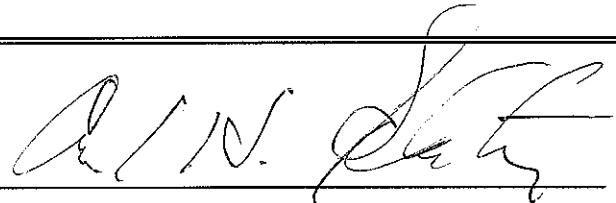


**CR-09-930 - EJD****UNITED STATES DISTRICT COURT****FILED****NORTHERN DISTRICT OF CALIFORNIA**

2012 AUG 22 P 3:45

**SAN JOSE DIVISION**RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
N.D. CALIF. SAN JOSE**THE UNITED STATES OF AMERICA****vs.****MYRA HOLMES****SUPERSEDING INDICTMENT**

Violations: Count One: 18 U.S.C. § 152(5)-Concealment of Assets/Bankruptcy Fraud;  
Count Two: 18 U.S.C. § 1344-Bank Fraud;  
Counts Three-Seven: 18 U.S.C. § 1014- Making A False Statement to a Bank

*A true bill.**Foreperson**Filed in open court this* 22 *day of* August *A.D. 2012*  
**UNITED STATES MAGISTRATE JUDGE***Bail. \$* No Process

MELINDA HAAG (CASBN 132612)  
United States Attorney

FILED

2012 AUG 22 P 3:46

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
N.D. CALIF. - SAN JOSE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

MYRA HOLMES,

Defendant.

No. CR 09-00930 EJD

VIOLATIONS: 18 U.S.C. § 152(5) –  
Concealment of Assets/Bankruptcy Fraud;  
18 U.S.C. § 1344 – Bank Fraud; 18 U.S.C. §  
1014 – Making A False Statement to a Bank

SUPERSEDING INDICTMENT

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment:

1. Leonard Paige and his wife Carrie B. Paige (“the Paiges”) resided in Marina, California. Defendant Myra Holmes (“HOLMES”), the Paiges’ daughter, resided in a house located at 312 Moonraker Drive in Vallejo, California (“the Vallejo property”). HOLMES represented herself as the owner of Start Partners Security Services.

2. Prior to April 2002, Leonard Paige and HOLMES each possessed a 50% ownership in the Vallejo property as joint tenants.

1           3. In April 2002, the Paiges filed a voluntary petition for reorganization under Chapter 11  
2 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of  
3 California in San Jose, California ("the bankruptcy court"), Case Number 02-52371 ASW. The  
4 Paiges' bankruptcy application sought to discharge over \$2,600,000 in debts. The Paiges  
5 disclosed in their bankruptcy application a 50% ownership interest in the Vallejo property.

6           4. In 2004, the Paiges' Chapter 11 bankruptcy case was converted to Chapter 7 and John  
7 Richardson ("Trustee Richardson") appointed as trustee of the Paiges' bankruptcy estate ("the  
8 bankruptcy estate"). Trustee Richardson was appointed by the United States Bankruptcy Trustee  
9 ("the United States Trustee") to recover assets from the Paiges for the benefit of creditors of the  
10 bankruptcy estate, including the Department of Labor.

11           5. From late 2004 until the middle of 2005, Trustee Richardson discussed with  
12 HOLMES the prospect of HOLMES' buying the bankruptcy estate's half interest in the Vallejo  
13 property at a discount, as opposed to the bankruptcy estate selling the house and dividing the  
14 proceeds between HOLMES and the estate. These discussions about HOLMES' purchasing the  
15 bankruptcy estates's interest in the Vallejo property were unsuccessful, and HOLMES continued  
16 to reside in the Vallejo property.

17           6. On July 5, 2005, Trustee Richardson, on behalf of the Paiges' creditors, filed a lawsuit  
18 against HOLMES in order to facilitate the sale of the Vallejo property for the purpose of using  
19 Leonard Paige's 50% interest in the house to pay the Paiges' creditors. The complaint initiating  
20 the lawsuit, entitled a "Complaint for Authority to Sell Real Property Free of Interest of Co-  
21 Owner under 11 U.S.C., Section 363(h)," was filed in the bankruptcy court.

