

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION
09 APR 30 PM 12:14
SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
MARK ROTH,)
)
Defendant.)

1:09-cr-0069 SEB-KPF
Cause No. 1:09-CR- -01- /KPF

INFORMATION

COUNT ONE
(Wire Fraud - Title 18, United States Code, Section 1343)

The United States Attorney charges that:

1. At all times relevant herein, MARK ROTH (hereinafter ROTH), Defendant herein, resided in the Indianapolis, Indiana area, in the Southern District of Indiana.
2. At all times relevant herein, ROTH was involved in the residential real estate investment business in and around Indianapolis, Indiana. ROTH operated as a mortgage broker, as well as being partners with an individual involved in the construction, purchase and sale of numerous residential real estate properties, thru a company known as Homevestors LLC.
3. At all times relevant herein, Web Mortgage Company LLC, 1st Start Mortgage Inc., American Funding Solutions Inc., and The MoneyStation Inc. were all mortgage brokerage companies doing business in Indianapolis, Indiana and surrounding areas. Each of these

mortgage brokerages obtained financing for the purchase of residential properties in the Indianapolis, Indiana area from various mortgage lenders, including, but not limited to, Argent Mortgage Company Inc., The MoneyStation Inc., People's Choice Mortgage, and Countrywide Home Loans, Inc.

4. At all times relevant herein, ROTH, along with others who he directed or assisted, brokered loans through one of the above-named mortgage brokers. ROTH was not a licensed mortgage broker for any of the above companies. Through his years of experience in the business, ROTH had developed relationships with Argent Mortgage Company employees. ROTH prepared the Argent mortgage broker application packages for Web Mortgage Company LLC and American Funding Solutions Inc., to assist these companies in being able to broker loans through Argent. ROTH also opened and ran the Indianapolis branch office of 1st Start Mortgage, which was located in New Castle, Indiana, and which had an existing broker agreement with Argent.

5. At all times relevant herein, ROTH maintained bank accounts in his own name, as well as in the name of WJP Roth Investments Inc. ROTH was also a signatory on the bank accounts of a company known as Homevestors LLC, the company owned by a business associate of his which was used for the purposes of buying, building and selling real estate.

6. Individuals who ROTH had business associations with located residential properties in the Indianapolis area that were offered for sale by others and negotiated a fair market value purchase price for the properties with the sellers.

7. These individuals also located investors to purchase these properties at a price far above the true market value. ROTH and other individuals then assisted the investors in obtaining

financing for these residential properties through one of the above named mortgage brokerage companies. They also assisted these investors by locating and providing funds for the investors' down payments on these properties. They also recruited individuals to prepare real estate appraisals for these properties, and title company closing agents to close loans for these properties.

8. Beginning in or before early 2004 and continuing through approximately April 2005, ROTH and other individuals, both known and unknown to the United States Attorney, knowingly devised, and intended to devise, a scheme to defraud, and to obtain and attempt to obtain money, funds, and other property, by means of false and fraudulent pretenses, representations and promises, which scheme is more fully described as follows:

A. It was a part of the scheme that individuals located residential properties for sale in Indianapolis, Indiana. In some cases, these were individual homes listed for sale by owner. In other cases, these properties constituted an entire neighborhood, known as Windsor Village, which consisted of approximately one hundred eighty-four (184) duplexes, all owned by a single individual through various land trusts. These individuals negotiated to purchase these properties at a fair market value from the sellers and entered into option agreements or land contracts to accomplish these purchases.

B. It was further a part of the scheme that when these sales actually closed, the person who had negotiated to purchase the property was not shown as the purchaser of the property. Rather, an investor was shown as the purchaser. In addition, the sales price shown on the HUD-1 Settlement Statement was much higher than the fair market value price negotiated with the seller.

C. It was further a part of the scheme that individuals recruited investors to be the purchasers of these properties. Some of these investors lived in the Indianapolis area; many others lived in the Martinsville, Virginia area. The investors were told that they would be investing their credit for purposes of purchasing real estate in the Indianapolis area. Investors were told that they would not be required to make any down payments or other payments on the properties. They were further told that companies owned by other people in the organization would make all payments (mortgage, taxes and insurance) on the properties, and manage the properties (including finding renters, collecting rent, and providing maintenance and upkeep). Most of the investors never saw the properties they were purchasing and were unaware that the properties were worth much less than the price they were paying for them. The investors were paid a fee, generally \$4,000.00 per property, for investing their credit in the venture. The source of the funds paid to investors was money illegally obtained from the mortgages supplied by the lenders.

