

Report of Criminal Theft Conspiracy

By:

Richard "Rick" Hawk

Private Investigator-retired

8-11-21

Summary:

Whitefish Credit Union with the purpose that the offense of Theft be committed, agreed with others, including Sean Frampton, Randy Cogdill, Jim Kenyon and Aaron Archer to the commission of the offense. The agreement was advanced by several acts in furtherance, culminating in the theft being accomplished.

Statutes relied on for this report:

45-4-102 Conspiracy

45-6-301 Theft

1-1-201 Terms Of Wide Applicability

45-1-205 General Time Limits

45-2-103 General Requirements Of Criminal Act And Mental State

Documents relied on for this report:

Douglas Johnson depo 7-17-2013

Settlement Agreement

Aaron Archer affidavit of 5-09-2018

Aaron Archer affidavit of 7-20-2018

WCU motion to set aside default and brief

Loan denial letter

Randy Cogdill depo 7-16-13

Jim Kenyon depo 7-17-13

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Statement of facts:

In March of 2009, Thorco Inc borrowed 3.3 million dollars from Whitefish Credit Union (WCU) by a note due March 15, 2011. This loan was to be part one of a two-part loan designed to finance the development of an upper scale subdivision in Somers.

Thorco was the developer, and this development was, at WCU's request, the sole project for Thorco. In other words, WCU prevented Thorco from undertaking any other income producing activity during the term of the loan. The loan encompassed 500 acres, but there was a subordination agreement on 200 of those acres for up to \$500,000.00.

Thorco preformed as promised. There are no statements or documents indicating any dis-satisfaction by WCU of the work performed by Thorco up to 3-14-2011.

There are no statements or documents indicating that the work performed by Thorco was lacking in volume or sufficiency up until 3-14-2011.

In September of 2009 WCU enacted a policy stating that no new money would be available to any development clients. Even those that were partially complete. Tellingly, no loan customers were advised of this policy. This lack of notice was deliberate and necessary to the conspiracy, in that it prevented Thorco from going any where else for money to complete the project, while WCU "strung them along" until default. This was an act in furtherance of the Theft Conspiracy.

Approximately five months before the due date, Thorco began attempting to meet with WCU for the purpose of completing the finance package. Despite their persistence, WCU's first contact occurred when Randy Cogdill wanted an appraisal assignment on 2-25-2011. The next occurred two weeks after loan maturation when Randy Cogdill contacted them by mail. In his deposition, Doug Johnson testified that no one from WCU advised him of Thorco's attempts at communication. It is Thorco's position that the lack of contact by WCU was a deliberate act designed to put them in a default position in furtherance of the Theft Conspiracy. Especially since Thorco contacted Randy Cogdill after receipt of the letter and was told by him not to worry as WCU was going to refinance the development (in spite of the still in effect policy of no new money).

On 1-7-2011 Thorco hired Appraiser Lloyd Berrie. Thorco provided specific appraisal instructions and payment of \$8500.00.

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On 2-25-2011 Randy Cogdill contacted Thorco and stated that Thorco needed to assign it's appraisal to WCU, and that if it did not there would not be enough time to complete an appraisal before March 15th. Thorco signed a letter of disengagement with Mr. Barrie on 2-25-2011

Thorco later found out that WCU hired Lloyd Barrie on 2-3-2011 and provided different instructions. This means Lloyd Berrie worked for two different masters with opposing instructions for almost a month. It should be noted that Thorco had no knowledge of nor input to the WCU instructions. Thorco maintains that the Barrie appraisal substantially undervalued the property in furtherance of the theft conspiracy, as it was cited as the reason for denial of the Thorco refinance (in spite of the still in effect policy of no new money).

Thorco requested release of the 200 acres in the subrogation agreement. WCU declined. This was a clear violation of a contractual duty and an act in furtherance of the Criminal Theft Conspiracy.

WCU denied Thorco refinance and sued for foreclosure.

Thorco counter sued.

WCU entered into a settlement agreement. Thorco upheld it's obligations. WCU did not conform to the settlement agreement and in fact provided information to potential lenders that prevented Thorco from perfecting it's option. This was a deliberate act in furtherance of the Criminal Theft Conspiracy.

As part of these court proceedings, Sean Frampton filed documents that he knew were not true. Aaron Archer also provided sworn statements that he knew were not true. These filings were deliberate acts to influence the court in furtherance of the Criminal Theft Conspiracy against the Thorco property

On 10-15-2018 WCU recorded the deeds to the Thorco 500 acres, thereby completing the Theft.

