Officers at Big Three private placement shop indicted

Four executives at DBSI charged with, among other things, securities fraud

By **Bruce Kelly**
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Four top executives of DBSI Inc., one of the Big Three syndicators of phony private placements that decimated independent broker-dealers in the last decade, were indicted Wednesday by a federal grand jury in Idaho on 83 charges, including conspiracy to commit securities fraud, wire fraud, mail fraud and interstate transportation of stolen property.

DBSI was acting like a Ponzi scheme, relying on new investor funds, including investor money that the company said would be used only in particular circumstances, to continue operations and pay returns to other investors, according to the indictment.

The indictment seeks forfeiture of properties and assets totaling $169 million.

The principals charged include Douglas Swenson, 64, co-founder and former president of DBSI; Mark Ellison, 64, co-founder and general counsel; and two sons of Mr. Swenson — David, 35, and Jeremy, 40, who were assistant secretaries.

DBSI raised money primarily through two avenues: By allegedly defrauding investors of $89 million with sales of high yield notes in 2008; and sales of securities known as “tenant-in-common,” 1031 exchanges known as TICs.

The executives represented DBSI as having a net worth of $105 million when the company was bleeding cash, according to the indictment. Two of its biggest losers were $235 million in loans from 1999 to 2008 to technology startups that were never repaid, and its TIC program, which was losing $3 million per month.

Attorneys for the four executives were not available for comment.

Along with Medical Capital Holdings Inc. and Provident Royalties LLC, DBSI raised hundreds of millions of dollars through small to midsize independent broker-dealers. Armed with due-diligence reports paid for by DBSI, MedCap and Provident, the broker-dealers raised close to $3.5 billion in capital for the three private-placement syndicators. Each of the firms promised high yields just as investors began a frantic search for yield in 2006, 2007 and 2008.

The results were disastrous. DBSI, which sold a variety of real-estate-linked investments and private notes, declared bankruptcy in 2008. MedCap and Provident shut down in 2009 after the **Securities and Exchange Commission** charged both with securities fraud. Crushed by the cost of defending investors' arbitration complaints, many of the broker-dealers that sold DBSI, MedCap and Provident products have shut down. Investors lost hundreds of millions of dollars.

The indictment, handed down Wednesday by a federal grand jury in Boise, came one day after federal prosecutors reached a plea agreement with Gary Bringhurst, DBSI's former chief operating officer.

Mr. Bringhurst, 46, agreed to plead guilty to one count of conspiracy to commit securities fraud for falsifying financial statements used to artificially bolster the company's financial standing and mislead investors about how their money would be used, according to court documents.

From January 2007 to November 2008, the four DBSI executives consistently misrepresented the company's financial health, asserting that it was profitable and had a net worth of $105 million. To the contrary, the four men knew that DBSI's real estate and non-real-estate businesses were universally unprofitable, and its highly touted Master Lease investment product was losing almost $3 million per month, according to the indictment.

Executives from MedCap and Provident also recently have been prosecuted.

Former Medical Capital president Joseph J. Lampariello last May pleaded guilty to wire fraud, while Paul Melbye, co-founder and former chief executive of Provident Royalties, in November pleaded guilty to conspiring to defraud investors of $485 million in an oil and gas scheme.

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Bruce Kelly covers the securities industry, with a focus on independent broker-dealers; please contact him if you have news, information or industry scuttlebutt to discuss.