

5 ISSUED
[Handwritten signature]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

3:04 PM

2004 DEC 14 PM 1:25

7:11 PM

MORTGAGE LENDERS NETWORK
USA, INC.
Middlesex Corporate Center
213 Court Street, 11th Floor
Middletown, CT 06457

CASE NO.

JUDGE

Plaintiff,

v.

ADKINS APPRAISAL SERVICES, INC.
6465 Monroe Street, Suite 212
Sylvania, OH 43560

COMPLAINT

JURY DEMAND ENDORSED HEREON

and

DEBRA ADKINS
c/o ADKINS APPRAISAL SERVICES, INC.
6465 Monroe Street, Suite 212
Sylvania, OH 43560

and

JAY RICCARDI
2469 Parkwood Avenue
Toledo, OH 43620-1138

and

DAVID G. ANDERSON
604 Orleans Avenue
Bowling Green, OH 43402

and

EMILIO SOLI
3156 Crown Point Drive
Stow, OH 44224-5412

Defendants.

Plaintiff Mortgage Lenders Network USA, Inc., for its Complaint against Defendants, Adkins Appraisal Services, Inc., Debra Adkins, Jay Riccardi, David G. Anderson, and Emilio Soli, states and alleges as follows:

JURISDICTION AND VENUE

1. Plaintiff brings this action pursuant to the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961-1968, and principles of state, common, and statutory law as set forth below.

2. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and supplemental jurisdiction over the related state law claims.

3. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 in that the claims alleged herein arose in this District and many acts and transactions that were part of the unlawful conspiracy and the fraudulent scheme alleged herein occurred in this District. Venue is proper in this District as to certain of the co-conspirator Defendants and, therefore, proper as to all.

PARTIES

4. Plaintiff Mortgage Lenders Network USA, Inc. ("MLN") is a Delaware corporation, with its principal place of business located at 213 Court Street, 11th Floor, Middletown, Connecticut 06457. MLN is a mortgage lender that, *inter alia*, lends funds to individuals to purchase and/or refinance residential property.

5. Defendant Adkins Appraisal Services, Inc. ("Adkins Appraisal"), upon information and belief, is a corporation that conducts business in Ohio and Michigan, with its principal place of business located at 6465 Monroe Street, Suite 212, Sylvania, Ohio 43560.

6. Defendant Debra Adkins ("Adkins") is an individual who resides and/or is employed at 6465 Monroe Street, Suite 212, Sylvania, Ohio 43560. Adkins is a principal, owner and/or operator Adkins Appraisal.

7. Defendant Jay Riccardi ("Riccardi") is an individual who resides at 2469 Parkwood Avenue, Toledo, Ohio 43620-1138. At all relevant times, Riccardi was an employee, representative, and/or authorized agent of Adkins Appraisal.

8. Non-party Global Mortgage Co. ("Global Mortgage"), at all relevant times, was an Ohio corporation located at 410 East Sandusky Street, Findlay, Ohio 45840, which conducted business as a mortgage broker. As of September 12, 2003, Global Mortgage recorded its Certificate of Dissolution with the Ohio Secretary of State and, upon information and belief, is no longer a viable corporation conducting business in the State of Ohio.

9. Defendant David G. Anderson ("Anderson") is an individual who resides and/or is employed at 604 Orleans Avenue, Bowling Green, Ohio 43402. Anderson was a principal, owner, and/or operator of Global Mortgage.

10. Defendant Emilio Soli ("Soli") is an individual who resides and/or is employed at 3156 Crown Point Drive, Stow, Ohio 44224-5412. Soli was a principal, owner, and/or operator of Global Mortgage.

FACTS

11. From in or around March of 2000 through September of 2000, Global Mortgage, Anderson, and/or Soli (collectively the "Global Defendants") conspired with Adkins Appraisal, Debra Adkins, and/or Jay Riccardi (the "Adkins Defendants") to provide false and fraudulent appraisals of residential properties in return for payment from the Global Defendants and/or the residential borrowers.

