

1 I. INTRODUCTION

2 1. At all relevant times alleged in this Indictment
3 defendant DEREK DAVIS, aka Terry McCullough (hereinafter "DEREK
4 DAVIS"), was a citizen of the United Kingdom who resided in the
5 State and Eastern District of California.

6 2. On or about June 9, 2000, a business known as 1st Option
7 Mortgage Inc. was incorporated in California. At all relevant
8 times alleged in this Indictment, defendant DINO ROSETTI operated
9 1st Option Mortgage and maintained its office in the State and
10 Eastern District of California. Between in or about January 2006
11 and December 2006, defendant DINO ROSETTI, through 1st Option
12 Mortgage, brokered mortgage loans in connection with numerous
13 real property transactions involving defendant DEREK DAVIS. At
14 all relevant times, defendant ROSETTI's business, 1st Option
15 Mortgage, maintained a portfolio account at Merrill Lynch
16 (account number XXXXXP93). Defendant ROSETTI and his spouse were
17 the signatories on this account.

18 3. At all relevant times, Calorneva Land Company was a
19 Nevada Corporation. An individual known to the grand jury and
20 identified as H.D. was its President. An individual known to the
21 grand jury and identified as W.E. was Treasury and a Director.
22 Calorneva Land Company maintained a bank account at Bank of
23 America over which W.E., among others, had signatory authority on
24 the account, and defendant DEREK DAVIS exercised control over it.

25 4. As used in this Indictment, the term "80/20" financing
26 refers to a kind of real estate financing in which two loans -
27 one for 80% of the purchase price, the second for 20% of the
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1 purchase price - combine to finance all or substantially all of
2 the purchase price of a residential real property.

3 5. At all relevant times alleged in this Indictment, an
4 individual known to the Grand Jury and identified by the initials
5 K.H. resided in the State and Eastern District of California and
6 maintained bank accounts at Washington Mutual Bank, N.A. and
7 Union Bank of California, N.A. Between in or about April 2006
8 and in or about May 2006, K.H., an associate of defendant DEREK
9 DAVIS, purchased five residential real properties in Carmichael,
10 Auburn, New Castle, Placerville and Shingle Springs, California.
11 Each purchase was 100% financed by lenders using so called "80/20
12 loans" totaling approximately \$3.7 million in aggregate value.

13 6. At all relevant times alleged in this Indictment, an
14 individual known to the Grand Jury and identified by the initials
15 W.E. resided in the State and Eastern District of California.
16 W.E. maintained a personal bank account in his own name at Union
17 Bank of California. Between in or about December 2005 and in or
18 about March 2006, W.E., an associate of defendant DEREK DAVIS,
19 purchased numerous properties, including residential real
20 properties located in Somerset and Auburn, California. Each
21 purchase was 100% financed through lenders using so called "80/20
22 loans," which loans totaled approximately \$2.6 million in
23 aggregate value.

24 7. At all relevant times alleged in this Indictment, an
25 individual known to the Grand Jury and identified by the initial
26 H.T.D. resided in the State and Eastern District of California.
27 At all relevant times H.T.D. banked at the Union Bank of
28 California and maintained a personal account there, and

1 maintained signatory authority over an account held in the name
2 of Moxie International. Between in or about June 2005 and in or
3 about February 2006, H.T.D., an associate of defendant DEREK
4 DAVIS, purchased six residential real properties in Shingle
5 Springs, Sacramento, Auburn and Fair Oaks, California. Each
6 purchase was 100% financed through lenders, and, with one
7 exception, each such financing involved the use of so called
8 "80/20" loans. The aggregate value of the loans was
9 approximately \$4,500,000.

10 8. At all relevant times alleged in this Indictment, an
11 individual identified by the initials A.B. resided in the State
12 and Northern District of California. In November 2006, A.B.
13 opened a bank account at the Union Bank of California, N.A. In
14 or about August 2006, A.B., an associate of defendant DEREK
15 DAVIS, purchased a residential real property located in Somerset,
16 California. The property was 100% financed through a lender
17 using a so called "80/20 loan" in the approximate amount of
18 \$580,000.00.

