Court documents detail Fair's demise

After a lengthy FBI inquiry, federal officials on March 16 filed a 12-count indictment against Fair Finance Inc. executives Tim Durham, Jim Cochran and Rick Snow. The Securities and Exchange Commission also filed a civil suit against the men. Here's a look at the allegations, according to court documents:

2002: Tim Durham and Jim Cochran purchase Akron, Ohio-based Fair Finance for $23 million. The business, founded in 1934, provides financing to businesses by buying their consumer receivables and raises necessary funds by selling interest-bearing certificates to investors. Certified public accountant Rick Snow is hired as chief financial officer. During their first year as owners, Fair loans $20.7 million to Durham, Cochran and other related parties.

2002

Durham's Geist mansion

2003

2003: Fair makes $19.5 million in related-party loans.

2004

2004: Fair makes $24.4 million in related-party loans.

2005-2009: Fair executives conceal the company's financial condition in securities registration documents, listing the loans as assets on Fair's books "when they knew in reality that the loans were (a) worthless or grossly overvalued, (b) producing little or no cash proceeds, (c) supported by insufficient or non-existent collateral to assure repayment, and (d) in part advances, salaries, and lines of credit for Durham and Cochran's personal expenses." During the same period, Snow receives at least $1.3 million in compensation from Fair.

2005

2005: Fair makes $23.6 million in related-party loans as Durham, Cochran, Snow and unnamed others execute a scheme to defraud investors by using the company's money for the insider loans, causing "a steady and substantial deterioration in Fair's financial condition."

March 2005: Durham and Cochran confirm in an e-mail that Durham-led Obsidian Enterprises Inc. is failing. Fair loans the Indianapolis company $13.6 million. By Sept. 30, 2009, Obsidian owes Fair $29.9 million.

June 2005: Fair Finance's outside auditor, identified in a separate lawsuit as BGBC Partners PC of Indianapolis, is fired after expressing concerns about the related-party loans and refusing to sign off on the firm's audited financial statements.

2006

2006: Fair makes $23.7 million in related-party loans.

August 2006: A second accounting firm, identified only as Accounting Firm B, is fired after telling Fair executives it was unlikely the loans would be repaid, and they were under-collateralized by at least $20.5 million. "Accounting Firm C" is hired to complete a financial review, but not an audit.

December 2006 to February 2007: Terms of loans to Obsidian Enterprises Inc., DC Investments LLC, Fair parent Fair Holdings Inc. and U.S. Rubber were amended to increase the borrowing capacity and extend the payment dates.

2007

February 2007: Durham has $250,000 wired from Fair to remodel his garage.

2007: Durham and Cochran sell about $22.8 million of Fair Finance's consumer receivables to repay a Fair Holdings loan and the note they used to purchase Fair, hurting Fair's ability to generate income to pay its investors. The same year, Fair makes $32.3 million in related-party loans.

2008

2008: Fair makes $36.5 million in related-party loans.

January 2008: Durham has $150,000 wired from Fair to use at a casino.

September 2008: Cochran and Durham admit in e-mails that Fair is in dire financial straits. Durham says assets likely would be "way short" if the company were ever audited by the Ohio Division of Securities.

October 2008: In an e-mail exchange with Fair's attorney, Durham acknowledges that Fair used proceeds from the sale of new investment certificates to pay existing investors—essentially a Ponzi scheme.

November 2008: Durham and Cochran have $50,000 wired from Fair to pay Cochran's country club fees.

December 2008: With little money to pay investors and Fair restricting their "early cash outs," Cochran suggests to Durham in an e-mail that he sell some antiques and cars, which he estimates will bring in $5 million to $7 million. Durham responds that he will sell a few cars, but with investor redemptions of about $2 million a month, "we are chasing a black hole."

Durham's art collection was sold.

2009

September 2009: A Fair sales representative makes false statements about the business and its use of investor money to an undercover agent posing as an investor.

October 2009: Durham signs certification stating that Fair's balance sheet, income statement, shareholders' equity and cash flows for 2007 and 2008 are correct. On Oct. 24, *IBJ* runs an investigative story highlighting the related-party loans—prompting investors to ask questions and seek to cash out their certificates. Cochran calls the story a mischaracterization of Fair's business and said the company's investments in cars and artwork were "good investments."

The FBI raided Obsidian's offices in November 2009.

Fair's Akron office never reopened.

November 2009: Durham and Cochran have telephone conversations during which they discuss lying to investors to quell their concerns and using an accounting strategy to make millions of dollars in loans "literally disappear" to avoid justifying them to regulators.

Nov. 24, 2009: FBI agents raid Obsidian's offices in Indianapolis and Fair's Akron headquarters, serving search warrants tied to the investigation. Neither office reopened. The same day, Ohio regulators say Fair won't be allowed to sell additional investment certificates until it can show it's able to pay them back. By now, Fair's debt to investors is $200 million, and its assets consist of $24 million in consumer receivables—plus $240 million in loans to Durham ($24.8 million), Cochran ($8.4 million) and related parties. Durham and Cochran's DC Investments Inc., for example, owes $52.7 million.

2010

February 2010: Fair Finance is forced into involuntary Chapter 7 bankruptcy.

Sources: U.S. District Court filings, IBJ research.