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Judge grants confidentiality to Ocean Bank in Puig litigation

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Ocean Bank has been granted confidentiality surrounding much of a trial over bank negligence and breach of fiduciary duty allegations connected to the $100 million implosion of Juan Puig's condo conversion company.

The bank has been ordered to provide the court with 2,000 pages of its internal policies in connection with bad loans made by loan officers with strong ties to the developer. But, U.S. Bankruptcy Court Judge Robert Mark ordered that the policy documents – and, thus, much of the trial – will remain sealed as trade secrets.

Ocean Bank has claimed the policies need to be confidential because its competition could benefit from learning about its internal policies. But, the ruling means that one of South Florida's most sensational trials related to allegations of lender negligence and breach of fiduciary duty during the condo market boom could remain partially under wraps.

"Loan policies in this market – that's precisely the kind of thing the public would be interested in knowing about," said Lucy Dalglish, executive director of the Reporters Committee for Freedom of the Press, a Washington, D.C.-based First Amendment advocacy group. "I wouldn't think that would be a trade secret, but they obviously were able to convince the judge that it was."

Mark ruled in April that a lawsuit filed by creditors of the bankrupt condo converter, with claims for more than $45 million in damages, could go forward. The suit alleges that bank loan officers who were friends with Puig extended the insolvency by making bad loans in 2004 and 2005. Puig was one of the first high-profile South Florida developers to succumb to the market downturn, filing personal and business bankruptcies in 2007.

The lawsuit against Ocean Bank also alleges that a former bank employee supervising the handling of Puig's loan accounts "took thousands of dollars in valuable gifts" from Puig's companies and "personally lent funds" to a company that invested in Puig's projects.

Michael Budwick, attorney for the creditors committee, said the ruling sealing some documents in the case will make it difficult for the media or outside observers to cover the case closely.

> "Logistically, I'm not sure how people not covered by confidentiality will be able to stay in the courtroom," said Budwick, of Meland Budwick, P.A.

He has alleged in court motions that the internal policies are necessary to depose the bank's representative, COO Terry Curry, who was formerly the chief credit officer.

Budwick said likely topics would include the methodology by which loans were underwritten and how accounts were monitored.

In his ruling, Mark said he would enter a separate confidentiality order before the bank produces the documents.

The lawsuit alleges former employees in Ocean Bank's Small Lending Group became close friends with Puig, and that their families vacationed together. It also alleges a former employee accepted gifts from Puig, and that one employee invested in a company whose sole purpose was to invest in Puig's company.