

United States District Court

DISTRICT OF UTAH - CENTRAL DIVISION

UNITED STATES OF AMERICA

v.

WARRANT FOR ARREST

Misipope Elekana Soliai

CASE NUMBER: 2:09-cr-00908-DAK

To: The United States Marshal
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED to arrest MISIPOPE ELEKANA SOLIAI
Name

and bring him or her forthwith to the nearest magistrate to answer a(n)

- Indictment
 Superseding Indictment
 Information
 Superseding Information
 Complaint
 Order of court
 Violation Notice
 Probation Violation Petition
 Supervised Release Violation Petition

charging him or her with (brief description of offense)

FALSE STATEMENT IN APPLICATION/USE OF PASSPORT-Passport Fraud

in violation of 18 USC 1542 United States Code.

D. Mark Jones

Name of Issuing Officer

Clerk of Court

Title of Issuing Officer

Signature of Issuing Officer

December 10, 2009 at Salt Lake City, Utah

Date and Location

By: Jennifer Richards
Deputy Clerk

Bail fixed _____ by _____
Name of Judicial Officer

RETURN

This warrant was received and executed with the arrest of the above-named defendant at _____

DATE RECEIVED

NAME AND TITLE OF ARRESTING
OFFICER

SIGNATURE OF ARRESTING OFFICER

DATE OF ARREST

BRETT L. TOLMAN, United States Attorney (No. 8821)
SCOTT J. THORLEY, Assistant United States Attorney (No. 3248)
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FILED
U.S. DISTRICT COURT
2009 DEC -9 P 5:30
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

URIAH A. KENNEDY, and
GREGORY LEE HANSEN,

Defendants.

: Case No.

: I N D I C T M E N T

: VIO. 18 U.S.C. § 1343 (Wire Fraud);
: 18 U.S.C. § 1349 (Conspiracy);
: 18 U.S.C. § 1957 (Money Laundering);
: 18 U.S.C. § 2 (Aiding, Abetting and
: Causing)

The Grand Jury Charges:

BACKGROUND

Case: 2:09-cr-00905
Assigned To : Kimball, Dale A.
Assign. Date : 12/9/2009
Description: USA v.

At all times relevant to this Indictment:

Scheme Participants

1. Defendant GREGORY LEE HANSEN (HANSEN) was a resident of Salt Lake County, Utah, and was the owner and operator of Tradewest Development, a business that built single-family homes in and around the Salt Lake Valley.

2. Defendant URIAH A. KENNEDY (KENNEDY) was a resident of Davis County, Utah, and was involved in the business of brokering loans and promoting real estate development projects along the Wasatch Front through a company known as Kennedy Family Homes LLC. Defendant Kennedy also maintained business bank accounts at Bank of the West in the names of Spyglass Properties, LLC and Tradewest Homes, Inc.

3. MISIONA PATANE JR. (PATANE), a resident of Salt Lake County, Utah, had

obtained a degree in business administration, worked as a project manager, and was engaged in the business of monitoring construction project progress, controlling costs, and ensuring proper use and disbursement of project loan funds.

4. R.P. was a resident of Utah County, Utah, and was the owner and operator of two construction companies known as Pyramid Building and Construction (Pyramid) and AMT Construction, and maintained bank accounts in those names.

Scheme Victim

5. Arkansas National Bank (ANB) was a financial institution as defined by 18 U.S.C. § 20, the deposits of which were insured by the Federal Deposit Insurance Corporation (FDIC). ANB was a nationwide banking company with its principal office in Little Rock, Arkansas, and which maintained an office located at 929 West Sunset Boulevard, Suite 21 in St. George, Utah. ANB was involved in the business of funding construction mortgage loans secured by real estate and projects developed on those properties. As described below, the funding of ANB construction loans was dependent and conditioned upon borrowers providing truthful and accurate loan application and loan disbursement information, along with adequate documentation which met ANB's underwriting standards.

