

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA

v.

TROY BOSSERT
TYLER FORREY
RYAN O'BRIEN
STEPHEN PETROVICH
STEVEN REESE

Defendants.

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CASE NO. 2:10-cr- 31 -FtM- 36 SPC

18 U.S.C. § 1349
18 U.S.C. § 1957
18 U.S.C. § 2
18 U.S.C. § 981(a)(1)(C)
28 U.S.C. § 2461(c)

INFORMATION

The United States Attorney charges that:

COUNT ONE

A. Introduction

At all times material to this Information:

1. New Cape Holdings, LLC, located at 4423 Del Prado Boulevard, Cape Coral, Florida, was a Limited Liability Corporation established on December 2, 2004, the Managers for which were Defendants **TYLER FORREY** and **STEVEN REESE**.

2. Douglas Holdings and Development, Inc., located at 412 SE 23rd Street, Cape Coral, Florida, was a Corporation established on April 26, 2004, the Director/President for which was Defendant **FORREY**.

3. Noah Enterprises, LLC, located at 2635 Bellingham Court, Cape Coral, Florida, was a Limited Liability Corporation established on May 23, 2007, the Manager for which was Defendant **STEPHEN PETROVICH**.

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4. Four Forty Two Holdings, LLC, located at 2529 Vermont Court, Cape Coral, Florida, 33991, was a Limited Liability Corporation established on September 17, 2007, the Managers for which were Defendants **PETROVICH** and **RYAN O'BRIEN**.

5. Helios Financial Center, Inc., doing business as Statewide Investments and Realty, located at 210 Del Prado Boulevard, #6, Cape Coral, Florida, was a Corporation established on December 8, 2005, the Incorporator for which was Defendant **TROY BOSSERT**.

6. ACI Holdings, LLC, located at 3911 S.W. 2nd Avenue, Cape Coral, Florida, was a Limited Liability Corporation established on July 21, 2005; Defendant **BOSSERT** was a signatory on the bank accounts for ACI Holdings, LLC.

7. Real property, also known as "real estate," was land and anything growing on, attached to or erected on the land.

8. A HUD-1 Settlement Statement was a United States Department of Housing and Urban Development form universally used in the closing of residential real property conveyances, including mortgage loan transactions, to identify and allocate among the parties to the transaction and others, the various expenses associated with each such transaction.

9. A Form 1003, "Uniform Residential Loan Application," commonly referred to as a mortgage loan application, was universally used by mortgage lending financial institutions to initiate the mortgage loan application process. Such form requires all buyers/borrowers to submit their financial history, including employment information, income, assets and liabilities, as well as the specific details of the proposed residential

real property transaction.

10. Purchase and Sale Agreements were written contracts universally used in the purchase and sale of real property; such contracts set forth the terms of the intended real property transaction, including identifying the property to be purchased/sold; the parties to the transaction including seller and buyer; the purchase price and other conditions of the sale; as well as the rights and duties of the parties to the contract.

11. The term "closing" as used in the real estate industry referred to an event presided over by an attorney or title company agent whereby legal title to real property was transferred from a seller to a buyer and/or mortgage loan proceeds were disbursed to a buyer/owner of real property including perfection of the mortgage lenders security interest in the subject real property; additionally, monies were transferred among the various parties to the transaction, including seller, buyer and/or mortgage lender pursuant to the written terms of the transaction, and to other parties interested in the transaction including lien holders and tax collectors.

12. The term "lender" as used in this Information refers to financial institutions that extended mortgage loans to borrowers to fund the purchases or refinance of residential real properties.

13. JP Morgan Chase Bank, NA, was a federally insured financial institution located in New York, New York, and elsewhere that made mortgage loans to borrowers to fund the purchase and refinancing of real properties.

14. Bank United was a federally insured financial institution located in Coral Gables, Florida, and elsewhere that made mortgage loans to borrowers to fund the

purchase and refinancing of real properties.

15. Southpointe Financial Services, Inc., was a correspondent lender for CitiMortgage, a federally insured financial institution under CitiGroup, Inc., located in Alpharetta, Georgia, that made mortgage loans to borrowers to fund the purchase and refinancing of real properties.