12. The Adkins Defendants provided the Global Defendants appraisals of at least the following properties on the following dates:

- (a) Appraisal of 142 Garfield Avenue, Findlay, Ohio 45840 ("Sanchez Property"), on or about March 10, 2000.
- (b) Appraisal of 409 Griffith Street, Sycamore, Ohio 44882 ("Rife Property"), on or about March 17, 2000.
- (c) Appraisal of 5556 State Route 19, Galion, Ohio 44833 ("Erf Property"), on or about March 24, 2000.
- (d) Appraisal of 441 West Wyandot Avenue, Upper Sandusky, Ohio 43351 ("Weatherholtz Property"), on or about April 7, 2000.
- (e) Appraisal of 14946 Wapakoneta Road, Grand Rapids, Ohio 43522 ("Tapley Property"), on or about April 11, 2000.
- (f) Appraisal of 11266 Township Road 196, Vanlue, Ohio 45890 ("Smith Property"), on or about April 12, 2000.
- (g) Appraisal of 2713 Chestnut Street, Toledo, Ohio 43608 ("Jones Property"), on or about April 24, 2000.
- (h) Appraisal of 220 South Hazel Street, Upper Sandusky, Ohio 43351 ("Garza Property"), on or about May 1, 2000.
- (i) Appraisal of 1120 North Union Street, Lima, Ohio 45801 ("Potter Property"), on or about May 9, 2000.
- (j) Appraisal of 2120 Maplewood Avenue, Toledo, Ohio 43620 ("McWhorter Property"), on or about May 13, 2000.
- (k) Appraisal of 12629 Township Road 45, Findlay, Ohio 45840 ("Weyer Property"), on or about June 18, 2000.
- (l) Appraisal of 2999 Remington Ridge Drive, Columbus, Ohio 43232 ("First Stuckey Property"), on or about July 2, 2000.
- (m) Appraisal of 1458 Atcheson Street, Columbus, Ohio 43203 ("Second Stuckey Property"), on or about July 2, 2000.

- (n) Appraisal of 4843 Imperial Drive, Toledo, Ohio 43623 ("Sears Property"), on or about July 20, 2000.
- (o) Appraisal of 1016 Elcliff Drive, Westerville, Ohio 43081 ("Johnson Property"), on or about July 1, 2000.
- (p) Appraisal of 755 Hamilton Street, Toledo, Ohio 43602 ("Stevens Property"), on or about August 25, 2000.
- (q) Appraisal of 829 Evesham Avenue, Toledo, Ohio 43607 ("Langston Property"), on or about September 8, 2000.
- (r) Appraisal of 440 Ewing Avenue, Findlay, Ohio 45840 ("Long Property"), on or about September 20, 2000.
- (s) Appraisal of 3141 Pomeroy Street, Toledo, Ohio 43608 ("Fench Property"), on or about September 21, 2000.

13. The appraisals identified in paragraph 12 of this Complaint (collectively the "Appraisals") were false and fraudulent in that they contained misrepresentations of fact, as set forth more fully below, and the appraised value of the properties were higher than the actual and/or market value of the properties.

14. The majority of the Appraisals were initially prepared by Riccardi on behalf on Adkins Appraisal. In such instances, Adkins, as Riccardi's supervisory appraiser, certified, *inter alia*:

I directly supervise the appraiser who prepared the appraisal report, have reviewed the appraisal report, agree with the statements and conclusions of the appraiser, agree to be bound by the appraiser's certifications numbered 4 through 7 above, and am taking full responsibility for the appraisal and the appraisal report.

15. After the completion of each of the Appraisals, the Adkins Defendants forwarded the Appraisals to the Global Defendants and/or MLN via facsimile and/or United States mail.

16. For each of the above-listed properties identified in paragraph 12 of this Complaint, the Global Defendants submitted mortgage loan applications (with Appraisals) to MLN, in order for the residential borrower to obtain a mortgage loan from MLN. The Global Defendants submitted these applications via facsimile and/or United States mail.

17. Based upon the information provided by Defendants, including the false and fraudulent Appraisals, MLN extended financing in connection with the following loans:

- (a) On the Sanchez Property, Loan No. 2020019869, in the amount of \$78,000.00.
- (b) On the Rife Property, Loan No. 2020019941, in the amount of \$98,600.00.
- (c) On the Erf Property, Loan No. 2020020050, in the amount of \$134,300.00.
- (d) On the Weatherholtz Property, Loan No. 2020020200, in the amount of \$99,900.00.
- (e) On the Tapley Property, Loan No. 2020020379, in the amount of \$190,400.00.
- (f) On the Smith Property, Loan No. 2020020322, in the amount of \$110,400.00.
- (g) On the Jones Property, Loan No. 2020020588, in the amount of \$36,550.00.
- (h) On the Garza Property, Loan No. 2020020503, in the amount of \$82,500.00.
- (i) On the Potter Property, Loan No. 2020020672, in the amount of \$65,450.00.
- (j) On the McWhorter Property, Loan No. 2020020721, in the amount of \$36,000.00.
- (k) On the Weyer Property, Loan No. 2020020855, in the amount of \$90,300.00.

