

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

12 MAY 31 PM 2:30

UNITED STATES OF AMERICA

v.

CASE NO.: 8:12-CR-229T 23 tw
18 U.S.C. § 1344

ARTHUR R. SEABORNE

INDICTMENT

The Grand Jury charges:

COUNTS ONE THROUGH ELEVEN
(Bank Fraud)

A. Introduction

At times material to this Indictment:

1. ARTHUR R. SEABORNE was a resident of Sarasota, Florida, and a licensed mortgage broker in the State of Florida. SEABORNE served as President, Director and Registered Agent of SOUTHEAST CAPITAL INVESTORS, INC.; Manager and Registered Agent of SOUTHEAST CAPITAL ADVISORS, LLC; Manager, Director and Registered Agent of SOUTHEAST CAPITAL PROPERTIES, LLC; and President of ZIP LINE PROPERTIES, INC.

2. SOUTHEAST CAPITAL INVESTORS, INC. [hereinafter "SC INVESTORS"], a Florida corporation, headquartered in Sarasota, was purportedly engaged in the business of a real estate investment trust. In fact, SC INVESTORS was engaged in the business of marketing and selling unregistered securities in the form of Real Estate Investment Trust Note Agreements to individual investors. SEABORNE used SC INVESTORS to raise funds, which he subsequently loaned to clients of

SOUTHEAST CAPITAL ADVISORS, LLC, for said clients to use to make down payments in connection with their purchases of residential properties.

3. SOUTHEAST CAPITAL REALTY, LLC [hereinafter "SC REALTY"], a Florida limited liability company, headquartered in Sarasota, was engaged in the business of facilitating the purchase and sale of real estate. Specifically, SC REALTY was engaged in the business of identifying and negotiating the purchase of residential properties, intended for subsequent sale to clients of SC ADVISORS, which residential properties were titled in the names of Florida limited liability companies.

4. ZIP LINE PROPERTIES, INC. [hereinafter "ZIP LINE"], a Florida corporation, headquartered in Sarasota, was engaged in the business of forming Florida limited liability companies ("LLCs"), which held title to residential properties, the purchase of which was handled by SC REALTY.

5. SOUTHEAST CAPITAL ADVISORS, LLC [hereinafter "SC ADVISORS"], a Florida limited liability company, headquartered in Sarasota, was licensed to engage in the mortgage brokerage business. SC ADVISORS was engaged in the business of marketing a "no money down" residential purchase program, using funds raised via SC INVESTORS to make loans to clients of SC ADVISORS for said clients to use to make down payments in connection with their purchases of residential properties, and preparing and submitting false and fraudulent loan applications to lenders for purchase money mortgage loans and home equity loans on the properties purchased by clients of SC ADVISORS.

6. SOUTHEAST CAPITAL PROPERTIES, LLC [hereinafter "SC PROPERTIES"], a Florida limited liability company, headquartered in Sarasota, was

engaged in the business of property management. Specifically, SC PROPERTIES identified and arranged for people to rent residential properties purchased by clients of SC ADVISORS. Although SC PROPERTIES also was to maintain the residential properties, collect rental payments made on the residential properties, and pay all expenses associated with the residential properties, including, but not limited to, loan payments and tax payments, it failed to do so as to some properties.

7. WORLD SAVINGS BANK, FSB, was a federal savings bank, the deposits of which were insured by the Federal Deposit Insurance Corporation.

8. FIRST NATIONAL BANK OF NEVADA, N.A., later known as FIRST BANK OF ARIZONA, N.A., was a commercial bank, the deposits of which were insured by the Federal Deposit Insurance Corporation.

B. The Scheme

9. Beginning on an unknown date, but at least as early as in or about March 2003, and continuing through in or about July 2008, in the Middle District of Florida, and elsewhere,

ARTHUR R. SEABORNE,

the defendant herein, did knowingly and intentionally execute, and attempt to execute, a scheme and artifice to defraud a financial institution, and to obtain monies, funds, credits, assets, and other property owned by, and under the custody and control of, a financial institution, by means of materially false and fraudulent pretenses, representations and promises.

C. Manner and Means of the Scheme

10. It was a part of the scheme and artifice to defraud that the defendant would and did form an entity, SC INVESTORS, to market and sell unregistered securities in the form of promissory notes to individual investors.

11. It was a further part of the scheme and artifice to defraud that the defendant would and did raise funds, via the sale of promissory notes, to be used to make loans to SC ADVISORS' individual clients for said clients to use to make down payments in connection with their purchases of residential properties.