D. It was further a part of the scheme that ROTH and other individuals originated loans to obtain financing for these properties through Argent Mortgage Company, The MoneyStation, Inc., and other lenders. ROTH and other individuals, at ROTH's direction or with ROTH's assistance, prepared and submitted to the lenders false and fraudulent loan applications along with false supporting documentation for the loans. In submitting the false loan applications, ROTH and others knowingly included false statements, including: that the investor was providing a 10-20% down payment for the purchase from the investor's own funds; that the investor owned assets which they did not own; and, that the investor's income was higher than it actually was.

E. It was further a part of the scheme that the lenders relied upon the inflated appraisals, false loan applications, and false supporting documents in the loan packages to approve and disburse the loans for these properties. In making their decisions to grant the loans, the lenders relied upon the representation on the loan applications that the investors were providing the down payment.

F. It was further a part of the scheme that individuals other than the investors furnished ("fronted") the down payments on these properties, by obtaining cashier's checks which were submitted at the time of the closing on the property to make it appear that the investors were actually making a down payment on the property, when in fact they were not. The individuals who provided ("fronted") the down payments were then reimbursed the down payment money from illegal funds obtained after closing; they were generally given an additional \$1,000.00 for "loaning" the money for the down payments (occasionally the amount was \$2,000.00-3,000.00). On some occasions, ROTH contacted other individuals and requested them to obtain and provide funds for investor down payments.

G. It was further a part of the scheme that closing agents at title companies were employed to assist in the preparation and processing of false documents, including false and fraudulent settlement statements (Form HUD-1), and checks used to disburse the loan funds.

H. It was further a part of the scheme that ROTH and other individuals fraudulently obtained funds from these transactions. The fraudulently obtained funds essentially consisted of the difference between the loan amount (80-90% of the falsely inflated sales price) and the real value of the property (generally the fair market value sales price negotiated with the seller). ROTH and other individuals set up corporate entities and opened bank accounts for purposes of

carrying out their fraudulent activities. ROTH used an account in the name WJP Roth Investments Inc. to deposit checks he received from fraudulent loan proceeds. ROTH shared office space with other individuals involved in the scheme to defraud during the years 2004 and 2005.

I. It was further a part of the scheme that the loans obtained in these fraudulent transactions were not repaid as agreed. All of the loans went into default and were the subject of various legal action by the lenders. The loans were either the subject of foreclosure action, or the lenders took deeds in lieu of foreclosure, or allowed short sales on the properties.

J. It was further a part of the scheme that ROTH and other individuals transmitted, or caused to be transmitted, by means of wire transmission in interstate commerce, the loan proceeds for all of the fraudulent loans. The wire transfers went from bank accounts (in New York or California) of the out-of-state lenders to a bank account of the title company in Greenwood, Indiana (bank located in Ohio) .

K. It was further a part of the scheme that between February 26, 2004 and April 28, 2005, ROTH, along with other individuals, was involved in at least twenty-five (25) separate transactions, each of which involved ROTH and others falsely obtaining a mortgage loan from Argent Mortgage Company or The MoneyStation, Inc. These lenders disbursed approximately \$5,146,050.00 in fraudulent loan proceeds for the twenty-five (25) mortgage loans. Attachment 1 to this Information, which is incorporated herein, lists these transactions and contains the following information: the property addresses for which these twenty-five (25) mortgage loans were issued; the closing date for, and sales price of, the properties; the name of the lender and amount of the mortgage loan; the fair market value of the property; and the fraudulent proceeds

from the loan. The first fourteen (14) loans on Attachment 1 relate to the purchase of individual properties, which were brokered by ROTH and others thru 1st Start Mortgage, Inc. The remaining eleven (11) loans on Attachment 1 relate to the purchase of a group of duplexes in Windsor Village, and were brokered by ROTH and/or others, thru The MoneyStation, Inc. or American Funding Solutions, Inc. The following acts were committed by ROTH and others relative to some of these transactions.

1. 901 W. 63rd Street, Indianapolis, Indiana (Attachment 1, number 1)

In or about February 2004, an individual entered into an agreement with the owner (seller) of the property to purchase the property for approximately \$200,000.00. On or about February 23, 2004, a purchase agreement was prepared showing that the owner was selling the property to an investor for \$300,000.00.