19 II. THE SCHEME TO DEFRAUD

20 9. Beginning not later than in or about June 2005 and
21 continuing through in or about December 2006, in the State and
22 Eastern District of California, defendants DEREK DAVIS and DINO
23 ROSETTI did knowingly devise and intend to devise a material
24 scheme and artifice to defraud residential real property lenders
25 and to obtain property by means of materially false and
26 fraudulent pretenses, representations and promises. As the
27 result of the fraud, defendants DAVIS and ROSETTI obtained real
28 property and money to which they were not entitled.

1 III. WAYS AND MEANS

2 10. The ways and means by which the mail fraud scheme was
3 accomplished are set out below:

4 11. Between in or about January 2006 through in or about
5 December 2006, defendant DEREK DAVIS recruited various
6 individuals, including straw or nominal purchasers, to purchase
7 each of the following residential real properties in various
8 communities in the State and Eastern District of California:

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Property Description	Purchaser
10 5340 Engle Road, 11 Carmichael, California	K.H.
12 13770 Bell Brook 13 Drive, Auburn, California	K.H.
14 10195 Indian Hill 15 Road, New Castle, California	K.H.
16 6500 Sly Park Road, 17 Placerville, California	K.H.
18 5376 Marybelle Lane, 19 Shingle Springs, California	K.H.
20 6134 Sweeney Road, Somerset, California	W.E.
21 2170 Sunny Oak 22 Drive, Auburn, California	W.E.
23 3200 Gopher Hole 24 Road, Somerset, California	W.E.
25 7191 Grizzly Flat 26 Road, Somerset, California	W.E.
27 4041 Stinson Road, Somerset, California	A.B.

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1	4640 Tennessee Drive, Shingle Springs, California	H.T.D.
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3	2684 Northrop Avenue, Sacramento, California	H.T.D.
4		
5	8380 Manana Way, Sacramento, California	H.T.D.
6		
7	11600 Overhill Drive, Auburn, California	H.T.D.
8		
9	4807 Lola Way, Sacramento, California	H.T.D.
10		
11	5137 Romero Way, Fair Oaks, California	H.T.D.
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13 Defendant DEREK DAVIS orchestrated each of the real estate
 14 transactions described above. Defendant DINO ROSETTI, through
 15 his company 1st Option Mortgage, acted as the mortgage broker in
 16 each of the transactions described above.

17 12. It was further part of the scheme and artifice that
 18 defendant DEREK DAVIS and others assisted in obtaining "80/20"
 19 loans or 100% mortgage financing to finance the entirety of the
 20 transactions described in paragraph 11 above, and caused
 21 materially false loan applications to be prepared on behalf of
 22 K.H., A.B. and W.E. using personal information defendant DEREK
 23 DAVIS obtained from them, and submitted other documents to
 24 mortgage lenders in connection with the real property
 25 transactions described in paragraph 11 above. Such loan
 26 applications and other documents submitted to mortgage lenders
 27 contained false representations, including false representations
 28 and omissions about the borrowers' monthly income and/or

1 employment, the borrowers' intent to occupy the property as a
2 primary residence, the borrowers' assets and/or liabilities, and
3 misrepresentations about the true price of the real properties.

4 13. It was further part of the scheme and artifice that
5 defendant DEREK DAVIS loaned K.H. \$45,000 in currency to deposit
6 into a Washington Mutual Bank, N.A. account that she maintained,
7 prior to defendant DAVIS then causing loan applications to be
8 submitted on behalf of K.H. to lenders involved in the financing
9 of the five real properties that K.H. purchased, which loan
10 applications represented that K.H. maintained significant account
11 balances at Washington Mutual Bank, N.A.

12 14. It was further part of the scheme and artifice that
13 defendant DINO ROSETTI prepared, or caused to be prepared, loan
14 applications on behalf of K.H., A.B., W.E. and H.T.D. that he
15 knew to contain materially false statements and representations.
16 In particular, defendant ROSETTI prepared, or caused to be
17 prepared, loan applications on behalf of these individuals that
18 falsely represented that it was their intent to occupy various
19 properties as their primary residences when, as defendant DINO
20 ROSETTI knew and understood, these representations were not true.

