

ANVI-ASDEVILM

National association of real estate victims
(Association nationale des victimes de l'immobilier)

THE APOLLONIA CASE

FRANCE'S BIGGEST REAL ESTATE AND FINANCE SCAM

1,000 victims

One billion euros in damage

36 indictments including 5 banks

The banking sector's largest criminal case ever

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The Apollonia case in a nutshell

The Apollonia case is the largest real estate and finance scam that France has ever known. Total initial damage for the victims amounts to more than one billion euros, a sum that is close in scale to the amount in the Kerviel case – which had sent the French banking system into a tailspin...

This case, of unprecedented magnitude, has caused massive overindebtedness for private individuals. For some of them, this exceeded 8 million euros. A whole range of shareholders are involved: not only Apollonia – the property developer – but also real estate developers, notary public offices, a firm of chartered accountants, real estate brokers and, last but not least, banks – fifteen associates of which have been indicted to this day. After 4 years of procedure, indictments have come to a total of 36 in July 2012, 13 of which apply to previous managers, executives, bank directors or real estate brokers and 5 to banks, considered here as legal persons: *CIFRAA*, *BPI*, *CFID*, *Crédit Mutuel Méditerranéen*, and *Crédit Mutuel de l'Etang de Berre*.

In spite of their associates being indicted, banks such as *Crédit Mutuel Méditerranéen*, *CMEB*, *CIFRAA* or even *BPI* have continued until now to seize assets from borrowers – while being aware of the facts reported to them and having access to the investigation file as plaintiffs.

What was the “Apollonia case” became, over time and through the revelations made by bank executives during their questioning, the “banking scandal of the Apollonia case”.

One billion euros may seem like an abstract amount. However, the damage caused to families who thought they were planning their retirement is very real. These victims, grouped together in the national association of real estate victims (ANVI-ASDEVILM) now seek redress in the name of all the terrible human drama they have been – and are still – going through. Their financial situation, the seizures, the pressures have all brought a great many of them to suffering from depression, having their family lives destroyed, experiencing debilitating illnesses, needing long term stays in the hospital, and even being totally and permanently disabled...

Focus on the banks indicted in July 2012

On Monday 16 July 2012, one bank was first indicted as a moral person in the Apollonia case. Over the following week, the number of banks targeted by this procedure totaled 5, which was a judicial premiere in France. Important deposits – up to 40 million euros – were asked of them. As moral persons, they incur a penalty which could reach **3.75 million euros**.

| BANK | CAUSE FOR INDICTMENT | DEPOSIT |
|----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|-------------------------------------------------------------|
| CIFRAA Subsidiary of the <i>Crédit Immobilier de France</i> in the Rhône Alpes region | Possession in conspiracy to defraud | 40 million euros |
| BPI (the <i>Banque Patrimoine et Immobilier</i>) Subsidiary of the <i>Crédit Immobilier de France</i> | Conspiracy to defraud | 15 million euros |
| <i>Crédit Immobilier de France Développement (CIFD)</i> Holding parent bank of BPI | Collaboration in conspiracy to defraud | 100 000 euros |
| <i>Crédit Mutuel Méditerranéen</i> | Conspiracy to defraud | 4 million euros |
| <i>Crédit Mutuel de l'Etang de Berre</i> Local branch of the <i>Crédit Mutuel Méditerranéen</i> federation | Conspiracy to defraud | 4 million euros <i>Placed under judicial supervision</i> |

MECHANISM BEHIND THE SCAM

- **Property.** From 1997 to 2009, Apollonia, an Aix-based firm managed by Jean Badache, sold more than **4,500 housing units** – vacation homes or student residences – that can be exploited under the status of professional renter of furnished property which constitutes a retirement income product.
- **Buyers.** During this period, everywhere in France **400 families** have each purchased several of these residences from Apollonia to build a decent retirement fund for themselves. Apollonia ensured them that the sums borrowed would be self-financing. The loans contracted were comprised in a range between 500,000 euros and 8 million euros, averaging around 2 million euros.
- **Real estate scam.** Sales associates at Apollonia implemented highly structured sales techniques which aimed at gaining the client's trust (in particular, through sponsoring by

other clients) then at getting them to sign precipitously, by pressuring them with bundles of partially completed documents. The process was justified as a service: Apollonia was in charge of everything, choosing all the stakeholders, promoters, notary publics, banks, and taking care of all the steps, including with the banks. Apollonia's choice of notary public offices and banks amongst the leading national firms was meant to bring a sense of safety and trust to the clients.