On or about February 23, 2004, an inflated appraisal was obtained by ROTH or another individual, showing that the property was worth \$300,000.00. On or before February 26, 2004, ROTH, with the assistance of another individual, prepared a loan application for the investor, requesting a loan of \$270,000.00. This loan application contained the following false statements: that the investor was providing the down payment from her checking / savings account; that the investor had substantially more money in her bank account than she actually had; and, that the investor worked for a company making income of \$5,000.00 per month, when in fact, the investor was never employed by that company. The fraudulent loan application, appraisal and other fraudulent documentation were provided to Argent Mortgage Company by ROTH. ROTH knew that the loan application and supporting documents were false at the time he submitted them to the lender. In reliance upon those documents, Argent Mortgage Company agreed to and

did fund a loan to the investor in the amount of \$270,000.00.

On or about February 26, 2004, two Official Checks, totaling \$35,177.44, were provided to a title company in Greenwood, Indiana as the down payment for this property. One of these checks showed the investor as the remitter; the remitter name on the other check was blacked out. In fact, both checks were obtained and provided to the title company by another individual. On or about February 26, 2004, the loan closing occurred at the title company. Argent Mortgage Company wire transferred \$269,165.76 from their bank account in New York to the title company bank account. The seller received his proceeds pursuant to his original agreement; the fraudulent loan proceeds, \$100,000.00, was paid to an individual who participated with ROTH in the fraud scheme.

2. Windsor Village transactions (Attachment 1 - number 15 thru 25)

In January, February and March 2005, Homevestors LLC and another company entered into purchase agreements with an individual who owned one hundred eighty-four (184) duplexes near 21st Street and Arlington Avenue on the east side of Indianapolis to purchase all of the duplexes. This neighborhood was known as Windsor Village. Each duplex contained two two-bedroom, one-bath units measuring approximately 800 square feet; most of the units were in fair to poor condition. The agreements provided for the purchasers to pay the seller \$50,000.00 per duplex. ROTH was a business associate of the owner of Homevestors LLC and was a signatory on the Homevestors LLC bank account.

Prior to these purchase agreements ever being finalized, on or about February 2, 2005, individuals associated with ROTH caused three of these properties to be listed on the Metropolitan Indianapolis Board of Realtors Multiple Listing Service (MLS) showing a list price

of \$120,000.00. The people causing these properties to be listed on MLS did not own the properties at the time they listed them. In fact, Homevestors LLC did not even enter into land contracts to purchase these properties for \$50,000.00 each until mid-March 2005.

Beginning in February 2005 and continuing thru August 2005, Homevestors LLC and other companies involved in the fraud scheme entered into purchase agreements with investors in Virginia to sell these duplexes for \$120,000.00. Loan processors, including some at the direction of ROTH, prepared fraudulent loan applications for these investors, falsely stating: that the investors were making the 20% down payments from their own funds; that the investors owned assets which they did not own; and that the investors had higher incomes than they actually had. Inflated appraisals were obtained, showing that the duplexes were worth \$120,000.00, when, in fact, they were worth much less than that. The false loan applications, appraisals and other supporting documentation were submitted to lenders to obtain the loans.

The first three (3) loans were submitted to The MoneyStation, a warehouse bank who funded the loans, relying on the false documents submitted. The MoneyStation then sold the loans to GMAC Mortgage through a correspondent lending agreement. These three (3) loans were brokered thru The MoneyStation, which was also a licensed mortgage broker. ROTH knew an executive of the MoneyStation and introduced another loan processor to that executive for purposes of brokering these three loans. False loan applications were knowingly submitted by ROTH and his associates to The MoneyStation to obtain these loans. These three loans closed on or about March 17, 2005. After these first three (3) loans closed, on or about March 22, 2005, ROTH and/or his associates caused these three sales (at \$120,000.00 apiece) to be placed on the MLS. This allowed ROTH and other individuals involved in the scheme to show these three

properties as comparables on appraisals to be prepared for all of the remaining Windsor Village properties, thus making it appear that each of those properties were worth \$120,000.00.

The next eight (8) loans were submitted to Argent Mortgage Company, who, relying on the false documents, agreed to and did finance the loans. Four (4) of these loans were brokered through American Funding Solutions; the other four (4) of these loans were brokered by The MoneyStation. ROTH and the other individuals who processed these loans provided, and caused to be provided, to Argent Mortgage Company, false loan applications and other documents, knowing these applications and documents to be false. The appraisals used for these properties showed as comparables the first three Windsor Village sales listed above. These eight (8) loans were closed in April 2005.