16. Georgia Banking Co. (GBC), was a federally insured financial institution located in Atlanta, Georgia, which funded mortgage loans; Southpointe Financial Services, Inc., accessed a warehouse line of credit through GBC in order to fund mortgages it made on real properties.

**B. Conspiracy to Commit Fraud
18 U.S.C. § 1349**

1. From in or about May 2007, to in or about July 2008, in Lee County, in the Middle District of Florida, and elsewhere,

**STEPHEN PETROVICH,
TROY BOSSERT,
TYLER FORREY,
RYAN O'BRIEN, and
STEVEN REESE,**

the defendants herein, did knowingly, willfully, and intentionally, combine, conspire, and agree with each other and with other persons known and unknown, to commit the following offenses against the United States, that is:

(a) To transmit and cause to be transmitted by wire in interstate commerce writings, signs, signals, pictures, sounds, and communications, having devised and intended to devise a scheme and artifice to defraud, for the purpose of executing such scheme and artifice, and affecting a financial institution, in violation of Title 18, United

States Code, Section 1343; and

(b) To knowingly execute and attempt to execute a scheme and artifice to defraud a financial institution and to obtain money, funds, credits, assets, and other property owned by, and under the custody or control of, a financial institution, by means of false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1344.

C. Manner and Means of the Conspiracy

1. It was part of the manner and means of the conspiracy that Defendants BOSSERT, FORREY, REESE, and others would and did locate certain residential real properties that were for sale by owner.

2. It was further a part of the manner and means of the conspiracy that Defendants FORREY, O'BRIEN, PETROVICH, and others would and did negotiate the purchase of certain residential real properties on behalf of third-party buyers who would enter into a Purchase and Sale Agreement with the owners/sellers of such properties to purchase them at an inflated sales price.

3. It was further a part of the manner and means of the conspiracy that Defendant FORREY and others would and did negotiate the purchase of certain residential real properties on behalf of third-party buyers for an inflated sales price, unbeknownst to the owners/sellers of such properties, in circumstances where they did not believe the owners/sellers would agree to an inflated sales price.

4. It was further a part of the manner and means of the conspiracy that Defendants BOSSERT, FORREY, O'BRIEN, PETROVICH, REESE and others would and did direct such third-party buyers to provide materially false financial information on

Forms 1003, "Uniform Residential Loan Application," with respect to the purchase price of the real property as well as the buyers' incomes and assets, which materially false financial information was specifically designed to mislead lenders and to induce such lenders to make mortgage loans on real properties under terms that such lenders would not otherwise make.

5. It was further part of the manner and means of the conspiracy that Defendants FORREY and BOSSERT, with the knowledge of the other coconspirators, created fictitious cashier's checks, bank statements, Forms W-2, and other documents, which were, in turn, submitted to the financial institutions for the appropriate personnel to rely on when making the decision on whether or whether not to fund a loan.

6. It was further a part of the manner and means of the conspiracy that Defendants BOSSERT, FORREY, O'BRIEN, PETROVICH, and others would and did direct that HUD-1 Settlement Statements be prepared and supplied to lenders which falsely reflected inflated sales prices and false pay-off amounts in order to correspond to the false information previously submitted to lenders on loan applications, thereby inducing the lenders to wire transfer artificially inflated loan amounts to the title company prior to closing of the transactions.

7. It was further a part of the manner and means of the conspiracy that Defendant FORREY and others would and did direct a second fraudulent HUD-1 Settlement Statement be prepared after closing and supplied to lenders, containing an inflated sales price for the residential property and false pay-off amounts, in circumstances where the Purchase and Sale Agreement contained the original sales price and the sellers were unaware of the inflated sales price, thereby inducing the

lenders to wire transfer artificially inflated loan amounts to the title company prior to closing of the transactions.

