

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
(TOPEKA DOCKET)

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

Case No. 09-40046-01/10-SAC

ERIC M. RABICOFF,)

JASON L. RABICOFF,)

LUCAS R. COLLIER,)

ANTHONY E. CAROLLO,)

DEBORAH SAULMON,)

BORA LY,)

KONG BUN LY,)

ANTHONY "GABE" PAINTON, Jr.,)

REBECCA GELWIX, and)

RICHARD NGEK)

Defendants.)

Ct. 1: 18 U.S.C. §371
Cts. 2 - 9: 18 U.S.C. §1344
Cts. 10 - 16: 18 U.S.C. §1957
Cts. 17 - 19: 18 U.S.C. §1343
Forfeiture Allegation

INDICTMENT

THE GRAND JURY CHARGES:

Introduction

At all times material to this indictment:

1. In 2006, Eric M. Rabicoff ("E. Rabicoff") engaged in a scheme to defraud federally insured financial institutions by recruiting straw buyers and co-

conspirators to purchase homes that were for sale by owner (“FSBO”) and by submitting materially false loan applications to lenders knowing these loans would be funded by financial institutions. It was part of the scheme that the conspirators falsified information including, but not limited to, employment history, income, and rent history in order to defraud the lender to fund loans for borrowers, who would not have qualified but for the false information. It was also part of the scheme that the contract price would be increased so that the conspirators received proceeds by submitting false invoices to the title company at closing. As part of this scheme, the conspirators caused financial institutions to fund loans totaling \$3,019,499.38 to buyers who would not have qualified without the false information.

2. E. Rabicoff recruited straw buyers to purchase homes. A straw buyer is a person who takes title to a piece of property for a short period of time and also obtains a loan on that piece of property, all for the benefit of another. It was part of the scheme that E. Rabicoff convinced the straw buyers that he would subsequently purchase these homes and remove the straw buyer’s name from the loan obligations. E. Rabicoff represented to the straw buyers that he already had renters for the property who would cover the mortgage payments until E. Rabicoff could purchase the property.

3. E. Rabicoff approached Lucas R. Collier (“Collier”) to act as a straw buyer. Although Collier could not qualify for a loan, it was part of the scheme that Collier recruited friends to act as straw buyers: Anthony “Gabe” Painton, Jr., and Bora Ly (“B. Ly”). These friends in turn recruited other straw buyers: Rebecca Gelwix, Kong Bun Ly (“K. Ly”) and Richard Ngek. Collier provided the straw buyers’ names, Social Security Numbers, and dates of birth that were needed in order to complete the loan applications. None of the straw buyers were qualified to purchase the homes. Thus, false information was included in the loan applications in order for the straw buyers to qualify for these loans. The straw buyers signed the loan applications with full knowledge of the false information contained in the loan applications.

4. Jason Rabicoff (“J. Rabicoff”) is E. Rabicoff’s brother and a loan officer employed by Apex Financial, a mortgage company located in Olathe, Kansas. Apex Financial brokered loans through Clarion Mortgage, located in Overland Park, Kansas. At E. Rabicoff’s direction, J. Rabicoff assembled the straw buyer loan files. It was part of the scheme that J. Rabicoff included false rent history as well as false employment and incomes for the straw buyers to ensure that each would qualify for loans. J. Rabicoff gave the false loan applications to Collier who obtained the straw buyers’ signatures. Collier then returned the signed applications to J. Rabicoff for submission to the lenders.

5. Anthony E. Carollo (“Carollo”) was the manager of Gourmet Grocers, a small family owned business. Carollo is also Collier’s cousin. Gourmet Grocers is listed as the employer for all of the straw buyers. It was part of the scheme that Carollo provided false Verifications of Employment that were sent to the lenders, claiming that the straw buyers were employed by Gourmet Grocers. Carollo was paid for the false Verifications of Employment from the loan proceeds.

6. Deborah Saulmon (“Saulmon”) owned Essential Properties, a property management company. As part of the scheme and at the direction of J. Rabicoff, Saulmon provided false Verifications of Rent that were sent to the lender, creating false rent histories for the straw buyers.

7. E. Rabicoff or individuals acting under his direction, submitted false invoices to the title companies for purported improvements made to the properties. The invoices were submitted in the name of MSM Enterprises, a company formed and controlled by E. Rabicoff. The title companies paid MSM Enterprises from the loan proceeds at closing. No actual improvements were made to these properties by MSM Enterprises.

8. At the direction of E. Rabicoff, Collier, B. Ly, and Painton set up shell companies to receive the proceeds from the home sales to the straw buyers. Collier formed Cappo Investment Agency, LLC, and opened an account at Bank of Blue

Valley. B. Ly formed Global Investing LLC, and opened an account at Bank of Blue Valley. Painton formed AJs Investment Group. MSM Enterprises also held an account at Bank of Blue Valley.