On each of the first eleven (11) Windsor Village loans, the lender (The MoneyStation or Argent) granted a loan of \$96,000.00, and wire transferred those loans from their bank to the bank of the title company in Greenwood, Indiana (bank in Ohio).

Each of the first eleven (11) Windsor Village closings showed Homevestors LLC as the seller and an investor from Virginia as the buyer. On each of the properties, Homevestors LLC entered into a land contract immediately preceding the closing, showing that Homevestors LLC was purchasing the property from the owner for \$50,000.00. At the closing, the owner was paid the amount he agreed to (\$50,000.00 minus any appropriate closing costs or mortgage payoffs) and the remaining amount of the fraudulent loan proceeds (generally more than \$70,000.00) was paid to Homevestors LLC. Homevestors LLC used these fraudulent proceeds to pay individuals, including ROTH, who were involved in the scheme. ROTH received a total of approximately \$40,000.00 for the first eleven (11) Windsor Village transactions.

All of the Windsor Village loans went into early payment default, that is, few if any payments were made on these loans. After legal or other proceedings by the lenders to divest themselves of the properties (foreclosure actions, deeds in lieu of foreclosure, short sales), the properties were eventually re-sold on the real estate market, or thru sheriff's sales. Of the subsequent sales of these first eleven (11) Windsor Village transactions in 2007, the lowest sales price for the properties was \$8,000.00, and the highest sales price was \$13,500.00.

After the first eleven (11) Windsor Village loans were closed, ROTH and Homevesters LLC stopped purchasing Windsor Village properties with the other original buyer and stopped using Virginia investors to purchase the Windsor Village properties.

L. On or about April 7, 2005 in the Southern District of Indiana and elsewhere, MARK ROTH, Defendant herein, for the purpose of executing the aforesaid scheme to defraud and to obtain money by false and fraudulent pretenses, representations and promises, knowingly transmitted and caused to be transmitted, by means of wire transmission in interstate commerce, certain writings, signs, signals, pictures, and sounds, to wit, ROTH caused \$94,590.95 to be wire transferred from a bank account of Argent Mortgage Company, Inc. at Deutsche Bank Trust Company in New York, New York, to a bank account of HMS Title Services in Greenwood, Indiana, said \$94,590.95 representing loan proceeds for a property located at 2450-52 Arlington Court, W., Indianapolis, Indiana (Attachment 1, Number 18).

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

COUNT TWO
(Money Laundering - Title 18, United States Code, Section 1957)


The United States Attorney further charges that:

1. The United States Attorney realleges and incorporates by reference all allegations of Count One herein.

2 Between February 2004 and April 2005, MARK ROTH engaged in monetary transactions, each with a value greater than \$10,000, with funds derived from the wire fraud transactions described in Count 1 of the Information.

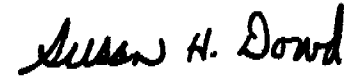
3. On or about March 23-24, 2005, in the Southern District of Indiana, MARK ROTH, Defendant herein, knowingly engaged and attempted to engage in a monetary transaction by, through, and to a financial institution, affecting interstate commerce, in criminally derived property whose value was greater than \$10,000.00, to wit: on or about March 23, 2005, MARK ROTH caused the disbursement of a check in the amount of \$16,200.00 from a bank account of Homevestors LLC payable to WJP Roth Investments, and deposited that check to the WJP Roth Investments Inc. bank account, said check representing fraudulently obtained proceeds of loans disbursed by Argent Mortgage Company relative to the sale of three (3) properties, to wit: 2417-19 Arlington Court West, 2423-25 Arlington Court West and 2426-28 Arlington Court West, all in Indianapolis, Indiana (Attachment 1, Numbers 15, 16, 17) (as more fully set forth in Count One);

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


TIMOTHY M. MORRISON
United States Attorney
Southern District of Indiana


STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Susan H. Dowd, being first duly sworn, upon her oath deposes and says that she is an Assistant United States Attorney in and for the Southern District of Indiana, that she makes this affidavit for and on behalf of the United States of America, and that the Allegations in the foregoing Information are true as she is informed and verily believes.



Susan H. Dowd
Assistant United States Attorney

Subscribed and sworn to before me, a notary public, this 29th day of April, 2009.



Michelle A. Butler
Notary Public

My Commission Expires:
January 21, 2016
My County of Residence:
Hendricks