8. It was further a part of the manner and means of the conspiracy that Defendants BOSSERT, FORREY, O'BRIEN, PETROVICH, REESE and others would and did direct that their limited liability corporations and/or corporations be paid at closing from the mortgage loan proceeds, amounts of money which they caused to be reflected on the HUD-1 Settlement Statements as monies purportedly due and owing to their limited liability corporations and/or corporations, when in truth and fact no such monies were owed.

9. It was further a part of the manner and means of the conspiracy that Defendants BOSSERT, FORREY, O'BRIEN, PETROVICH, REESE and others would and did, in addition to maintaining a portion of the mortgage loan proceeds which defendants caused to be funneled through their limited liability corporations and/or corporations and then paid to themselves, disburse, and caused to be disbursed, a portion of the mortgage loan proceeds directly or indirectly to the buyers of the real properties as part of a "cash-out" aspect of the mortgage loans.

10. It was further a part of the manner and means of the conspiracy that Defendants FORREY, O'BRIEN, PETROVICH, REESE and others would and did direct that the buyers of the real properties thereafter make three mortgage payments and then cease making mortgage payments, allowing the properties to go into foreclosure proceedings initiated by the lender or its successor.

D. Overt Acts

1. In furtherance of the conspiracy and to affect the objects thereof, the

following overt acts, among others, were committed in the Middle District of Florida, and elsewhere:

On or about the dates set forth below, the defendant(s) identified in each transaction below, caused the following wire transfers of money to be made in order to fund mortgages fraudulently induced by the action of such defendant(s) and others:

OVERT ACT	DATE	DEFENDANT(S)	WIRE TRANSFER
A	05/03/2007	BOSSERT	<p>Wire transfer in the amount of \$711,247.11 from Lehman Brothers Bank, FSB, located in Gaithersburg, Maryland, account no. xxxxx0136, via the Federal Reserve Bank operations center in Newark, New Jersey, to Wachovia Bank of Florida, account no. xxxxxxxx3229, in the name of Lee Title Services, Inc., to fund a mortgage loan on real property located at:</p> <p>4923 SW 8th Court Cape Coral, Florida 33914</p>
B	05/17/2007	BOSSERT PETROVICH FORREY REESE	<p>Wire transfer in the amount of \$656,219.01 from IndyMac Bank FSB, located in Tampa, Florida account no. xxxxxxxx2000, via the Federal Reserve Bank operations center in Newark, New Jersey, to Wachovia Bank of Florida, account no. xxxxxxxx3229, in the name of Lee Title Services, Inc., to fund a mortgage loan on real property located at:</p> <p>5609 Del Rio Court Cape Coral, Florida 33904</p>

C	09/04/2007	FORREY PETROVICH REESE	Wire transfer in the amount of \$579,640.34 from JP Morgan Chase, NYC, located in New York, New York, account no. xxxxx5149, via the Federal Reserve Bank operations center in Newark, New Jersey, to Sun Trust Bank, account no. xxxxxxxx7488, in the name of Oxford Title and Escrow, Inc., to fund a mortgage loan on real property located at: 5223 Stratford Court Cape Coral, Florida 33904
D	12/19/2007	FORREY REESE	Wire transfer in the amount of \$391,877.76 from Bank United FSB, located in Miami Lakes, Florida, account no. xxxxxx0106, via the Federal Reserve Bank operations center in Newark, New Jersey, to Suntrust Bank, account no. xxxxxxxx7488, in the name of Oxford Title and Escrow, Inc., to fund a mortgage loan on real property located at: 130 SW 49th Street Cape Coral, Florida 33914
E	02/29/2008	BOSSERT FORREY	Wire transfer in the amount of \$616,250.00 from Georgia Banking Company, located in Atlanta, Georgia, account no. xxxxxx1236, via the Federal Reserve Bank operations center in Newark, New Jersey, to Suntrust Bank, account no. xxxxxxxx7488, in the name of Oxford Title and Escrow, Inc., to fund a mortgage loan on real property located at: 5341 Cobalt Court Cape Coral, Florida 33904