22           7. On August 26, 2005, HOLMES filed an answer to Trustee Richardson's complaint in  
23 the bankruptcy court. HOLMES's answer to the complaint acknowledged that the bankruptcy  
24 estate owned 50% of the Vallejo property. HOLMES opposed the proposed sale of the Vallejo  
25 property.

26           8. HOLMES maintained a bank account at WestAmerica Bank in California.

27           9. World Savings Bank was an FDIC-insured Bank headquartered in Oakland,  
28 California.

1           10. Banks typically require applicants seeking to obtain a mortgage loan to fill out loan  
2 applications known as Uniform Residential Loan Applications ("URLAs"). URLAs require  
3 borrowers to accurately list the requested information, including their income and assets. Banks  
4 rely on the accuracy of the information provided by borrowers in URLAs and documents and  
5 other information provided in support of URLAs in evaluating whether to fund mortgages.

6                           THE SCHEME TO DEFRAUD

7           11. Beginning in October 2005 in the Northern District of California, the defendant,  
8 HOLMES, did knowingly devise, and intend to devise, a material scheme and artifice to defraud  
9 and to obtain money by means of materially false and fraudulent pretenses, representations, and  
10 promises, knowing that those pretenses, representations and promises were false when made.

11           12. The purpose of the scheme to defraud was for HOLMES to enrich herself by having  
12 her father Leonard Paige purport to convey to HOLMES his interest in the Vallejo property,  
13 owned by the bankruptcy estate, to her without consideration and without notifying, or obtaining  
14 the permission, of the bankruptcy court or the bankruptcy trustee.

15           13. It was further part of the scheme to defraud that after HOLMES's father purported to  
16 convey his interest in the Vallejo property to her, HOLMES withdrew the equity from the Vallejo  
17 property through a refinancing mortgage loan on that property that she obtained through  
18 materially false statements and omissions.

19           14. On or before October 2005, HOLMES initiated a loan application process with  
20 World Savings Bank in the Northern District of California for the purpose of refinancing the  
21 mortgage on the Vallejo property.

22           15. On or about October 11, 2005, and again on November 14, 2005, HOLMES signed  
23 and submitted to World Savings Bank separate URLAs to refinance the mortgage on the Vallejo  
24 property. HOLMES made several materially false statements and omissions on those URLAs  
25 and materials she submitted in support of those loan applications, including but not limited to the  
26 following:

- 27           (a) HOLMES listed herself as owning \$600,000 in real estate when in fact as she then  
28 knew she did not own that amount of real estate since the bankruptcy estate

1 lawfully held a 50% interest in the Vallejo property.

2 (b) HOLMES checked the box "no" in response to the question "Are you a party to a  
3 lawsuit?", when in fact she knew that Trustee Richardson had filed a lawsuit  
4 against her in order to facilitate the sale of the Vallejo property and recover the  
5 bankruptcy estate's interest in the property.

6 (c) HOLMES knowingly failed to disclose to World Savings Bank: (1) that the  
7 Vallejo property was the subject of bankruptcy proceedings; (2) that the  
8 bankruptcy estate had a 50% interest in the Vallejo property; and (3) that the  
9 bankruptcy estate had filed a complaint for authority to sell the Vallejo property  
10 which was still pending before the bankruptcy court.

11 (d) HOLMES knowingly inflated her monthly income, the balance in her  
12 WestAmerica account, and the value of Star Partners Security Service.

13 16. HOLMES knowingly submitted false letters of explanation in support of her URLAs.  
14 On or about October 26, 2005, the defendant submitted a signed explanation letter to the bank,  
15 falsely informing the bank that she needed the funds so "I can payoff Leonard Paige." On or  
16 about November 9, 2005, she submitted a second signed explanation letter, falsely stating "I also  
17 need the cash out so that I can pay off Leonard Paige (\$50,000)."

18 17. On November 14, 2005, HOLMES obtained her father's signature on a grant deed  
19 that purported to convey his interest in the Vallejo property to HOLMES for no consideration.  
20 The transfer was memorialized in a grant deed which both Paige and HOLMES signed. Neither  
21 Paige nor HOLMES notified the bankruptcy court, the United States Trustee, or Trustee  
22 Richardson prior to executing this grant deed.