The Project

6. Defendants HANSEN and KENNEDY, with others, formed a new real estate development venture to focus on the development of single-family housing projects under the name "Tradewest Homes, LLC" (Tradewest Homes). Defendants HANSEN and KENNEDY transferred into Tradewest Homes approximately 60 unfinished single-family home projects with the aim of obtaining financing and finishing the projects.

7. HANSEN and KENNEDY subsequently formed an entity called "Spyglass Properties" with the aim of developing and building a multi-family condominium project located

on West North Temple Street in Salt Lake City, Utah. This project was referred to internally as the “Kennedy Town Center project” or the “North Temple project.” In the Spyglass/Kennedy Town Center project, defendants HANSEN and KENNEDY sought to develop an eighty (80) unit condominium project located at approximately 644 West North Temple Street in Salt Lake City, Utah. Once formed, PATANE was retained by HANSEN and KENNEDY to serve as the project manager of Tradewest Homes and the Spyglass/Kennedy Town Center project and to facilitate the use of related loan funds.

The Construction Loan Application, Approval, and Disbursement Process

8. As part of the construction loan mortgage application process, ANB required a loan application which accurately reflected a borrower’s assets, income, and liabilities in order to make complete and knowledgeable lending decisions. ANB also required, as phases of construction were completed and disbursement of additional funds were needed to pay subcontractor costs and materials, the submission of truthful and accurate invoices, engineering certifications, verification of work done by subcontractors, and payment to subcontractors. ANB required as a condition of funding a construction loan that the loan proceeds be dedicated solely to the project on which the loan was made.

THE SCHEME AND ARTIFICE TO DEFRAUD

9. Beginning sometime prior to March 2006 and continuing to about the Summer of 2008, in the Central Division of the District of Utah, and elsewhere,

**URIAH A. KENNEDY, and
GREGORY LEE HANSEN,**

defendants herein, devised and executed, and attempted to devise and execute, a scheme and artifice to defraud and to obtain money and property from ANB by means of false and fraudulent

pretenses, representations, and promises and omissions of material facts by obtaining approval of, and disbursements from, a real estate construction loan from ANB, as detailed below. In executing and attempting to execute the scheme and artifice to defraud, the defendants and others:

- a. knowingly transmitted and caused to be transmitted, by means of wire communications in interstate commerce, writings, signs, signals, pictures, and sounds, in violation of 18 U.S.C. § 1343 (Wire Fraud); and
- b. knowingly, in the circumstance that the offense took place in the United States, engaged and attempted to engage in the monetary transactions in criminally derived property, each of which transactions was of a value greater than \$10,000.00 and was derived from specified unlawful activity, to wit: proceeds of fraudulently obtained ANB loans in violation of 18 U.S.C. § 1957 (Money Laundering).

OBJECT OF THE SCHEME AND ARTIFICE TO DEFRAUD

10. It was the object of the scheme and artifice to defraud for the defendants HANSEN, KENNEDY, and co-conspirator PATANE, fraudulently to obtain money and property of ANB by inducing ANB through false statements, misrepresentations, deception, and omissions of material facts to fund a series of construction loan disbursements, the result of which was the diversion of construction loan proceeds to the defendants and their assigns for uses and purposes other than the Spyglass/Kennedy Town Center project.

MANNER AND MEANS OF THE SCHEME AND ARTIFICE TO DEFRAUD

11. It was a part of the scheme and artifice to defraud that defendants HANSEN and KENNEDY formed Spyglass Properties, and through Spyglass Properties, they applied for a construction loan with ANB for the purpose of purchasing and developing a 1.7 acre parcel of unoccupied property located at approximately 644 West North Temple Street in Salt Lake City, Utah (the "property"). This development became known as the Kennedy Town Center project.

12. It was further a part of the scheme and artifice to defraud that defendants HANSEN and KENNEDY applied to ANB for a construction loan totaling approximately eighteen million dollars (\$18,000,000) ostensibly to acquire the property and build the Spyglass/Kennedy Town Center project. Defendants HANSEN and KENNEDY further caused a bank account to be opened at ANB in the name of 'Spyglass Properties' into which proceeds of the Spyglass/Kennedy Town Center construction loan would be disbursed.

