



# PRESS RELEASE

Federal Deposit Insurance Corporation

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## **Former Hamilton Bank Senior Executives Indicted for Defrauding Investors and Bank and Securities Regulators**

### **FOR IMMEDIATE RELEASE**

FDIC Inspector General Gaston L. Gianni, Jr., has announced that a federal grand jury in Miami, Florida, returned a 42-count indictment for conspiracy, wire fraud, securities fraud, false filings with the Securities and Exchange Commission (SEC), false statements to accountants, obstruction of an examination of a financial institution, and making false statements to the Office of the Comptroller of the Currency (OCC) against three former senior executive officers of Hamilton Bancorp and Hamilton Bank. The named defendants are Eduardo A. Masferrer, Chairman of the Board and Chief Executive Officer; Juan Carlos Bernace, President and Director; and John M.R. Jacobs, Senior Vice President and Chief Financial Officer. Masferrer also was charged with insider trading.

This case was investigated by the FDIC's and the Department of the Treasury's Offices of Inspector General and is being prosecuted by the U.S. Attorney's Office for the Southern District of Florida.

The indictment alleges that in 1998 and 1999, Masferrer, Bernace, and Jacobs fraudulently inflated the reported results of operations and financial condition of Hamilton Bancorp and defrauded the investing public and the bank and securities regulators, so that they would unjustly enrich and benefit themselves through higher salaries, bonuses, and stock options, and would facilitate an upcoming registered securities offering to the investing public. Masferrer made nearly \$2 million in bonuses, and Bernace and Jacobs each made more than \$100,000 in bonuses while the fraud was concealed.



Congress created the Federal Deposit Insurance Corporation in 1933 to restore public confidence in the nation's banking system. It promotes the safety and soundness of these institutions by identifying, monitoring and addressing risks to which they are exposed. The FDIC receives no federal tax dollars — insured financial institutions fund its operations.

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Hamilton Bancorp, a publicly traded company in Miami-Dade County, Florida (listed on NASDAQ under the symbol "HABK"), was a bank holding company and conducted operations principally through its wholly owned subsidiary, Hamilton Bank, N.A., which was a trade finance bank in Miami-Dade County. In September 1999, during the annual bank examination of Hamilton Bank, bank examiners from the OCC discovered questionable transactions in Hamilton Bank's books regarding the bank's 1998 swap transaction involving the sale of the Russian loans and the bank's purchase of Latin American and other non-Russian securities during the same time period. The OCC began to investigate, and, in January 2002, after determining that Hamilton Bank had operated in an unsafe and unsound manner, the OCC closed Hamilton Bank and the FDIC was named receiver. As a result of the bank's closure, the FDIC's Bank Insurance Fund lost approximately \$148 million.

If convicted of wire fraud, the defendants face a statutory maximum term of imprisonment of 30 years and a fine of up to \$1 million for each wire fraud count. If convicted of securities fraud, the defendants face a statutory maximum term of 10 years' imprisonment and a fine of \$1 million for each such count. If convicted of conspiracy, obstruction of an examination of a financial institution, or making a false statement, the defendants face a statutory maximum term of five years' imprisonment and a fine of up to \$250,000 for each such count.

The U.S. Attorney for the Southern District of Florida, Marcos Daniel Jiménez, said: "This prosecution demonstrates our vigorous efforts to prosecute corporate fraud schemes designed to defraud the investing public and regulators regarding the financial condition of publicly traded companies. Prosecuting corporate frauds is one of this Office's highest priorities. Officers and directors of publicly traded companies have the duty to disclose truthfully the financial condition of their companies, and if they fail to do that, they will be criminally prosecuted."

Inspector General Gianni commended the cooperative efforts of the U.S. Attorney's Office, Southern District of Florida; the Department of the Treasury Office of Inspector General; and the FDIC Office of Inspector General.