

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,)	INFORMATION
)	
Plaintiff,)	(18 U.S.C. § 371)
)	(18 U.S.C. § 1957)
v.)	
)	
BRETT A. THIELEN,)	
)	
Defendant.)	

THE UNITED STATES ATTORNEY CHARGES THAT:

Count 1

(18 U.S.C. § 371: Conspiracy to Commit Mortgage Fraud Through Use of the Wires)

1. At all times relevant to this Information, defendant Brett A. Thielen was an individual resident of the State of Minnesota and was the sole owner of JJT Development, LLC ("JJT"), a Minnesota limited liability company.

2. On or about May 15, 2005, Thielen, through JJT, and two other parties formed Sexton Lofts, LLC to develop and sell residential condominium units in the seven-story Sexton building (the "Sexton Lofts") located on Seventh Street in downtown Minneapolis.

3. The written agreements among JJT and its partners in Sexton Lofts, LLC gave Thielen a substantial financial incentive to complete and successfully sell all of the units in the Sexton Lofts, a goal thwarted by certain events, including the downturn in the housing market which began in late 2005.

4. From in or about August of 2006 and through in or about April of 2007, in the State and District of Minnesota, the defendant,

BRETT A. THIELEN,

did unlawfully, willfully and knowingly conspire, combine, confederate and agree with other persons known and unknown to the grand jury to devise and execute by means of interstate wire transfers a scheme to defraud certain mortgage lenders by arranging for the fraudulent purchase of condominiums located in the Sexton Lofts by various unqualified buyers at prices exceeding the true values of the condominium units in violation of Title 18, United States Code, Section 1343.

Object of the Conspiracy

5. It was the object of the conspiracy to sell units in the Sexton Lofts in a deteriorating market by recruiting financially unqualified buyers and then fraudulently inducing lenders to loan money to those buyers to purchase the condominium units.

Manner and Means

It was part of the conspiracy that from in or about August of 2006 through in or about April of 2007:

6. Defendant Thielen achieved his goal of selling Sexton Lofts condominium units in three immediately-successive steps.

7. In step one, defendant Thielen provided cash to coconspirators to purchase condominium units in the Sexton Lofts at prices near the true market value of the units.

8. In step two, Thielen's coconspirators then transferred ownership of the condominium units to Thielen for immediate resale to unqualified buyers at greatly inflated prices.

9. In step three, defendant Thielen immediately sold the Sexton Lofts condominium units to buyers recruited by Thielen's coconspirators at prices that ranged from thirty percent to eighty percent more than the prices for which Thielen had just acquired the units.

10. The recruited buyers would pay for the Sexton Lofts condominium units with fraudulently borrowed funds.

11. Some of Thielen's coconspirators were mortgage brokers who filled out loan applications for the buyers which contained material, false information about the income and creditworthiness of the buyers and about the value of the Sexton Lofts condominium units collateralizing the loans.

12. Thielen and his coconspirators received substantial kickbacks of borrowed funds which were not disclosed to any of the lenders.

13. From September of 2006 through April of 2007, Thielen and his coconspirators caused thirteen condominium units at the Sexton

Lofts to be purchased by unqualified buyers in the manner described above, resulting in losses exceeding \$2.5 million to the lenders defrauded in the transactions.

OVERT ACT

14. On or about September 26, 2006, defendant Thielen, for the purpose of executing the scheme to defraud described in paragraphs 1 through 13 above, did knowingly cause to be transmitted by means of wire in interstate and foreign commerce certain signs and signals, namely, a wire transfer of \$391,763.37 from a lender located outside of Minnesota to Stonebrook Title to enable one of the recruited buyers to purchase Condominium Unit 202 at the Sexton Lofts for substantially more than its true value.

All in violation of Title 18, United States Code, Section 371.

Count 2

(18 U.S.C. § 1957: Engaging in a Monetary Transaction in
Criminally Derived Property)

15. The grand jury realleges and incorporates by reference paragraphs 1 through 13 of this Information as though fully stated herein.

16. On or about June 8, 2007, in the State and District of Minnesota and elsewhere, the defendant,

BRETT A. THIELEN,

did knowingly engage in a monetary transaction in and affecting interstate commerce in criminally derived property of a value

greater than \$10,000.00 which was derived from specified unlawful activity, that is, the wire fraud scheme which was the object of the conspiracy described in paragraphs 1 through 13 above, namely, defendant Thielen caused \$500,000 to be wired in interstate and foreign commerce to Penson Financial Services in Dallas, Texas for the purchase of 124,400 shares of stock in Digital Town, Inc.

All in violation of Title 18, United States Code, Section 1957.

FORFEITURE ALLEGATIONS

Counts 1 and 2 of this Information are hereby realleged and incorporated as if fully set forth herein by reference, for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(1), and Title 28, United States Code, Section 2461(c).

As the result of the offenses alleged in Count 1 of this Information, pursuant to Title 18, United States Code, Section 981(a)(1)(C) in conjunction with Title 28, United States Code, Section 2461(c), the defendant shall forfeit to the United States any property constituting, or derived from, proceeds traceable to such violations.

As the result of the offenses alleged in Count 2 of this Information, pursuant to Title 18, United States Code, Section 982(a)(1), the defendant shall forfeit to the United States any

property, real or personal, that was involved in such offense, or any property traceable to such property.

The forfeitable assets described above include, but are not limited to, the following:

a. That certain block of 2,800,000 shares of Espre Solutions, Inc. stock purchased on January 30, 2007 with a \$200,000 interstate wire transfer of the proceeds of the fraudulent scheme described above; and

b. That certain block of 124,400 shares of Digital Town, Inc. stock purchased on June 8, 2007 with a \$500,000 interstate wire transfer of the proceeds of the fraudulent scheme described above.

If any of the above-described forfeitable property is unavailable for forfeiture, the United States intends to seek the forfeiture of substitute property as provided for in Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1) and by Title 28, United States Code, Section 2461(c).

All in violation of Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(1), and Title 28, United States Code,

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Section 2461.

Dated: December 11, 2008

FRANK J. MAGILL, JR.
United States Attorney

BY: DAVID J. MacLAUGHLIN
Assistant U.S. Attorney
Attorney I.D. No. 211849