118.

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