23 18. As a result of her false and fraudulent URLAs and supporting materials, HOLMES  
24 ultimately received a refinanced mortgage from World Savings Bank. The new loan, which  
25 funded on November 21, 2005, increased the outstanding mortgage on the Vallejo property from  
26 approximately \$180,000 to approximately \$338,000.

27 19. On or about November 21, 2005, World Savings Bank: (1) wired \$176,017.68 to  
28 Wells Fargo to pay off the existing mortgage on the Vallejo property; and (2) wired \$131,410.44

1 to HOLMES's personal bank account at WestAmerica Bank. As part of HOLMES's refinancing  
2 with World Savings Bank, Financial Title Company, located in Oakland, California, wrote  
3 several checks out of escrow funds to settle personal debts HOLMES owed—including payments  
4 to several department stores. HOLMES resolved some of her debts and, on or about December  
5 7, 2005, Financial Title Company issued her a check for an additional \$15,483. On or about  
6 February 1, 2006, Financial Title Company issued HOLMES a check for an additional \$147.10.

7 20. By the end of April 2006, HOLMES had spent on personal expenses virtually all of  
8 the \$131,410.44 that she had fraudulently received as a result of the November 2005 refinancing  
9 of the Vallejo property and did not pay Leonard Paige.

10 21. HOLMES to date has not repaid the bankruptcy estate its portion of the funds she  
11 took out of the Vallejo property in the November 2005 refinancing.

12 COUNT ONE: (18 U.S.C. § 152(5) – Concealment of Assets/Bankruptcy Fraud)

13 22. The factual allegations contained in paragraphs 1 through 21 are incorporated as if  
14 fully set forth here.

15 23. From on or about November 14, 2005, through on or about February 1, 2006, in the  
16 Northern District of California, and elsewhere, the defendant,

17 MYRA HOLMES,

18 did knowingly and fraudulently receive a material amount of property from a debtor after the  
19 filing of a case under Title 11, specifically her father's interest in the house located at 312  
20 Moonraker Drive in Vallejo, California, with intent to defeat the provisions of Title 11 of the  
21 United States Bankruptcy Code.

22 All in violation of Title 18, United States Code, Section 152(5).

23 COUNT TWO: (18 U.S.C. § 1344 – Bank Fraud)

24 24. The factual allegations contained in paragraphs 1 through 21 are incorporated as if  
25 fully set forth here.

26 25. From on or about October 2005 through on or about February 1, 2006, in the  
27 Northern District of California and elsewhere, the defendant,

28 MYRA HOLMES,

for the purpose of executing a scheme to obtain money owned by and under the custody and control of World Savings Bank, a federally insured financial institution, by means of material false and fraudulent representations and material omissions, namely, the scheme described in paragraphs 1 through 21, did knowingly sign and submit to World Savings Bank false URLAs and supporting materials containing false information and omitting material information.

All in violation of Title 18, United States Code, Section 1344.

**COUNTS THREE THROUGH SEVEN:** (18 U.S.C. § 1014 – Making A False Statement to a Bank)

26. The factual allegations contained in paragraphs 1 through 21 are incorporated as if fully set forth here.

27. On or about the dates set forth below, in the Northern District of California and elsewhere, the defendant

MYRA HOLMES,

did knowingly make and cause to be made false statements in an URLA, and did submit false and fraudulent documents in support thereof, for the purpose of influencing the actions of World Savings Bank, a financial institution insured by the Federal Deposit Insurance Corporation, as follows:

Count	Dates	Document	False Statement in Support of Defendant's URLAs
3	10/11/05 & 11/14/05	URLA	Inflated monthly income of \$15,000 in Section V. Monthly Income and Combined Housing Expense Information
4	10/11/05 & 11/14/05	URLA	Inflated WestAmerica bank account balance of \$15,000 in Section VI. Assets and Liabilities
5	10/11/05 & 11/14/05	URLA	Replying "No" to Declarations Question VIII d "Are you a party to a lawsuit?"
6	11/14/05	URLA	Inflated value of real estate owned of \$600,000 in Section VI. Assets and Liabilities
7	10/26/05 & 11/9/05	Letters	Explanation letters stating that HOLMES intended to pay off Leonard Paige

