

FILED by **CF** D.C.  
ELECTRONIC  
  
**JUL 28, 2009**  
  
STEVEN M. LARIMORE  
CLERK U.S. DIST. CT.  
S.D. OF FLA. - MIAMI

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 09-20638-CR-JORDAN/MCALILEY**

**18 U.S.C. § 1349  
18 U.S.C. § 1343  
18 U.S.C. § 2  
18 U.S.C. § 982**

**UNITED STATES OF AMERICA**

**vs.**

**MILENNYS FOIRA and  
RICHARD DIAZ,**

**Defendants.**

**INDICTMENT**

The Grand Jury charges that:

**GENERAL ALLEGATIONS**

At various times relevant to this Indictment:

1. Citibank (“Citibank”) was a financial institution with offices located throughout the United States, including the State of Florida, and whose accounts were insured by the Federal Deposit Insurance Corporation (“FDIC”).

2. Fieldstone Mortgage Company (“Fieldstone”) was a mortgage lender doing business in the State of Florida, with its principal place of business listed as 3505 East Frontage Road, Tampa, Florida, 33607. Fieldstone maintained an account at Citibank in New York, New York.

3. Washington Mutual (“Washington Mutual”) was a financial institution with offices located throughout the United States, including the State of Florida, and whose accounts

were insured by the Federal Deposit Insurance Corporation ("FDIC").

4. Homestead Law Offices LLC was a Florida company with its principal place of business listed as 201 Alhambra Circle, Suite 501, Coral Gables, Florida, 33134. Homestead Law Offices LLC maintained its trust account at Wachovia Bank ("Wachovia") in Miami, Florida.

**COUNT 1**  
**CONSPIRACY TO COMMIT WIRE FRAUD**  
**(18 U.S.C. § 1349)**

1. Paragraphs 1 through 4 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or around May 2006 through in or around July 2006, the exact dates being unknown to the Grand Jury, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

**MILENNYS FOIRA and**  
**RICHARD DIAZ,**

did willfully, that is, with intent to further the object of the conspiracy, and knowingly combine, conspire, and confederate and agree with each other and with others known and unknown to the Grand Jury, to knowingly and with intent to defraud, devise and intend 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, knowing that they were false and fraudulent when made, and transmitting and causing to be transmitted in interstate commerce, by means of wire communication, certain writings, signs, signals, pictures and sounds, for the purpose of executing the scheme, in violation of Title 18, United States Code, Section 1343.

**PURPOSE OF THE CONSPIRACY**

3. It was the purpose of the conspiracy for the defendants and their co-conspirators to unlawfully enrich themselves by, among other things: (a) using a straw buyer to purchase the a property located at 9015 SW 45<sup>th</sup> Terrace, Miami, Florida in Miami-Dade County, Florida (“the 45<sup>th</sup> Terrace property”); (b) submitting false and fraudulent mortgage loan applications and related documents to a lending institution, thereby inducing the lending institution to make mortgage loans to the straw buyer for the purchase of the 45<sup>th</sup> Terrace property; (c) concealing the submission of the false and fraudulent applications and documents and the receipt and transfer of fraud proceeds; and (d) diverting fraud proceeds for their personal use and benefit.

**MANNER AND MEANS OF THE CONSPIRACY**

The manner and means by which the defendants and their co-conspirators sought to accomplish the object and purpose of the conspiracy included, among others, the following:

4. Defendant **MILENNYS FOIRA** was a real estate broker who arranged for the straw buyer, Jean Claude Cahen, to use his identity and credit in the purchase of the 45<sup>th</sup> Terrace property.

5. Defendant **RICHARD DIAZ** recruited Jean Claude Cahen to use his identity and credit to purchase the 45<sup>th</sup> Terrace property. **RICHARD DIAZ** maintained a bank account with Washington Mutual.

6. In July 2006, Jean Claude Cahen agreed to pose as a straw buyer who was to purchase the 45<sup>th</sup> Terrace property for \$450,000. As the straw buyer, Jean Claude Cahen allowed his identity and credit information to be used, for a fee, in false and fraudulent mortgage loan applications associated with the purchase of the 45<sup>th</sup> Terrace property. Jean Claude Cahen

represented himself to be the true buyer of the 45<sup>th</sup> Terrace property and the individual responsible for making payments on the loans. Jean Claude Cahen was not the actual purchaser of the property. **MILENNYS FOIRA** would be making the mortgage payments directly.