- **Power of attorney.** In order to speed up the sale, Apollonia and its official notary publics would get the power of attorney documents signed at the buyer's workplace, or in an airport, a hotel, or even on a hospital bed, hundreds of kilometers away from the notary public office and without reading the documents. With this power of attorney, they would regularize the sale and loan deeds with the promoters and the banks.
- **The absence of bank supervision over loan applications.** As partners, the banks would receive loan applications directly from Apollonia, which was in charge of getting borrowers to sign these documents precipitously and sending them immediately to the bank. The banks would thus avoid any contact with the clients. A single loan application would be presented to several banks "in case of multiple acceptances" – a way for Apollonia to maximize sales. In some cases, documents had been crudely forged by the sales associates of Apollonia to hide other loans and distract from situations of overindebtedness. Furthermore, bank accounts were opened without the clients' knowledge, in order to hide some loans. Finally, loans were granted without implementing the most elementary supervision procedures.
- **Overindebtedness and seizures.** Starting in 2007, Apollonia clients discovered that **property was overestimated, up to 6 times its value.** Having to meet **repayment deadlines which generally amount to twice the amount of the rent collected,** buyers found themselves in a situation of **overindebtedness.** Many of them have seen the lots they acquired seized or have had the banks force them to sell at a very steep loss, while having to continue making payments.
- **Bank loans.** The Scrivener Law for the protection of the consumer – which carries a criminal sanction – **has been violated thousands of times over the years.** In spite of the fact that the victims' situation of overindebtedness was known and that an inquiry for fraud had been instigated, currently indicted bank executives and directors appear to have decided to continue financing the projects brought to them by Apollonia. Some banks are currently purchasing the seized properties at a discounted price, after they've been auctioned.

PROCEDURE AND INDICTMENTS

The victims, grouped together in the ANVI-ASDEVILM association, have filed a class action suit in April 2008 with the Regional Court (*TGI – Tribunal de Grande Instance*) in Marseille. The Public Prosecutor has instigated an inquiry into allegations of conspiracy to defraud, forgery, use of forged documents, illegal banking activity and criminal association.

- **The case** is heard in Marseille by the financial division of the regional judicial police unit (*SRPJ – Service Régional de Police Judiciaire*), with the support of the branch in

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charge of the fight against organized crime and financial crimes in Nanterre, placed at the disposal of Ms. Lévy, the investigating judge.

- **In July 2012** – while the inquiry was still ongoing – there were 36 people indicted and 11 people placed under assisted witness status, including 20 bank executives (indicted or assisted witnesses, including banking transaction intermediaries) and five banks.
- **Apollonia's directors** have been remanded into custody for a period of 9 weeks in 2009, on charges of conspiracy to defraud, forgery and use of forged documents, illegal use of the status of banking intermediary, misusing a document signed in blank, breach of trust. Jean Badache, the manager, is currently under judicial control inside his residence in Cassis, having already spent 4 months in custody.
- **Five public notaries** from Aix, Marseille and Lyon have been indicted for conspiracy to defraud and forgery of a public document by a person in a position of public authority. Three notaries have been remanded into custody for several weeks and risk Assize Court.
- **5 banks are indicted as moral persons:** *CIFRAA*, subsidiary of the *Crédit Immobilier de France* in the Rhône-Alpes region, *BPI*, also a subsidiary of the *Crédit Immobilier de France* and its holding *CIFD (Crédit Immobilier de France Développement)*, the Federation of the *Crédit Mutuel Méditerranéen*, and the branch of the *Crédit Mutuel de l'Etang de Berre*.
 - **13 people are indicted and 7 are placed under assisted witness status, including an ex-manager and the directors and executives of banks and credit institutions, for collaboration in conspiracy to defraud.**
 - **Ex-CIFFRA, which became CIFRAA:** 4 people indicted, 1 person placed under assisted witness status
 - **Crédit Agricole du Nord de France:** 1 person indicted, 1 person placed under assisted witness status
 - **BNP Paribas Personal Finance Rhône Alpes:** 1 person indicted, 1 person placed under assisted witness status
 - **BNP INVEST IMMO:** 1 person placed under assisted witness status
 - **GE Money Bank** (subsidiary of General Electric): 2 people indicted, 1 person placed under assisted witness status
 - **Crédit Mutuel Méditerranéen:** 1 person indicted, 1 person placed under assisted witness status
 - **Crédit Mutuel de l'Etang de Berre:** 1 person placed under assisted witness status

