

SPMS/EB
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FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

2012 JUN -4 A 11: 50

CLERK'S OFFICE
AT BALTIMORE

UNITED STATES OF AMERICA

*

v.

*

Criminal No.
ELH-12-0304

BY: _____ CITY

*

(Fraud by Wire; 18 U.S.C. §1343;
Criminal Forfeiture; 18 U.S.C. §
981(a)(1)(C); 28 U.S.C. § 2461 (c)

SANDY P. KIM

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CRIMINAL INFORMATION

(Fraud by Wire)

The United States Attorney for the District of Maryland charges:

Introduction

1. At times relevant to this Information, the defendant, SANDY P. KIM was a resident of the District of Maryland and the owner and Chief Executive Officer of EK Real Estate Settlements, Ltd.(hereafter EK), located at 10262 and later at 10294-A Baltimore National Pike, Ellicott City, MD, a company that conducted residential real estate settlements, sometimes called closings. SANDY P. KIM was at relevant times a settlement officer, that is a person licensed by the State of Maryland, who occupied a position of trust, who received and distributed funds at the closing of a real estate transaction. A settlement or closing is the consummation of a real estate transaction and generally includes the delivery of a deed and deed of trust, the making and recording of financial adjustments, the signing of notes, the issuance of title insurance and the disbursement of funds necessary to complete the sale or loan transaction.

2. SANDY P. KIM was a real estate title insurance agent with First American Title Insurance Company.

3. At a real estate settlement, SANDY P. KIM and EK were responsible for insuring that the documents were completed accurately and lawfully, that the amounts of money changing hands went to the right parties, and that the deed or title to the real estate was properly and accurately recorded. Whenever a piece of real property that was subject to a lien or mortgage was sold or refinanced, it was the obligation of EK and SANDY P. KIM as its principal and owner, to see that any prior mortgage lenders were paid out of the proceeds of the transaction.

4. In order to fulfill her obligations to repay mortgage lenders and to apply loan proceeds correctly, defendant SANDY P. KIM was required to maintain separate escrow accounts for the purpose of receiving real estate settlement funds from buyers, mortgage lenders and third parties which she, as settlement officer, could disburse only pursuant to instructions. At times relevant to this Indictment, SANDY P. KIM opened and maintained operating and escrow accounts at Sandy Spring Bank, Howard Bank, First Mariner Bank and Bank of America. Each of those banks was, at all relevant times, a financial institution within the meaning of Title 18 U.S.C. § 20.

The Scheme to Defraud

5. From a time beginning as early as 2006 and continuing through August 2008, in the District of Maryland and elsewhere, SANDY P. KIM devised and intended to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and

fraudulent pretenses, representations and promises. It was the object of her scheme to defraud that, in conducting real estate closings, SANDY P. KIM would fraudulently divert funds to her own use, stealing money out of escrow accounts which was intended to be used to pay off mortgage lenders. By diverting real estate mortgage payoffs, SANDY P. KIM obtained approximately \$ 684,283.13 by fraud between 2006 and August 2008.

6. It was a part of the scheme to defraud that when in August 2007, SANDY P. KIM conducted a closing for SP, for which the sum of \$175,136.43 was wired to EK's escrow account at Sandy Spring Bank, SANDY P. KIM failed to pay off SP's prior mortgage as required, and instead used the money for her own purposes. In order to conceal this defalcation, SANDY P. KIM made several monthly mortgage payments out of EK's operating account to SP's prior mortgage lender.

THE CHARGE

7. On or about August 20, 2007, in the District of Maryland and elsewhere, the defendant,

SANDY P. KIM

for the purpose of executing and attempting to execute the aforesaid scheme and artifice to defraud, did cause to be transmitted in interstate commerce by means of wire communication between Maryland and New Jersey certain signs, signals and sounds, that is a wire transfer in the amount of \$175,136.43 from the FEDWIRE wire room in New Jersey to EK's escrow account at Sandy Spring Bank in Maryland .

Title 18 U.S.C. § 1343

FORFEITURE ALLEGATION

The United States Attorney further finds that:

1. Pursuant to 18 U.S.C. Section 981(a)(1)(C) and 28 U.S.C. Section 2461(c), upon conviction for an offense in violation of 18 U.S.C. § 1343 as alleged in Count One, all property, real and personal, which constitutes or is derived from proceeds traceable to the scheme to defraud, will be forfeited to the United States of America.

2. The property to be forfeited includes, but is not limited to, the following:

- a. A sum of money equal to the value of the proceeds of the scheme to defraud, which amount is at least 684,283.13;


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 28, United States Code, Section 2461(c).

18 U.S.C. § 981(a)(1)(C)
28 U.S.C. § 2461(c)

Fed. R. Crim. P. 32.2(a)


Rod J. Rosenstein
United States Attorney

Date: May 29, 2012