21 15. It was further part of the scheme and artifice that
22 defendant DINO ROSETTI prepared, or caused to be prepared, loan
23 applications in which he falsely represented the liabilities of
24 the loan applicant. In connection with K.H., H.T.D., and W.E.'s
25 purchase of various real properties, defendant DINO ROSETTI
26 falsely prepared an application which represented the total of
27 each purchaser's then existing real estate loans by concealing

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1 and omitting real estate loans that these purchasers had recently
2 obtained to purchase other real properties.

3 16. It was further part of the scheme and artifice that
4 defendant DEREK DAVIS arranged for the properties described in
5 paragraph 11 to be purchased at a price above the true market
6 price, and in many instances, above the then-current list price
7 of the properties. Defendant DEREK DAVIS arranged for the margin
8 between the actual market price and the inflated purchase price
9 of the properties to be credited at the close of escrow to the
10 bank account of the Calorneva Land Company. In most instances,
11 these credits were purportedly for improvements or repairs to the
12 properties. In furtherance of the scheme, monetary credits in
13 amounts ranging from \$42,094.60 to \$137,980.54 were diverted to
14 the Calorneva Land Company at the close of escrow for each of the
15 real property transactions described in paragraph 11 above.

16 17. It was further part of the scheme and artifice that
17 defendant DEREK DAVIS and others deliberately caused the credits
18 described in paragraph 16 above to be concealed from the lenders
19 by not disclosing them in any purchase agreement and by
20 withholding from the mortgage lenders the purchase addenda that
21 reflected the credits. To the extent these credits were
22 disclosed in purchase addenda, they were falsely characterized as
23 credits to be used to make repairs or improvements to the
24 purchased properties. For the most part, the funds diverted to
25 the Calorneva Land Company bank account were not used to make
26 repairs or improvements to the purchased properties, but were
27 instead used for other purposes, including extensive cash
28 withdrawals from the Calorneva Land Company bank account and

1 disbursements to accounts maintained in the names of K.H., W.E.
2 and A.B. and others.

3 18. It was further part of the scheme and artifice that
4 defendant DINO ROSETTI attempted to conceal the scheme by loaning
5 defendant DEREK DAVIS \$220,000 to make mortgage payments on
6 numerous properties identified in paragraph 11 above in order to
7 prevent defaults.

8 IV. THE MAILINGS

9 19. On or about the dates set forth below, in the Eastern
10 District of California, for the purpose of executing and
11 attempting to execute the aforementioned scheme and artifice to
12 defraud, the defendants indicated below did knowingly cause to be
13 placed in a post office or authorized depository for mail matter
14 to be sent and delivered by the United States Postal Service, and
15 deposited or caused to be deposited any matter or thing whatever
16 to be sent and delivered by any private or commercial interstate
17 carrier, the items listed below:

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<u>COUNT</u>	<u>DATE</u>	<u>SENDER</u>	<u>RECIPIENT</u>	<u>WHAT WAS SENT</u>	<u>Defendant (s)</u>
19 20 21 22 23 24 25	04/06/06	Alliance Title, Citrus Heights/Re: K.H.'s purchase of 5340 Engle Road, Carmichael, California	Washington Mutual Bank, N.A.	Overnight FedEx Express Package relating to real property closing	DEREK DAVIS DINO ROSETTI