12. It was a further part of the scheme and artifice to defraud that the defendant would and did cause SC REALTY to identify and negotiate the purchase of residential properties, which the defendant intended to resell to individual clients of SC ADVISORS.

13. It was a further part of the scheme and artifice to defraud that the defendant, through ZIP LINE, would and did form limited liability companies to hold title to residential properties caused to be purchased by the defendant.

14. It was a further part of the scheme and artifice to defraud that the defendant, through ZIP LINE, would and did title residential properties caused to be purchased by the defendant in the names of limited liability companies formed.

15. It was a further part of the scheme and artifice to defraud that the defendant would and did market a "no money down" residential purchase program to individual clients of SC ADVISORS.

16. It was a further part of the scheme and artifice to defraud that the defendant, through SC ADVISORS, would and did use funds, raised via the sale of

promissory notes, to make loans to SC ADVISORS' individual clients for said clients to use to make down payments in connection with their purchases of residential properties.

17. It was a further part of the scheme and artifice to defraud that the defendant, through SC INVESTORS, would and did create notes to evidence the loans of down payments made to clients of SC ADVISORS.

18. It was a further part of the scheme and artifice to defraud that the defendant would and did purposefully fail to promptly record notes in favor of SC INVESTORS, which were created to evidence the loans of down payments made to clients of SC ADVISORS, so that said notes would not appear on the clients' applications for purchase money mortgage loans and/or home equity loans or credit histories.

19. It was a further part of the scheme and artifice to defraud that the defendant, acting in his capacity with SC ADVISORS, would and did prepare and submit false and fraudulent applications to lenders for purchase money mortgage loans on the residential properties purchased by individual clients of SC ADVISORS.

20. It was a further part of the scheme and artifice to defraud that the defendant, acting in his capacity with SC ADVISORS, would and did conceal and omit from applications for purchase money mortgage loans he prepared or caused to be prepared for SC ADVISORS' individual clients the material fact that said clients' down payments were borrowed and required to be repaid to the defendant and/or SC ADVISORS.

21. It was a further part of the scheme and artifice to defraud that the defendant, acting in his capacity with SC ADVISORS, typically would and did overstate the income and/or assets of clients on applications for purchase money mortgage loans prepared by SC ADVISORS for individual clients.

22. It was a further part of the scheme and artifice to defraud that, shortly after lenders approved applications for purchase money mortgage loans and disbursed loan proceeds to SC ADVISORS' individual clients, the defendant, acting in his capacity with SC ADVISORS, would and did prepare and submit, or cause to be prepared and submitted, applications to different lenders for home equity loans on the same properties for the same clients with the understanding that said clients would use the proceeds of the home equity loans to repay the down payments loaned to them by SC ADVISORS, plus interest.

23. It was a further part of the scheme and artifice to defraud that the defendant, acting in his capacity with SC ADVISORS, would and did conceal and omit from applications for home equity loans he prepared or caused to be prepared for SC ADVISORS' individual clients the material fact that said clients' down payments were borrowed and that the home equity loans were being sought in order to pay off the loans of down payments, plus interest.

24. It was a further part of the scheme and artifice to defraud that the defendant, acting in his capacity with SC ADVISORS, typically would and did overstate the income and/or assets of clients on applications for home equity loans prepared by SC ADVISORS for its individual clients.

25. It was a further part of the scheme and artifice to defraud that the defendant, acting in his capacity with SC PROPERTIES, would and did identify and arrange for, or caused to be identified and arranged, people to rent residential properties purchased by, and to provide property management services to, clients of SC ADVISORS in exchange for a monthly property management fee.

26. It was a further part of the scheme and artifice to defraud that the defendant, acting in his capacity with SC PROPERTIES, would and did, as to some properties, fail to use the proceeds of monthly property management fees to pay all expenses associated with the residential properties managed, including, but not limited to, loan payments and tax payments due, as promised.

27. It was a further part of the scheme and artifice to defraud that the defendant would and did misrepresent, conceal, hide, and cause to be misrepresented, concealed, and hidden, acts done in furtherance of the conspiracy and the purpose of those acts.