- (l) On the First Stuckey Property, Loan No. 2020020982, in the amount of \$187,000.00.
- (m) On the Second Stuckey Property, Loan No. 2020020983, in the amount of \$63,750.00.
- (n) On the Sears Property, Loan No. 2020021076, in the amount of \$135,000.00.
- (o) On the Johnson Property, Loan No. 2020020957, in the amount of \$166,600.00.
- (p) On the Stevens Property, Loan No. 2020021419, in the amount of \$36,800.00.
- (q) On the Langston Property, Loan No. 2020021464, in the amount of \$32,250.00.
- (r) On the Long Property, Loan No. 2020021864, in the amount of \$68,850.00.
- (s) On the Fench Property, Loan No. 2020021749, in the amount of \$36,700.00.

18. Defendants produced and submitted the false and fraudulent Appraisals to MLN to induce MLN to extend loans to the various residential borrowers, which resulted in the Defendants receiving fees from closing costs. According to the HUD settlement statements for the various loans, the Adkins Defendants received an "appraisal fee" on each loan, and the Global Defendants received an "origination fee" or "mortgage broker fee" on each loan, plus additional closing fees paid to Defendants.

COUNT I

19. MLN restates and incorporates the allegations contained in each and every preceding paragraph as if fully rewritten herein.

20. Through their preparation, submission, and transmittal of the Appraisals, Defendants made representations of fact to MLN, including but not limited to the following:

- (a) The appraised values of the properties represented the actual values of those properties.
- (b) The comparable properties listed in the Appraisals were comparable to the appraised property.
- (c) The comparable properties listed in the Appraisals possessed the characteristics listed for each comparable property, including but not limited to date of sale, distance from appraised property, etc.
- (d) The comparable property existed.

21. Further, the Adkins Defendants made representations of fact in the Appraisals, including but not limited to the following:

- (a) "I have researched the subject market area and have selected a minimum of three recent sales of properties most similar and proximate to the subject property for consideration in the sales comparison analysis..."
- (b) "I have taken into consideration the factors that have an impact on value in my development of the estimate of market value in the appraised report. I have not knowingly withheld any significant information from the appraisal report and I believe, to the best of my knowledge, that all statements and information in the appraisal report are true and correct."
- (c) "I stated in the appraisal report only my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the contingent and limiting conditions specified in this form."
- (d) "...[N]either my current or future employment nor my compensation for performing this appraisal is contingent on the appraised value of the property."
- (e) "I was not required to report a predetermined value or direction in value that favors the cause of the client or any related party, the amount of the value estimate, the attainment of a specific result, or the occurrence of a subsequent event in order to receive my compensation and/or employment for performing the appraisal. I did not base the appraisal report on a

requested minimum valuation, a specific valuation, or the need to approve a specific mortgage loan."

- (f) "I performed this appraisal in conformity with the Uniform Standard of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standard Board of The Appraisal Foundation and that were in place as of the effective date of this appraisal..."
- (g) "I have personally inspected the interior and exterior areas of the subject property and the exterior of all properties listed as comparable in the appraised report."

22. These representations were material to the transactions at hand.

23. Defendants made the representations falsely, with knowledge of their falsity, or with such utter disregard and recklessness as to whether they are true or false that knowledge may be inferred.

24. Defendants made the representations with the intent of misleading MLN.

25. MLN justifiably relied upon the representations.

26. As a direct and proximate result of Defendants' fraud, MLN has suffered, and will continue to suffer, damages.

COUNT II

27. MLN restates and incorporates the allegations contained in each and every preceding paragraph as if fully rewritten herein.

28. By acting in concert, Defendants maliciously combined to cause damages to MLN, in a way not competent for one alone.

29. Defendants possessed a common understanding or design to commit the wrongful acts against MLN.

30. As a direct and proximate result of Defendants' civil conspiracy, MLN has suffered, and will continue to suffer, damages.

COUNT III

31. MLN restates and incorporates the allegations contained in each and every preceding paragraph as if fully rewritten herein.