7. **MILENNYS FOIRA** prepared, and caused to be prepared, false and fraudulent mortgage loan applications and other related documents on behalf of Jean Claude Cahen, which documents **MILENNYS FOIRA** submitted, and caused to be submitted, to Fieldstone to induce Fieldstone, to fund two mortgage loans on the 45<sup>th</sup> Terrace property. The two mortgage loan applications prepared on behalf of Jean Claude Cahen each contained false representations concerning Jean Claude Cahen's employment, income, funds on deposit, and other information necessary to assess his qualifications to borrow funds in the amounts of \$360,000 and \$90,000. The false and fraudulent loan applications included, among other things, false statements of his intent to use the property as his primary residence.

8. At the closing, to purchase the property, **MILENNYS FOIRA** and Jean Claude Cahen executed, and caused to be executed, a HUD-1 Settlement Statement ("HUD-1"). A HUD-1 is a standard form required to be executed at all real estate transactions. The HUD-1 itemizes charges for fees and services to be imposed on the seller and borrower in connection with the closing. The HUD-1 that was submitted to Fieldstone, falsely stated that Jean Claude Cahen, the straw buyer, was the true purchaser of the 45<sup>th</sup> Terrace property.

9. Based on the materially false and fraudulent misrepresentations in the loan applications, Fieldstone approved the mortgage applications, and the loan proceeds were wired in interstate commerce from Citibank in New York to Homestead Law Offices LLC's bank account at Wachovia in Miami-Dade County, Florida for disbursement at the closing of the sale of the

45<sup>th</sup> Terrace property.

10. After the closing of the loan, **MILENNYS FOIRA** and Jean Claude Cahen failed to make payments on the loans obtained as part of the fraudulent scheme, causing the 45<sup>th</sup> Terrace property to go into foreclosure and the loanholder to suffer financial losses.

11. In connection with the fraudulent scheme, **MYLENNIS FOIRA, RICHARD DIAZ** and Jean Claude Cahen were disbursed, without the lender's knowledge, \$24,525.00 from the loan proceeds, which was divided amongst them.

**COUNTS 2-3**  
**WIRE FRAUD**  
**(18 U.S.C. §§ 1343 and 2)**

1. From in or around May 2006, through in or around July 2006, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

**MILENNYS FOIRA and**  
**RICHARD DIAZ,**

did knowingly and with intent to defraud, devise, intend 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, knowing that the pretenses, representations, and promises were false and fraudulent when made.

**THE PURPOSE OF THE SCHEME AND ARTIFICE**

2. It was the purpose of the scheme and artifice for the defendants to unlawfully enrich themselves by, among other things: (a) using a straw buyer in the purchase of the 45<sup>th</sup> Terrace property; (b) submitting false and fraudulent mortgage loan applications and related documents to a lending institution, thereby inducing the lending institution to make mortgage loans to the straw buyer for the purchase of the 45<sup>th</sup> Terrace property; (c) concealing the false

and fraudulent information submitted in the loan applications and related documents; and (d) diverting fraud proceeds for their personal use and benefit.

**THE SCHEME AND ARTIFICE TO DEFRAUD**

3. Paragraphs 4 through 11 of the Manner and Means section of Count 1 of this Indictment are realleged and incorporated fully herein by reference as a description of the scheme and artifice.

**USE OF THE WIRES**

4. On or about the dates set forth in each count below, as to each defendant, the defendants, for the purpose of executing and in furtherance of the aforesaid scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, did knowingly transmit and cause to be transmitted in interstate commerce, by means of wire communication, certain writings, signs, signals, pictures and sounds:

<b>COUNT</b>	<b>APPROX. DATE</b>	<b>DESCRIPTION OF WIRE COMMUNICATION</b>
2	July 7, 2006	Wire transfer in the amount of \$362,436 from Fieldstone Mortgage Company's account at Citibank in New York, New York to Homestead Law Offices LLC's account at Wachovia Bank in Miami, Florida, relating to the sale of the property located at 9015 SW 45 <sup>th</sup> Terrace, Miami, Florida.
3	July 7, 2006	Wire transfer in the amount of \$88,912.50 from Fieldstone Mortgage Company's account at Citibank in New York, New York to Homestead Law Offices LLC's account at Wachovia Bank in Miami, Florida, relating to the sale of the property located at 9015 SW 45 <sup>th</sup> Terrace, Miami, Florida.

In violation of Title 18, United States Code, Sections 1343 and 2.

**FORFEITURE ALLEGATIONS**

1. The General Allegations and the allegations of Counts 1 through 3 of this Indictment are realleged and by this reference fully incorporated herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendants have an interest, pursuant to the provisions of Title 18, United States Code, Sections 982(a)(2) and 982(b) and the procedures set forth at Title 21, United States Code, Section 853.