F	03/07/2008	BOSSERT O'BRIEN PETROVICH	Wire transfer in the amount of \$574,566.75 from Georgia Banking Company, located in Atlanta, Georgia, account no. xxxxxx1236, via the Federal Reserve Bank operations center in Newark, New Jersey, to Suntrust Bank, account no. xxxxxxxx7488, in the name of Oxford Title and Escrow, Inc., to fund a mortgage loan on real property located at: 2649 SW 29th Avenue Cape Coral, Florida 33991
G	06/18/2008	BOSSERT FORREY	Wire transfer in the amount of \$426,695.77 from Florida Capital Bank, located in Jacksonville, Florida, account no. xxxxx2142, via the Federal Reserve Bank operations center in Newark, New Jersey, to Suntrust Bank, account no. xxxxxxxx7488, in the name of Oxford Title and Escrow, Inc., to fund a mortgage loan on real property located at: 4311 Pelican Boulevard Cape Coral, Florida 33914
H	07/10/2008	O'BRIEN PETROVICH FORREY	Wire transfer in the amount of \$259,126.68 from Florida Capital Bank, located in Jacksonville, Florida, account no. xxxxx2142, via the Federal Reserve Bank operations center in Newark, New Jersey, to Suntrust Bank, account no. xxxxxxxx7488, in the name of Oxford Title and Escrow, Inc., to fund a mortgage loan on real property located at: 1414 NE 14th Avenue Cape Coral, Florida 33914

In violation of Title 18, United States Code, Sections 1343 and 1344, all in violation of Title 18, United States Code, Section 1349.

COUNTS TWO THROUGH SIX

E. Money Laundering

18 U.S.C. § 1957

On or about the dates set forth below, in Lee County, Florida, in the Middle District of Florida, the defendants herein, did knowingly and willfully engage and attempt to engage in the following described monetary transactions affecting interstate commerce in criminally derived property, each of a value greater than \$10,000 and derived from specified unlawful activity, namely financial institution fraud (18 U.S.C. §1344) and wire fraud (18 U.S.C. § 1343), as follows:

COUNT	DATE	DEFENDANT	MONETARY TRANSACTION
TWO	5/18/07	TYLER FORREY	Withdrawal of \$62,000 from account no. xxxxxxxx7336 at Wachovia Bank in the name of New Cape Holdings, LLC to account no. xxxxxxxx3327 at Wachovia Bank in the name of Tyler Forrey.
THREE	5/18/07	STEPHEN PETROVICH	Purchase of official bank check no. xxxxx9707 from Wachovia Bank, payable to Stephen Petrovich in the amount of \$20,000.
FOUR	9/6/07	STEVEN REESE	Withdrawal from account no. xxxxxxxx7336 at Wachovia Bank in the name of New Cape Holdings, LLC in the amount of \$17,500.
FIVE	3/7/08	RYAN O'BRIEN	Purchase of official bank check no. 310684136 from Wachovia Bank, payable to Ryan O'Brien in the amount of \$39,200.

SIX	6/19/08	TROY BOSSERT	Check in the amount of \$28,500 from account no. xxxxxxxx2959 at Wachovia Bank to Helios Financial Center, doing business as Statewide Investments and Realty.
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In violation of Title 18, United States Code, Sections 1957 and 2.

FORFEITURE

1. The allegations contained in Counts One through Six of this Information are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. From their engagement in the violations alleged in Counts One through Six of this Information, defendants TROY BOSSERT, TYLER FORREY, RYAN O'BRIEN, STEPHEN PETROVICH, and STEVEN REESE shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), all of their interest in any property constituting or derived from proceeds obtained directly or indirectly as a result of the said violations.

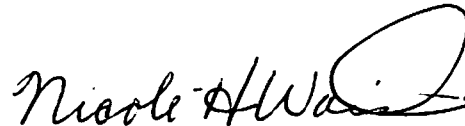
3. If any of the property described above, as a result of any act or omission of the defendant:

- 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 under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

A. BRIAN ALBRITTON
United States Attorney

By:



NICOLE H. WAID
Assistant United States Attorney
Trial Counsel



DOUGLAS MOLLOY
Assistant United States Attorney
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