D. Execution of the Scheme

28. On or about the dates set forth below, in the Middle District of Florida and elsewhere, knowingly executed and attempted to execute the aforesaid scheme and artifice to defraud, causing the following false and fraudulent mortgage loan applications to be submitted to the federally-insured financial institutions specified:

Count	Date	Loan Application
One	October 28, 2004	Defendant caused the submission to World Savings Bank, FSB, of an application for a purchase money mortgage loan in the amount of \$314,925 on behalf of David M. Majercin in connection with the purchase of the property located at 9011 63rd Avenue Drive, Bradenton, Florida 34202.
Two	February 24, 2005	Defendant caused the submission to World Savings Bank, FSB, of an application for a purchase money mortgage loan in the amount of \$249,400 on behalf of Sergiy Nemnozhko in connection with the purchase of the property located at 3565 Blechnum Fern Lane, Sarasota, Florida 34235
Three	March 3, 2005	Defendant caused the submission to World Savings Bank, FSB, of an application for a purchase money mortgage loan in the amount of \$141,750 on behalf of Sharon O. Kehn in connection with the purchase of the property located at 5119 Brookmeade Drive, Sarasota, Florida 34232
Four	May 9, 2005	Defendant caused the submission to World Savings Bank, FSB, of an application for a purchase money mortgage loan in the amount of \$170,625 on behalf of Mark V. Walter in connection with the purchase of the property located at 9104 East 69th Avenue, Palmetto, Florida 34221
Five	May 10, 2005	Defendant caused the submission to World Savings Bank, FSB, of an application for a purchase money mortgage loan in the amount of \$150,000 on behalf of Leata J. Rich in connection with the purchase of the property located at 2139 Palm Avenue, Sarasota, Florida 34231
Six	May 13, 2005	Defendant caused the submission to World Savings Bank, FSB, of an application for a purchase money mortgage loan in the amount of \$248,000 on behalf of Ronald E. Bair in connection with the purchase of the property located at 6543 Bikini Way, Sarasota, Florida 34241

Count	Date	Loan Application
Seven	May 13, 2005	Defendant caused the submission to First National Bank of Nevada of an application for a purchase money mortgage loan in the amount of \$243,750 on behalf of David R. Hake in connection with the purchase of the property located at 3626 Calliandra Drive, Sarasota, Florida 34232
Eight	June 6, 2005	Defendant caused the submission to World Savings Bank, FSB, of an application for a purchase money mortgage loan in the amount of \$161,250 on behalf of Kelly Ann Quigley-McWilliams and Dennis McWilliams in connection with the purchase of the property located at 3635 Aloha Drive, Sarasota, Florida 34232
Nine	June 30, 2005	Defendant caused the submission to First National Bank of Arizona of an application for a purchase money mortgage loan in the amount of \$201,750 on behalf of Tami Wescott in connection with the purchase of the property located at 3983 Coleridge Lane, Sarasota, Florida 34241
Ten	July 25, 2005	Defendant caused the submission to First Bank of Arizona, N.A., of an application for a purchase money mortgage loan in the amount of \$213,000 on behalf of Lee Ann Fleissner in connection with the purchase of the property located at 4004 Crabtree Avenue, Sarasota, Florida 34233
Eleven	August 25, 2005	Defendant caused the submission to First National Bank of Nevada, N.A., of an application for a purchase money mortgage loan in the amount of \$201,675 on behalf of Robert L. Macumber in connection with the purchase of the property located at 4304 11th Avenue East, Bradenton, Florida 34208

All in violation of Title 18, United States Code, Sections 1344 and 2.

FORFEITURES

1. The allegations contained in Counts One through Eleven of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 982(a)(2)(A).


2. Upon conviction of the offenses in violation of Title 18, United States Code, Section 1344 set forth in Counts One through Eleven of this Indictment, the defendant shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(2)(A), any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of such violations.

3. If any of the property described above, as a result of any act or omission of the defendant:


- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

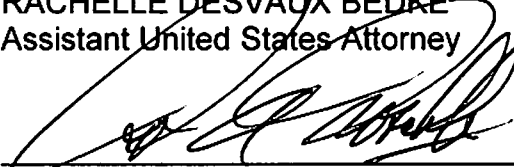
the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1).

A TRUE BILL,


Foreperson

ROBERT E. O'NEILL
United States Attorney

By: 
RACHELLE DESVAUX BEDKE
Assistant United States Attorney

By: 
ROBERT A. MOSAKOWSKI
Assistant United States Attorney
Chief, Economic Crimes Section

UNITED STATES DISTRICT COURT

Middle District of Florida
Tampa Division

THE UNITED STATES OF AMERICA

vs.

ARTHUR R. SEABORNE

INDICTMENT

Violations:

18 USC §§ 1344 and 2

A true bill,



Foreperson

Filed in open court this 31st day

of May, 2012.

Clerk

Bail \$ _____