2. Upon conviction of any of the offenses charged in Counts 1 through 3 of the Indictment, defendants **MILENNYS FOIRA** and **RICHARD DIAZ** shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(2), any property constituting, or derived from, any proceeds which such defendant obtained, directly or indirectly, as the result of such violation.

All pursuant to Title 18, United States Code, Section 982(a)(2) and 982(b) and the procedures set forth at Title 21, United States Code, Section 853.

A TRUE BILL

\_\_\_\_\_  
FOREPERSON

  
\_\_\_\_\_  
JEFFREY H. SLOMAN  
ACTING UNITED STATES ATTORNEY

  
\_\_\_\_\_  
CRISTINA PEREZ SOTO  
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES OF AMERICA

CASE NO. \_\_\_\_\_

vs.

**CERTIFICATE OF TRIAL ATTORNEY\***

MILENNYS FOIRA and  
RICHARD DIAZ,

**Defendants.**

**Superseding Case Information:**

**Court Division:** (Select One)

Miami     Key West  
 FTL        WPB     FTP

New Defendant(s)                      Yes \_\_\_\_\_ No \_\_\_\_\_  
Number of New Defendants                      \_\_\_\_\_  
Total number of counts                      \_\_\_\_\_

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.

2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) No  
List language and/or dialect \_\_\_\_\_

4. This case will take 5 days for the parties to try.

5. Please check appropriate category and type of offense listed below:

(Check only one)	(Check only one)
I 0 to 5 days <input checked="" type="checkbox"/>	Petty _____
II 6 to 10 days                      _____	Minor _____
III 11 to 20 days                      _____	Misdem. _____
IV 21 to 60 days                      _____	Felony <input checked="" type="checkbox"/>
V 61 days and over                      _____	

6. Has this case been previously filed in this District Court? (Yes or No) \_\_\_\_\_

If yes: Judge: \_\_\_\_\_ Case No. \_\_\_\_\_

(Attach copy of dispositive order)  
Has a complaint been filed in this matter? (Yes or No) No

If yes: Magistrate Case No. \_\_\_\_\_

Related Miscellaneous numbers: \_\_\_\_\_

Defendant(s) in federal custody as of \_\_\_\_\_

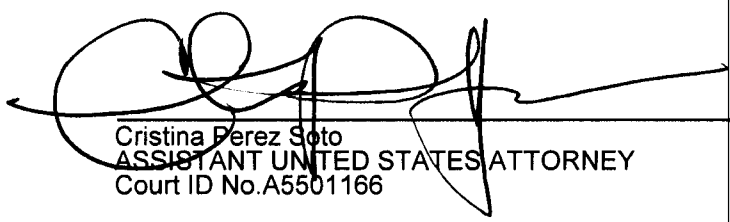
Defendant(s) in state custody as of \_\_\_\_\_

Rule 20 from the \_\_\_\_\_ District of \_\_\_\_\_

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? \_\_\_\_\_ Yes  No

8. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? \_\_\_\_\_ Yes  No

  
Cristina Perez Soto  
ASSISTANT UNITED STATES ATTORNEY  
Court ID No. A5501166

\*Penalty Sheet(s) attached

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: RICHARD DIAZ

Case No: \_\_\_\_\_

Count #: 1

Conspiracy To Commit Wire Fraud

Title 18, United States Code, Section 1349

**\* Max. Penalty:** Twenty (20) years' imprisonment

Counts #: 2-3

Wire Fraud

Title 18, United States Code, Section 1343

**\*Max. Penalty:** Twenty (20) years' imprisonment

Count #:  
\_\_\_\_\_  
\_\_\_\_\_

**\*Max. Penalty:**  
\_\_\_\_\_

Count #:  
\_\_\_\_\_  
\_\_\_\_\_

**\*Max. Penalty:**  
\_\_\_\_\_

**\*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

**Defendant's Name:** MILENNYS FOIRA

**Case No:** \_\_\_\_\_

Count #: 1

Conspiracy To Commit Wire Fraud

Title 18, United States Code, Section 1349

**\* Max. Penalty:** Twenty (20) years' imprisonment

Counts #: 2-3

Wire Fraud

Title 18, United States Code, Section 1343

**\*Max. Penalty:** Twenty (20) years' imprisonment

Count #:  
\_\_\_\_\_  
\_\_\_\_\_

**\*Max. Penalty:**  
\_\_\_\_\_

Count #:  
\_\_\_\_\_  
\_\_\_\_\_

**\*Max. Penalty:**  
\_\_\_\_\_

**\*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**