13. It was further a part of the scheme and artifice to defraud that, having applied to ANB as a lender on the Spyglass/Kennedy Town Center project in order to obtain approval of a loan to acquire the property and to build the Spyglass/Kennedy Town Center project, defendants HANSEN and KENNEDY assured ANB that the proceeds of the loan would be used solely for the purchase of the property and the construction and building of the eighty (80) unit condominium project. The ANB loan was structured so that the construction loan proceeds would be released in phases based on invoices and periodic engineering certifications to ANB that the previous phase of construction had been properly completed. Defendants HANSEN, KENNEDY, and their associates were further required to furnish to ANB written invoices and draw requests which affirmatively represented to ANB the uses to which the requested loan proceeds would be put, namely, for payment of materials or completed work provided by subcontractors.

14. It was further a part of the scheme and artifice to defraud that, instead of using all of the proceeds of the ANB loan for purchase of the property and construction of the Spyglass/Kennedy Town Center project as promised, defendants HANSEN and KENNEDY instructed and caused co-conspirator PATANE to begin diverting hundreds of thousands of dollars in ANB construction loan proceeds for unrelated personal purposes and for HANSEN's and KENNEDY's residential construction projects. These diversions of ANB loan proceeds were made in order to complete other Tradewest Homes residential projects that were in peril of foreclosure because the construction loan funds for those projects were exhausted before the

houses were completed. These diversions from the ANB loan began to immediately threaten the viability of the Spyglass/Kennedy Town Center project and the ability to repay the ANB loan.

15. It was further a part of the scheme and artifice to defraud that in order to conceal the diversion of funds from the ANB loan to projects and purposes unrelated to the Spyglass/Kennedy Town Center project, the defendants HANSEN, KENNEDY and co-conspirator PATANE caused to be created and submitted to ANB a series of false and misleading invoices, draw requests, and occasional false engineering certifications. The false invoices, draw requests, and certifications misrepresented to ANB that materials were purchased and work had been completed for phases of the Spyglass/Kennedy Town Center project such as framing, drywall, windows, electrical work, heating and air conditioning, plumbing, roofing, elevator, appliances, countertops and siding, when in truth and fact, nothing above ground level was completed. The Spyglass/Kennedy Town Center project never advanced past the building of the foundation, parking, and stemwall.

16. It was further a part of the scheme and artifice to defraud that, after having obtained ANB loan proceeds through false draw requests and certifications, the funds were diverted for unrelated business and personal purposes of defendants HANSEN, KENNEDY and co-conspirator PATANE, including: (1) payments to defendant KENNEDY's unrelated business accounts, one deceptively bearing the same name, "Spyglass Properties"; (2) payments to fund office expenses, payroll and unrelated construction projects of defendants HANSEN and KENNEDY; and (3) diversion of loan proceeds by PATANE to several unrelated bank accounts to pay a variety of business and personal expenses unrelated to the Spyglass/Kennedy Town Center project

17. It was further a part of the scheme and artifice to defraud that after having obtained the benefit of almost seventeen million dollars (\$17,000,000) in ANB loan proceeds, including more than several million dollars obtained through the submission of false and deceptive invoices, draw requests and engineering certifications to ANB, the defendants

HANSEN and KENNEDY abandoned the Spyglass/Kennedy Town Center project with little more visible above ground-level than a slab of cement, failed to make payments on the ANB loan, and left ANB with a loan secured by the Spyglass/Kennedy Town Center property worth far less than the outstanding loan balance.

**COUNTS 1 through 10
18 U.S.C. §§ 1343 and 2
(Wire Fraud)**

18. The allegations set forth in paragraphs 1 through 17 of this Indictment are incorporated herein by reference as though fully set forth herein.