32. Defendants have violated the Racketeer Influenced and Corrupt Organizations Act (RICO) in that Defendants conducted or participated, directly or indirectly, in the conduct of an enterprise's affairs through: a) a pattern of racketeering activity; b) exercise of significant control over and within that enterprise; and/or c) participation in the conduct of the enterprise's affairs, resulting in injury to MLN.

33. Each Defendant is a "person" as that term is defined in 18 U.S.C. §1961(3).

34. Plaintiff is a "person" as that term is defined in 18 U.S.C. §1961(3).

35. Defendants willfully combined, conspired, and agreed to form an association in fact which constitutes an "Enterprise" under 18 U.S.C. §1961(4). This Enterprise was engaged in, and its activities affected, interstate commerce. Defendants were associated with the Enterprise at all times relevant to the events alleged herein.

36. Defendants conducted and participated, directly or indirectly, in the conduct of the affairs of this Enterprise through a pattern of racketeering activity.

37. Defendants knowingly devised and participated in a scheme whereby Defendants would produce and submit the false and fraudulent appraisals to MLN, to induce MLN to extend loans to residential borrowers, which resulted in Defendants receiving fees from closing costs.

38. To implement the scheme and generate profits for themselves, Defendants committed a pattern of acts or caused a pattern of fraudulent acts to be committed, as described in this Complaint.

39. Defendants engaged in a pattern of racketeering activity, as defined in 18 U.S.C. §1961(5) by committing a pattern of acts of wire fraud, in violation of 18 U.S.C. §1343, in the use of interstate telephone facsimile transmissions for advancing, furthering, or carrying out the scheme to defraud MLN. Facsimiles sent by Defendants to MLN were essential elements, or incident to essential elements, of the unlawful racketeering scheme.

40. Defendants engaged in a pattern of racketeering activity, as defined in 18 U.S.C. §1961(5) by committing a pattern of acts of mail fraud, in violation of 18 U.S.C. §1341, in the use of the United States mail for advancing, furthering, or carrying out the scheme to defraud MLN. Mailings sent by Defendants to MLN were essential elements, or incident to essential elements, of the unlawful racketeering scheme.

41. Defendants concealed the pattern of racketeering from MLN.

42. As a direct and proximate result of Defendants' RICO violations, MLN has suffered, and will continue to suffer, damages.

COUNT IV

43. MLN restates and incorporates the allegations contained in each and every preceding paragraph as if fully rewritten herein.

44. Between March and September of 2000, the Adkins Defendants and the Global Defendants entered into agreements whereby the Adkins Defendants would perform appraisals on the properties detailed above, in return for payment from the Global Defendants and/or the residential borrowers.

45. The Adkins Defendants breached those agreements by, *inter alia*, rendering inaccurate appraisal values.

46. In entering into those agreements, the Adkins Defendants and the Global Defendants intended to benefit MLN.

47. MLN is a third-party beneficiary of those agreements.


48. As a direct and proximate result of the Adkins Defendants' breach of those agreements, MLN has suffered, and will continue to suffer, damages.

WHEREFORE, Plaintiff Mortgage Lenders Network USA, Inc. prays for the following relief against Defendants:

- (a) Compensatory damages in an amount not less than \$250,000.00, to compensate MLN for all injury resulting from Defendants' conduct;
- (b) Treble damages pursuant to 18 U.S.C. §1964(c);
- (c) Punitive damages in amount not less than \$1,000,000, to punish Defendants and deter future unlawful behavior;
- (d) Attorneys' fees, expenses, and costs; and
- (e) For such other and further relief, in law or in equity, as this Court deems just and reasonable.

Respectfully submitted,

~~WALTER & HAVERFIELD LLP~~


Kenneth A. Zirm (Reg. No. 0010987)

Email: kzirm@walterhav.com

Bonnie S. Finley (Reg. No. 0065565)

Email: bfinley@walterhav.com

1301 E. 9th Street, Suite 3500

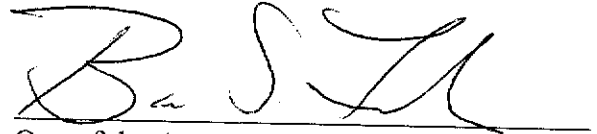
Cleveland, OH 44114-1821

(216) 781-1212

Attorneys for Plaintiff
Mortgage Lenders Network USA, Inc.

JURY DEMAND

Plaintiff hereby demands a trial by jury on any and all issues triable of right by a jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

A handwritten signature in black ink, appearing to read "B. S. H.", written over a horizontal line.

One of the Attorneys for Plaintiffs