9. Total proceeds from the closings in the amount of \$612,720.00 were paid to MSM Enterprises. From these proceeds, E. Rabicoff transferred \$269,000.00 from the MSM Enterprises Bank of Blue Valley account to the Cappo Investment Bank of Blue Valley account. Collier then paid the straw buyers from the funds received from MSM Enterprises.

COUNT 1
A VIOLATION OF TITLE 18 UNITED STATES CODE, SECTION 371

THE CONSPIRACY:

10. Paragraphs 1 through 9 are incorporated herein by reference.

11. Beginning sometime in 2006, the precise date being unknown to the grand jury, the defendants herein,

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ANTHONY "GABE" PAINTON, Jr.
REBECCA GELWIX,
and
RICHARD NGEK

combined, conspired, confederated and agreed to commit offenses against the United States of America, in the District of Kansas and elsewhere, by:

A. knowingly executing, and attempting to execute, a scheme and artifice to obtain any of the moneys, funds, credits, assets, securities and other property owned by and under the custody and control of financial institutions, by means of materially false and fraudulent pretenses, representations, promises and omissions of fact, in violation of Title 18 United States Code, Sections 2, and 1344;

B. knowingly engaging in monetary transactions in property derived from specified unlawful activity, in violation of Title 18 United States Code, Sections 2 & 1957; and

C. devising and executing, and attempting to execute, by wire communications, a scheme and artifice to obtain any money or property, by means of material false and fraudulent pretenses, representations, promises and omissions of material fact in violation of Title 18, United States Code, Sections 1343.

12. In furtherance and execution of this conspiracy, the defendants and others at their direction, committed overt acts including, but not limited to, those set forth in paragraphs 1 through 9 above, and the substantive crimes in Counts 2 through 19 which follow, all being incorporated herein by reference.

COUNTS 2 - 9
BANK FRAUD
A VIOLATION OF TITLE 18, UNITED STATES CODE, SECTIONS 2 &

13. Paragraphs 1 through 12 are incorporated herein as though fully set forth.

14. On or about the dates set forth below, in the District of Kansas and elsewhere, the defendants herein,

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executed, and attempted to execute, a scheme and artifice to obtain the moneys, funds, credits, assets, securities, and other property, owned by or under the custody or control of the financial institutions identified below, as defined in 18 U.S.C. § 20, by means of false and fraudulent pretenses, representations, promises and omissions of material facts, thereby obtaining, and attempting to obtain, loan proceeds from the following financial institutions:

Count & On or About Date	Financial Institution & Execution
Ct. 2 4/03/2006	Submitting false loan application information for B. Ly, borrower, to South Star Funding to obtain proceeds from Washington Mutual Bank, Stockton, CA for the purchase of 26448 W. 109 th Terr., Olathe, KS.
Ct. 3 4/28/2006	Submitting false loan application information for Painton, borrower, to Resmae Mortgage to obtain proceeds from JPMorgan Chase, New York, NY for the purchase of 3637 Wyandotte, Kansas City, MO.
Ct. 4 5/10/2006	Submitting false loan application information for B. Ly, borrower, to Fremont Investment & Loan to obtain proceeds from Capital Source Bank, Brea, CA 300 SW Seagull, Lee's Summit, MO.
Ct. 5 5/31/2006	Submitting false loan application information for K. Ly, borrower, to Novastar Mortgage to obtain proceeds from Bankers Trust Co. of New York, New York, NY for the purchase of 4483 Bowsprit, Lee's Summit, MO.
Ct. 6 6/07/2006	Submitting false loan application information for K. Ly, borrower, to West America Mortgage Co. to obtain proceeds from Barrington Bank & Trust, Barrington, IL for the purchase of 4072 SW Marline, Lee's Summit, MO.
Ct. 7 7/18/2006	Submitting false loan application information for Gelwix, borrower, to America's Wholesale Lender to obtain proceeds from Bank of New York, New York, NY for the purchase of 5113 SW Royal Tern, Lee's Summit, MO.
Ct. 8 7/26/2006	Submitting false loan application information for Ngek, borrower, to Lenders Direct Capital Corp. to obtain proceeds from Citibank, New York, NY for the purchase of 421 SW Seaside Sparrow, Lee's Summit, MO.

Count & On or About Date	Financial Institution & Execution
Ct. 9 8/29/2006	Submitting false loan application information for Gelwix, borrower, to Encore Credit Corporation to obtain proceeds from Deutsche Bank Trust Co., New York, NY for the purchase of 3719 SW Harbor Circle, Lee's Summit, MO.