Additional actions tending to prove the intent of WCU to steal the Thorco property occurred on a continuing basis from August of 2010 through 2012. Recall that in August of 2010, the Thorco loan with WCU was in full compliance and was not due for several months. Yet, Randy Cogdill took a Missoula developer named Pat Corrick to the Thorco property in August of 2010. Communications between Corrick and WCU continued until at least 2012, and in his deposition, while Randy Cogdill stated the site visit was so that they could get "an assessment" he later admitted it was possible that Corrick was interested in purchasing the property. Also recall that the NO NEW MONEY policy was in effect.

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CONCLUSION:

The Thorco property had a high value to loan ratio. WCU recognized the value and purposely undertook a conspiracy to commit Theft by omission (failure to immediately notify Thorco of the no new money policy) and commission (deliberately stringing Thorco along past default while promising funding). They then used and misled the courts to accomplish the theft.

Submitted by,



Rick Hawk

Mt. Investigator 2608 retired

**RICHARD "Rick" HAWK
P.O. BOX 786
KALISPELL, MT 59903
406-253-4439**

EDUCATION

- 1970 Graduated from Flathead High School, Kalispell, MT**
- 1972 EMT Certified**
- 1975 Graduated Basic Training, Alaska Municipal Police Academy, Sitka, AK**
- 1983 Graduated with an AA Degree from Flathead Valley Community College, Kalispell, MT**
- 1976 - 1990 Over 1,000 hours of Professional Police Training**
 - A. 400 hours Management Training**
 - B. 20 Semester hours of college credit at the College of Southern Idaho and North Western University**
 - C. National Fire Academy**

PROFESSIONAL EXPERIENCE

- Licensed Private Investigator - MT State License # 2608**
 - MT Process Server License # 9935**
 - MT Insurance License 0698662 property, casualty, life, health, surety & 6-63 securities**

Recent Duties & Responsibilities: Insurance sales, civil and criminal investigations, civil process service. Investigation typically include scene processing, photography, records evaluation and witness interviewing. All of the above activities require communication with persons of all walks of life.

Skills: Up to date working knowledge of Montana State Laws and investigative technique.

EMPLOYMENT 1990 to Retirement
RSJM ENTERPRISES - President/Investigator
P.O. Box 786
Kalispell, MT 59903
Phone - (406) 755-4604

ALERT SECURITY & INVESTIGATIONS – Supervisor: Dan Smith
P.O. Box 1448
Columbia Falls, MT 59912
Phone - (406) 756-1390

PUTMAN & ASSOCIATES - Supervisor: Jim Putman

**275 Corporate Drive, Suite 300
Kalispell, MT 59901
Phone - (406) 257-0269**

EMPLOYMENT 1975 - 1990

FLATHEAD COUNTY SHERIFF DEPARTMENT

**Total Employees: 66
Jail Capacity: 60
Sheriff at time of Hire: Al Rierson
Sheriff at time of Resignation: Charles Rhodes**

**8/75 - 7/81 Deputy in Patrol
7/81 - 2/84 Detective
2/84 Promoted to Sgt. in Patrol
10/84 Assigned to develop and supervise a Special Investigation Unit with
 drug investigations as the primary area of responsibility.
10/89 Promoted to Chief Deputy
1/90 Resigned**

Duties & Responsibilities: Patrol deputy with first responder status. Investigator of all crimes, ranging from misdemeanors, rape, robbery, drug offenses and homicide. Supervisor of patrol shift, "Hands - on" Supervision of Special Investigation Division and Chief Deputy (3rd in command of entire department).

EMPLOYMENT 1974 - 1975

NORTH POLE ALASKA POLICE DEPARTMENT

**Position of Policeman, Fireman, and Medic Supervisor
Supervisor: Daniel Frazier**

Duties & Responsibilities: Enforcement of laws and traffic regulations. I was also a member of the North Pole Volunteer Fire Department and assigned to build, stock, supervise and man the ambulance for the city and surrounding area.

JOHN M. KING CONSTRUCTION CO.

Position of assembly man (power line construction).

EMPLOYMENT 1973 - 1974

**FLATHEAD HEALTH CENTER (currently known as Logan Health)
Position of Emergency Room & Orthopedic Orderly**

EMPLOYMENT 1972 - 1973

**ANACONDA ALUMINUM CO. (currently known as Columbia Falls Aluminum Co.)
Position of Utility Man**

PERSONAL/PROFESSIONAL REFERENCES

Available upon request