19. On or about the dates enumerated as to each count, in the Central Division of the District of Utah, and elsewhere, for the purpose of executing and in furtherance of the scheme and artifice to defraud more particularly described in paragraphs 1 through 17 of this Indictment, and for obtaining money and property of ANB as described below by means of false and fraudulent pretenses, representations, and promises, and omissions of material facts, and attempting to do so, the defendants named below did knowingly transmit and cause to be transmitted, by means of wire communications in interstate commerce, the writings, signs, signals, pictures, and sounds as more particularly described for each count below, and did aid and abet, counsel, command, induce, procure, and willfully cause said wire transmission:

COUNT	DATE (On or About)	DEFENDANTS	DESCRIPTION OF WIRE COMMUNICATION
1	1/29/07	URIAH KENNEDY and GREGORY LEE HANSEN	Wiring of approximately \$51,557 in ANB loan proceeds related to construction loan number 128040017 from ANB Spyglass Properties account number 125011644 in St. George, Utah to account number 441591001462 of United Quality Drywall at Key Bank (Draper, Utah).

COUNT	DATE (On or About)	DEFENDANTS	DESCRIPTION OF WIRE COMMUNICATION
2	1/29/07	URIAH A. KENNEDY and GREGORY LEE HANSEN	Wiring of approximately \$57,607 in ANB loan proceeds related to construction loan number 128040017 from ANB Spyglass Properties account number 125011644 in St. George, Utah to account number 7859023629 of Western Community Construction at Wells Fargo Bank (Provo, Utah).
3	2/14/07	URIAH A. KENNEDY and GREGORY LEE HANSEN	Wiring of approximately \$11,000 in ANB loan proceeds related to construction loan number 128040017 from Tradewest Homes Inc. account number 763005592 in Walnut Creek, California to account number 1891993055 of Foundation Escrow Company at Comerica Bank (San Jose, California).
4	3/20/07	URIAH A. KENNEDY and GREGORY LEE HANSEN	Wiring of approximately \$25,200 in ANB loan proceeds related to construction loan number 128040017 from ANB Spyglass Properties account number 125011644 in St. George, Utah to account number 8619613 of Wildwood at Mountain America Credit Union (Herriman, Utah).
5	5/2/07	URIAH A. KENNEDY and GREGORY LEE HANSEN	Wiring of approximately \$20,000 in ANB loan proceeds related to construction loan number 128040017 from ANB Spyglass Properties account number 125011644 in St. George, Utah to account number 763005584 of Tradewest Homes at Bank of the West (Sandy, Utah).
6	5/14/07	URIAH A. KENNEDY and GREGORY LEE HANSEN	Wiring of approximately \$100,000 in ANB loan proceeds related to construction loan number 128040017 from ANB Spyglass Properties account number 125011644 in St. George, Utah to account number 763005584 of Tradewest Homes at Bank of the West (Sandy, Utah).

COUNT	DATE (On or About)	DEFENDANTS	DESCRIPTION OF WIRE COMMUNICATION
7	6/5/07	URIAH A. KENNEDY and GREGORY LEE HANSEN	Wiring of approximately \$20,000 in ANB loan proceeds related to construction loan number 128040017 from ANB Spyglass Properties account number 125011644 in St. George, Utah to account number 763005584 of Tradewest Homes at Bank of the West (Sandy, Utah).
8	8/2/07	URIAH A. KENNEDY and GREGORY LEE HANSEN	Wiring of approximately \$85,000 in ANB loan proceeds related to construction loan number 128040017 from Bank of the West, Tradewest Homes account number 763005592 in Sandy, Utah to account number 449081007972 of Bonneville Superior Title Company at Key Bank (Ogden, Utah).
9	2/14/08	URIAH A. KENNEDY and GREGORY LEE HANSEN	Wiring of approximately \$110,000 in ANB loan proceeds related to construction loan number 128040017 from ANB Spyglass Properties account number 125011644 in St. George, Utah to account number 763005584 of Tradewest Homes at Bank of the West (Sandy, Utah).
10	3/11/08	URIAH A. KENNEDY	Wiring of approximately \$30,200 in ANB loan proceeds related to construction loan number 128040017 from Bank of the West Tradewest Homes Inc. account number 763005584 in Salt Lake City, Utah to account number 1150592826 of Equity Management Service at County Bank (Merced, California).