COUNTS 10 - 16
ENGAGING IN MONETARY TRANSACTIONS
IN PROPERTY DERIVED FROM SPECIFIED UNLAWFUL ACTIVITY
IN VIOLATION OF TITLE 18 UNITED STATES CODE,
SECTIONS 2 & 1957

15. Paragraphs 1 through 14 are incorporated herein by reference.

16. On or about the dates set forth below, in the District of Kansas and elsewhere, the defendants herein,

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and
RICHARD NGEK,

knowingly engaged and attempted to engage in monetary transactions affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000, such property having been derived from the specified unlawful activity of

bank fraud, in violation of Title 18 United States Code, Section 1344 as follows:

Count & On or About Date	Transaction
Ct. 10 4/05/2006	Disbursement of Loan proceeds from Count 2 of \$50,000.00 to Cappo Investment Agency
Ct. 11 5/02/2006	Disbursement of Loan proceeds from Count 3 of \$40,000.00 to Cappo Investment Agency
Ct. 12 5/12/2006	Disbursement of Loan proceeds from Count 4 of \$45,000.00 to Cappo Investment Agency
Ct. 13 6/05/2006	Disbursement of Loan proceeds from Count 5 of \$34,000.00 to Cappo Investment Agency
Ct. 14 6/12/2006	Disbursement of Loan proceeds from Count 6 of \$30,000.00 to Cappo Investment Agency
Ct. 15 7/21/2006	Disbursement of Loan proceeds from Count 7 of \$29,000.00 to Cappo Investment Agency
Ct. 16 7/28/2006	Disbursement of Loan proceeds from Count 8 of \$35,000.00 to Cappo Investment Agency

COUNT 17 - 19
WIRE FRAUD
A VIOLATION OF TITLE 18 UNITED STATES CODE,
SECTIONS 2 & 1343

17. Paragraphs 1 through 16 are incorporated herein by reference.

18. Having devised the aforesaid scheme and artifice to defraud in the District of Kansas and elsewhere, the defendants herein,

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 and
 RICHARD NGEK,

for the purpose of executing the aforesaid scheme and artifice, and attempting to do so, knowingly caused to be transmitted by means of wire, radio and television communication in interstate commerce, in Kansas and elsewhere, certain signs, signals, pictures and sounds, to-wit: interstate wire transfers as follows:

Count & On or About Date	Transmission
Ct. 17 7/20/2006	\$70,000.00 paid via electronic fund transfer from Parkway Title to MSM Enterprises's Bank of Blue Valley account #XXXX32 for closing on 5113 SW Royal Tern, Lees Summit, MO
Ct. 18 7/27/2006	\$76,000.00 paid via electronic fund transfer from Parkway Title to MSM Enterprises's Bank of Blue Valley account #XXXX32 for closing on 421 Seaside Sparrow, Lees Summit, MO
Ct. 19 8/29/2006	\$40,000.00 paid via electronic fund transfer from TS Connections to MSM Enterprises's Bank of Blue Valley account #XXXX32 for closing on 3719 SW Harbor Cir., Lees Summit, MO

FORFEITURE NOTICE & ALLEGATION

19. Paragraphs 1 through 18, and the allegations of the foregoing counts of this indictment, are realleged, and by this reference fully incorporated herein, for the purpose of alleging forfeitures to the United States of America, pursuant to the provisions of Title 18 United States Code, Section 982(a)(2).

20. As a result of the conspiracy, and scheme alleged in the foregoing counts, involving the substantive offenses of bank fraud in violation of Title 18 United States Code, Section 1344, money-laundering, in violation of Title 18 United States Code, Section 1957, and wire fraud in violation of Title 18 United States Code, Section 1343, the defendants

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shall forfeit to the United States all property, real and personal, involved in and derived from the aforesaid offenses and all property traceable to such property, or proceeds, including, but not limited to:

A) the sum in excess of \$3,000,000.

B) In the event any of the foregoing property: i) cannot be located upon the exercise of due diligence; ii) is transferred, sold to, or deposited with, a third party; iii) is placed beyond the jurisdiction of the Court; iv) is substantially diminished in value; or, v) is commingled with other property which cannot be divided without difficulty, as a result of any act or omission of any defendant, the Court shall order the forfeiture of any other property of the defendants, up to the value of the property described in the foregoing paragraphs.

A TRUE BILL.

Dated: June 10, 2009

s/Foreperson
FOREPERSON

s/Christine E. Kenney, #13542 for
Lanny D. Welch
United States Attorney
District of Kansas

[It is requested that trial be held in Topeka, Kansas]