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BANKING INTERMEDIARIES

- **Cafpi**: 1 person indicted
- **French Riviera**: 1 person indicted
- **Crédits Immobiliers Placements Assurances (CIPA) Cannes**: 2 people indicted

“While the banks had access to the criminal file as plaintiffs and had knowledge of the facts, their head offices never expressed any public reaction. This absence of reaction represents a denial, which is perfectly shocking from the victims’ point of view.”

Jean-Paul Lescure, ASDEVILM regional delegate for the South-West

THE SITUATION IN JULY 2012

Some banks (the managers of which have been indicted and are entitled to the presumption of innocence) are using files in which forgeries have been identified, in order to prosecute and seize the assets of their own victims. Those same victims cannot use the criminal file which is damning for the banks, because of the confidentiality of the investigations.

ASDEVILM’S EXPECTATIONS

The victims expect judges to draw the consequences of the serious irregularities in the banking documents, contained in both the criminal and civil files, and to take into account the dramatic consequences of the actions that have been committed to their prejudice.

“After 4 years of procedure, with the banks being indicted as moral persons, we have the feeling that we are finally achieving our goal. It is a decisive step towards the full recognition of the role played by the banks in the scam which has led hundreds of families to overwhelming indebtedness. Lives have been broken by these banks which have deliberately chosen to violate the laws that protect borrowers, through the use of elaborated strategies and decisions made at the highest level, that were solely guided by a logic of maximizing profit. Yet, the “banking scandal” is still ongoing beyond the scam itself, with seizures that affect many of the already bankrupt victims. We intend to put an end to this and seek redress.”

Claude Michel, president of the ANVI-ASDEVILM association, which regroups one thousand victims from the Apollonia case

APOLLONIA VICTIMS: KEY FIGURES

- ***1,000 victims of the largest real estate and finance scam in France***
- ***350 families grouped within ASDEVILM to seek redress***
- ***One billion euros of initial damage***
- ***Hundreds of lives broken by massive overindebtedness***
- ***31 indictments and 11 assisted witness status as of July 2012***
- ***13 indictments and 7 assisted witness status just for banks and credit institutions: the largest banking criminal case that France has ever known***
- ***5 banks indicted as moral persons: a judicial premiere in France***

Violation of prudential rules

Providing mortgages is an activity strictly defined by public policy texts. As evidenced by the current state of the criminal file, to which the victims have had access as plaintiffs, some banks have violated essential rules in the French Consumer Code in order to validate the loans applications presented by Apollonia.

Apollonia was indeed a very lucrative business finder. The marketer could, in some cases, make up 50% of the objectives for a regional agency (in particular for *BPI Lyon*, a 100% subsidiary of *CIFD*). Moreover, at *CIFRAA*, a subsidiary of the *Crédit Immobilier de France*, the interest rates were increased by 0.4% for “services rendered” – an increase that was made possible by the fact that the borrowers had neither information nor any decision-making power over the loan that they were applying for.

Upon consultation of the criminal file by the plaintiffs, a few examples of rule violation can be highlighted:

- banking information forms and loan applications that are all filled out in the same handwriting (an Apollonia associate), never in the borrower’s handwriting;
- banking information forms that are often neither signed nor dated;
- envelopes returning the loan applications that are all mailed from the Bouches-du-Rhône or the Alpes-Maritimes departments, while the borrowers are located all over France;
- loan offers that are directly sent by the banks to Apollonia and not to the borrower;
- loan offer acceptances that were not sent back by the borrowers.