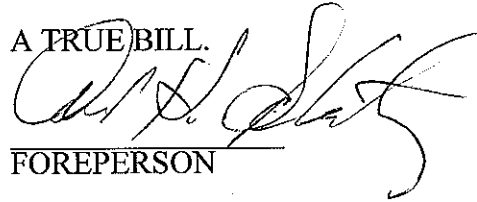
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All in violation of Title 18, United States Code, Section 1014.

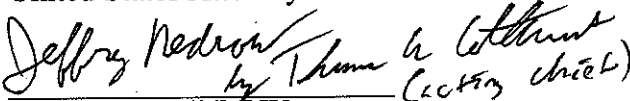
DATED:

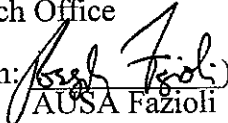
8/22/12

A TRUE BILL.

  
FOREPERSON

MELINDA HAAG  
United States Attorney

  
JEFFREY NEDROW  
Chief, San Jose Branch Office

(Approved as to form:   
AUSA Fazioli)



**DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT**

BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT  
☒ SUPERSEDING

**OFFENSE CHARGED**

Count One: 18 U.S.C § 152(5)-  
Concealment of Assets/Bankruptcy Fraud

Count Two: 18 U.S.C. § 1344-Bank Fraud

Counts Three-Seven: 18 U.S.C. § 1014-Making a False  
Statement to a Bank

☐ Petty  
☐ Minor  
☐ Misdemeanor  
☒ Felony

PENALTY: Count One: Five Years Prison, \$250,000 Fine,  
Three Years Supervised Release, \$100 Special Assessment

Counts Two-Seven: Thirty Years Prison, \$1,000,000 Fine,  
Five Years Supervised Release, \$100 Special Assessment

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

2012 AUG 22 PM 3:40  
SAN JOSE DIVISION

**DEFENDANT - U.S.**

RICHARD W. WIEKING  
CLERK U.S. DISTRICT COURT  
N.D. OF CALIFORNIA  
SAN JOSE

DISTRICT COURT NUMBER

CR-09-00930 EJD

**PROCEEDING**

Name of Complainant Agency, or Person (& Title, if any)

Special Agent Erin Whitchurch- FBI

☐ person is awaiting trial in another Federal or State Court,  
give name of court

☐ this person/proceeding is transferred from another district  
per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of  
charges previously dismissed  
which were dismissed on motion  
of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW  
DOCKET NO.

☒ this prosecution relates to a  
pending case involving this same  
defendant

MAGISTRATE  
CASE NO.

☒ prior proceedings or appearance(s)  
before U.S. Magistrate regarding this  
defendant were recorded under

09-00930 EJD

Name and Office of Person

Furnishing Information on this form MELINDA HAAG

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned) JOSEPH FAZIOLI

**DEFENDANT****IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

1) ☐ If not detained give date any prior  
summons was served on above charges

2) ☐ Is a Fugitive

3) ☒ Is on Bail or Release from (show District)

NORTHERN DISTRICT OF CALIFORNIA

**IS IN CUSTODY**

4) ☐ On this charge

5) ☐ On another conviction

☐ Federal ☐ State

6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer ☐ Yes  
been filed? ☐ No

If "Yes"  
give date  
filed

DATE OF  
ARREST

Month/Day/Year

Or... If Arresting Agency & Warrant were not

DATE TRANSFERRED  
TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted

**ADDITIONAL INFORMATION OR COMMENTS****PROCESS:**

☐ SUMMONS ☒ NO PROCESS\* ☐ WARRANT

Bail Amount: \_\_\_\_\_

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

\* Where defendant previously apprehended on complaint, no new summons or  
warrant needed, since Magistrate has scheduled arraignment

Date/Time: \_\_\_\_\_ Before Judge: \_\_\_\_\_

Comments: