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CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 MARC ROBERT ENGELMANN,)
)
)
 Defendants.)

Criminal No. 3:11-cr-47

INDICTMENT

T. 18 U.S.C. §1344
T. 18 U.S.C. §1343
T. 18 U.S.C. §371
T. 18 U.S.C. §2

THE GRAND JURY CHARGES:

**COUNT 1
(CONSPIRACY)**

A. INTRODUCTION

At all times relevant to this Indictment:

1. WE was a mortgage broker in Scott County, Iowa, who operated a business known as Victoria Mortgage.
2. ML was a real estate agent engaged in marketing commercial property in the Scott County, Iowa, area.
3. Defendant Marc Engelmann was an attorney licensed in the State of Iowa and practicing in Scott County, Iowa.
4. DH and RH were individuals living in the Scott County, Iowa, area, who engaged in certain purchases of rental properties in Scott County, Iowa.
5. JL was an individual who owned nine (9) rental properties in Scott County, Iowa, and sold said properties, as set forth below, to DH and RH.

B. THE CONSPIRACY

6. Beginning during or about June 2005 and continuing to on or about July 27, 2006, the defendant, MARC ROBERT ENGELMANN, did knowingly combine, conspire, confederate, and agree with other persons known to the grand jury to commit the following offenses against the United States:

a. To knowingly devise and intend to devise a scheme to defraud as to material matters and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and by intentional concealment of material facts, and, for the purpose of executing such scheme to defraud, to knowingly transmit and cause to be transmitted in interstate commerce by means of wire communication, certain signs, signals, pictures, and sounds, that is, fax transmissions of documents pertaining to real property purchases, in violation of Title 18, United States Code, Section 1343; and,

b. To knowingly devise a scheme to defraud federally-insured financial institutions, and to obtain money, funds, and assets owned by and under the custody and control of said financial institutions by means of material false and fraudulent pretenses, representations, and promises, and, for the purpose of executing such scheme to defraud, to knowingly cause to be presented to said financial institutions HUD-1 Settlement Statements that misrepresented the actual purchase prices of certain real properties, in violation of Title 18, United States Code, Section 1344.

C. MANNER AND MEANS OF THE CONSPIRACY

It was part of the conspiracy that:

7. WE and ML identified buyers financially unqualified to purchase real property but who were willing to do so, thereby generating mortgage broker and real estate agent commissions for WE and ML.

8. WE made false representations to mortgage lenders, banks, closing agents, and others concerning the assets, liabilities, and other factors material to mortgage qualification.

9. DH, RH, ML, and WE caused JL and other owners of rental properties to agree to sell their properties at bogus, inflated prices so larger mortgage loans could be obtained from unwitting mortgage lenders and banks.

10. With respect to each sale of a rental property, WE, ML, DH, and RH drafted and caused to be drafted and presented to JL and other sellers a contract and an addendum, the contract reflecting the bogus inflated price (the "inflated price") and the addendum reflecting the price actually negotiated for the transaction (the "actual price"). The addendum also reflected a kickback, or "cash back" payment, to be paid after closing by the seller to the buyer, which approximately equaled the difference between the inflated price and actual price, and which was funded by the fraudulently-obtained mortgage loan proceeds.

11. Marc Engelmann, acting as attorney for JL, and WE, mortgage broker for DH and RH, falsely represented to each closing agent, mortgage lender, and bank that the sale price of the property was the inflated price set forth in the contract, and intentionally concealed the existence of the lower, actual price and the kickback.

12. Marc Engelmann, aware of the fraudulent nature of each transaction, acted as attorney for JL and facilitated the closing of each bogus loan.

13. After each closing, when the mortgage loan was funded by the lender or bank and monies from those funds paid out to JL, the seller, JL paid the kickback to DH and RH, allowing the buyers to pocket the approximate difference between the inflated price and the actual price.

14. By providing false information concerning the nature of each transaction to each bank, lender, and closing agent, WE and Marc Engelmann created and caused to be created false and fraudulent HUD-1 Settlement Statements that:

a. falsely represented to each lender that the sale price of the property was the inflated price set forth in the contract;

b. intentionally concealed and failed to disclose the existence of the lower, actual price set forth in the addendum; and,

c. intentionally concealed and failed to disclose the post-closing kickback paid by each seller to each buyer.

D. OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts, among others, were committed by one or more of the co-conspirators in the Southern District of Iowa and elsewhere:

15. Each presentation of a HUD-1 Settlement Statement to a federally-insured financial institution as set forth in Counts 2 and 3 of this Indictment is hereby realleged and incorporated by reference as an individual overt act in furtherance of the conspiracy.

16. Each wire transmission as set forth in Counts 4 through 9 of this Indictment is hereby realleged and incorporated by reference as an individual overt act in furtherance of the conspiracy.

This is a violation of Title 18, United States Code, Section 371.

**COUNT 2 and 3
(Bank Fraud)**

1. Beginning during or about June 2005, and continuing to on or about July 27, 2006, in the Southern District of Iowa, and elsewhere, the defendant, MARC ROBERT ENGELMANN, and others, did devise and intend to devise a scheme to defraud as to material matters and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and by intentional concealment of material facts.

2. The nature and scope of the scheme to defraud is described in Paragraphs 1 through 5 and 7 through 16 of Count 1 of this Indictment, which paragraphs are hereby realleged and incorporated by reference.

3. On or about the dates indicated, in the Southern District of Iowa, and elsewhere, the defendant, MARC ROBERT ENGELMANN, and others, having devised the scheme set forth above

to defraud a financial institution, and to obtain money, funds, and assets owned by and under the custody and control of a financial institution by means of material false and fraudulent pretenses, representations, and promises, did execute and attempt to execute said scheme by causing to be presented to Wells Fargo Bank, a financial institution the deposits of which were insured by the Federal Deposit Insurance Corporation, HUD-1 Settlement Statements stating that the purchase prices of the indicated properties, all located in Davenport, Iowa, were as listed below in each count, whereas the defendants well knew that the purchase prices were less than stated in the HUD-1 Settlement Statements.

<u>Count</u>	<u>Date</u>	<u>Property Address</u>	<u>Stated Purchase Price</u>
2	May 2, 2006	6224 Appomattox Rd.	\$125,000
3	May 2, 2006	6232 Appomattox Rd.	\$125,000

These are violations of Title 18, United States Code, Sections 1344 and 2.

**COUNTS 4 through 9
(Wire Fraud)**

1. Beginning during or about June 2005, and continuing to on or about July 27, 2006, in the Southern District of Iowa, and elsewhere, the defendant, MARC ROBERT ENGELMANN, and others, did devise and intend to devise a scheme to defraud as to material matters and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and by intentional concealment of material facts.

2. The nature and scope of the scheme to defraud is described in Paragraphs 1 through 5 and 7 through 16 of Count 1 of this Indictment, which paragraphs are hereby realleged and incorporated by reference.

3. On or about the dates indicated, in and about Scott County in the Southern District of Iowa, and elsewhere, the defendant, MARC ROBERT ENGELMANN, and others, having devised and intended to devise a scheme to defraud, and for obtaining money by means of material false and fraudulent pretenses and representations, and for the purpose of executing such scheme to defraud, did knowingly transmit and cause to be transmitted in interstate commerce between the State of Iowa and the State of Illinois, by means of wire communication, certain signs, signals, pictures, and sounds, to wit: fax transfers from the offices of defendant Engelmann in Iowa to Excel Title in Illinois of Seller's Closing Statements, each Statement containing false and misleading information concerning the nature of the transaction with respect to one or more real properties described in each count, each property located in Davenport, Iowa.

<u>Count</u>	<u>Date</u>	<u>Property Address(es)</u>
4	May 18, 2006	6302 Appomattox Road 6314 Appomattox Road
5	May 18, 2006	615 West 64 th Street
6	May 18, 2006	655 W. 64 th Street
7	May 19, 2006	671 W. 64 th Street
8	May 23, 2006	640 W. 61 st Street
9	June 16, 2006	710 W. 61 st Street

These are violations of Title 18, United States Code, Sections 1343 and 2.

A TRUE BILL

/s/
FOREPERSON

Nicholas A. Klinefeldt
United States Attorney

By: /s/
Donald Allegro
Assistant United States Attorney