All in violation of Title 18, United States Code, § 1343, and 18 U.S.C. § 2(a) and § 2(b).

**COUNTS 11 Through 23
18 U.S.C. §§ 1957 and 2
(Money Laundering, Monetary Transactions Exceeding \$10,000)**

20. The Grand Jury realleges the factual allegations contained in paragraphs 1 through 7 and

incorporates them in these Counts of the Indictment by this reference.

21. On or about the dates set forth below, in the Central Division of the District of Utah and elsewhere, the defendants named below did knowingly, in the circumstance that the offense took place in the United States, engage and attempt to engage in the monetary transactions in criminally derived property described below, and did aid and abet and willfully cause therein, each of which transactions was of a value greater than \$10,000.00 and was derived from specified unlawful activity, that is, wire fraud (in violation of 18 U.S.C. § 1343), each transaction constituting the issuance of checks drawn against accounts containing fraudulently obtained loan proceeds from ANB, and each such transaction constituting a separate count of this Indictment:

COUNT	DATE	DEFENDANT	DESCRIPTION OF MONETARY TRANSACTION
11	1/24/08 <i>gll</i> <i>SSJ</i>	URIAH KENNEDY and GREGORY LEE HANSEN	Issuance of check number 5631 in the amount of \$150,000 payable to Tradewest Development drawn on account number 125011644 in the name of Spyglass Properties, LLC at Arkansas National Bank in St. George, Utah for payment to M.R.
12	4/25/07	URIAH A. KENNEDY and GREGORY LEE HANSEN	Issuance of check number 5127 in the amount of \$13,216.50 payable to Similai Custom Drywall, Inc., drawn on account number 125011644 in the name Spyglass Properties, LLC at Arkansas National Bank in St. George, Utah for payment of drywall at Lot #6, Layton, Utah.
13	8/03/07	URIAH A. KENNEDY and GREGORY LEE HANSEN	Issuance of check number 5286 in the amount of \$29,000.00 payable to Bonneville Superior Title, drawn on account number 125011644 in the name Spyglass Properties, LLC at Arkansas National Bank in St. George, Utah for payment toward Lot 6 Deer Haven Layton, Utah.
14	8/13/07	URIAH A. KENNEDY	Issuance of check number 1008 in the amount of \$13,500.00 payable to Barnes Bank Deer Haven, drawn on account number 763006780 in the name Spyglass Properties, LLC at Bank of the West in Salt Lake City, Utah for payment toward Lot 6 Deer Haven, Layton, Utah.

COUNT	DATE	DEFENDANT	DESCRIPTION OF MONETARY TRANSACTION
15	8/13/07	URIAH A. KENNEDY	Issuance of check number 1011 in the amount of \$37,000.00 payable to Mountain West Interiors, drawn on account number 763006780 in the name Spyglass Properties, LLC at Bank of the West in Salt Lake City, Utah for payment toward Deer Haven, Layton, Utah.
16	8/13/07	URIAH A. KENNEDY	Issuance of check number 1009 in the amount of \$26,713.00 payable to Wood Craft Mill and Cabinet, drawn on account number 763006780 in the name Spyglass Properties, LLC at Bank of the West in Salt Lake City, Utah for payment toward Deer Haven, Layton, Utah.
17	8/22/07	URIAH A. KENNEDY and GREGORY LEE HANSEN	Issuance of check number 5321 in the amount of \$13,018.80 to JACO, drawn on account number 125011644 in the name Spyglass Properties, LLC at Arkansas National Bank in St. George, Utah for payment of services at 6 Deer Haven Layton, Utah.
18	9/4/07	URIAH A. KENNEDY and GREGORY LEE HANSEN	Issuance of check number 5339 in the amount of \$12,433.32 to Similai Drywall Inc., drawn on account number 125011644 in the name Spyglass Properties, LLC at Arkansas National Bank in St. George, Utah for payment of services regarding Lot 178, 6,.
19	9/14/07	URIAH A. KENNEDY	Issuance of check number 189 in the amount of \$15,000.00 to Boulder Wells and Grading, drawn on account number 763005584 in the name Tradewest Homes, Inc. at Bank of the West in Salt Lake City, Utah for payment toward Deer Haven, Layton, Utah.
20	10/2/07	URIAH A. KENNEDY and GREGORY LEE HANSEN	Issuance of check number 5457 in the amount of \$16,000.00 to WHY'RD, drawn on account number 125011644 in the name Spyglass Properties, LLC at Arkansas National Bank in St. George, Utah for payment of services on behalf of URIAH KENNEDY.

COUNT	DATE	DEFENDANT	DESCRIPTION OF MONETARY TRANSACTION
21	1/25/08	URIAH A. KENNEDY and GREGORY LEE HANSEN	Issuance of check number 29155 in the amount of \$150,000 payable to Optimum Investments drawn on account number 912204633 in the name of Trade-West Operations Account at Chase Bank in Salt Lake City, Utah, for payment to Optimum Investments and M.R.
22	2/15/08	URIAH A. KENNEDY and GREGORY LEE HANSEN	Issuance of check number 29223 in the amount of \$50,000 payable to Optimum Investments drawn on account number 912204633 in the name of Trade-West Operations Account at Chase Bank in Salt Lake City, Utah for payment to Optimum Investments and M.R.
23	2/25/08	URIAH A. KENNEDY and GREGORY LEE HANSEN,	Issuance of check number 5679 in the amount of \$140,000 to Tradewest Development drawn on Spyglass Properties account number 125011644 at Arkansas National Bank in St. George, Utah for payment of expenses on French excursion and other personal transactions

All in violation of 18 U.S.C. § 1957(a) and 18 U.S.C. § 2(a) and § 2(b).

COUNT 24
18 U.S.C. § 1349
(Conspiracy)

22. Beginning in or about October 2004 and continuing to the date of Indictment, in the Central Division of the District of Utah, and elsewhere, the defendants,

URIAH A. KENNEDY, and
GREGORY LEE HANSEN,

and others known and unknown to the Grand Jury, did knowingly and willfully combine, conspire, confederate, and agree to commit offenses against the United States of America, that is: wire fraud, in violation of Title 18, United States Code, Section 1343.

23. The object and the manner and means used to further the conspiracy are set forth in paragraphs 1-17 of this Indictment, and by this reference are fully incorporated in this Count of the Indictment.

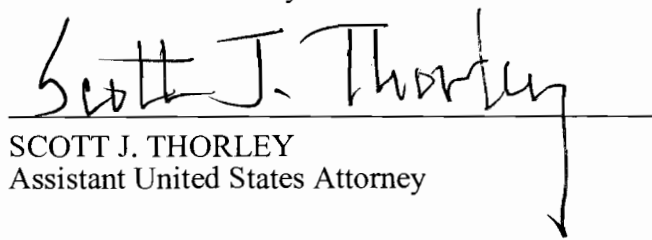
24. In furtherance of the conspiracy and to effect the objects thereof, at least one of the conspirators committed at least one overt act in the District of Utah. The acts set forth in each Count of Counts 1-23 each and individually constitute an overt act in furtherance of the conspiracy, and each overt act is incorporated in this Count of the Indictment as if fully set forth herein; all in violation of Title 18, United States Code, Section 1349.

A TRUE BILL:



FOREPERSON OF THE GRAND JURY

BRETT L. TOLMAN
United States Attorney



SCOTT J. THORLEY
Assistant United States Attorney