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1	2	04/06/06	Alliance Title, Citrus Heights/Re: K.H.'s purchase of 13770 Bell Brook Drive, Auburn, California	Citimortgage Inc., Attn. Payoff Dept.	FedEx Express Package relating to real property closing	DEREK DAVIS DINO ROSETTI
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7	3	04/17/06	Placer County Recorder's Office/Re: K.H.'s purchase of 10195 Indian Hill Road, New Castle, California	Option One Mortgage Corporation, P.O. Box 57076, Irvine, California	Deed of Trust sent by U.S. Mail	DEREK DAVIS DINO ROSETTI
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13	4	05/09/06	Alliance Title, Citrus Heights/Re: K.H.'s purchase of 6500 Sly Park Road, Placerville California	Accredited Home Lenders, Inc., 15253 Avenue of Science, Building #3, San Diego, California	FedEx Express Package relating to real property closing	DEREK DAVIS DINO ROSETTI
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19	5	05/25/06	Alliance Title, Citrus Heights/Re: K.H.'s purchase of 5376 Marybelle Lane, Shingle Springs, California	Washington Mutual, Attn. Payoff Unit, Suite 156, 11200 W. Parkland Avenue, Milwaukee, Wisconsin	FedEx Express Package relating to real property closing	DEREK DAVIS DINO ROSETTI
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1	6	08/03/06	El Dorado County Recorder's Office/Re: A.B.'s purchase of 4041 Stinson Road, Somerset, California	Accredited Home Lenders, Inc. 15090 Avenue of Science, San Diego, CA	Deed of Trust sent by U.S. Mail	DEREK DAVIS
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7	7	12/08/06	Fidelity National Title, Carmichael/ Re: W.E.'s purchase of 6130 Sweeney Road, Somerset, California	Western Foothill Mortgage, 183 Placerville Drive, Placerville, California	California Overnight Express Package relating to real property closing	DEREK DAVIS DINO ROSETTI
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14	8	03/02/06	Placer County Recorder's Office/Re: W.E.'s purchase of 2170 Sunny Oak Drive, Auburn, California	Argent Mortgage Company, LLC, Nationwide Title Clearing Inc. 2100 Alt 19 North, Palm Harbor, FL	Deed of Trust sent by U.S. Mail	DEREK DAVIS DINO ROSETTI
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20	9	03/07/06	El Dorado County Recorder's Office/Re: W.E.'s purchase of 3200 Gopher Hole Road, Somerset, California	WMC Mortgage Corporation, 3100 Thornton Avenue, Burbank, California	Deed of Trust sent by U.S. Mail	DEREK DAVIS DINO ROSETTI
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10	3/20/06	El Dorado County Recorder's Office/Re: W.E.'s purchase of 7191 Grizzly Flat Road, Somerset, California	New Century Mortgage Corporation, 18400 Von Karman, Suite 1000, Irvine, California	Deed of Trust sent by U.S. Mail	DEREK DAVIS DINO ROSETTI
11	12/16/05	Placer County Recorder's Office/Re: H.T.D.'s purchase of 11600 Overhill Drive, Auburn, California	BNC Mortgage, Inc., P.O. Box 19656, Irvine, CA	Deed of Trust sent by U.S. Mail	DEREK DAVIS DINO ROSETTI
12	06/29/05	El Dorado County Recorder's Office/Re: H.T.D.'s purchase of 4640 Tennessee Drive, Shingle Springs, California	Accredited Home Lenders, Inc. 15090 Avenue of Science, San Diego, CA	Deed of Trust sent by U.S. Mail	DEREK DAVIS
13	11/30/05	Sacramento County Recorder's Office/Re: H.T.D.'s purchase of 8330 Manana Way, Fair Oaks, California	First Franklin, 1935 Int'l Way, Idaho Falls, ID	Deed of Trust sent by U.S. Mail	DEREK DAVIS DINO ROSETTI

14	11/29/05	Sacramento County Recorder's Office/Re: H.T.D.'s purchase of 2684 Northrop Avenue, Sacramento, California	Long Beach Mortgage Company, P.O. Box 201085, Stockton, California	Deed of Trust sent by U.S. Mail	DEREK DAVIS DINO ROSETTI
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All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT FIFTEEN: [18 U.S.C. § 1014 - False Statements in Loan Applications]

The Grand Jury further charges:

DEREK DAVIS and DINO ROSETTI,
defendants herein, as follows:

1. The allegations set forth in paragraphs 1 through 18 of Counts One through Fourteen of this Indictment are realleged as if fully set forth herein.

2. On or about January 3, 2006, in the Eastern District of California, defendants DEREK DAVIS and DINO ROSETTI did knowingly make a false statement upon an application and loan for the purpose of influencing in any way the action of a financial institution, the accounts of which were insured by the Federal Deposit Insurance Corporation, in that the defendants DEREK DAVIS and DINO ROSETTI overstated the mortgage loan applicant's monthly income and understated the mortgage loan applicant's (H.T.D.'s) real estate liabilities on loan documents submitted to Lehman Brothers, FSB in connection with the purchase of 4807 Lola Way,

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1 Sacramento, California, when, in truth and fact, those statements
2 were false.

3 All in violation of Title 18, United States Code, Sections 2 and
4 1014.

5 COUNT SIXTEEN: [18 U.S.C. § 1014 - False Statements in Loan
6 Applications]

7 The Grand Jury further charges:

8 DEREK DAVIS,

9 defendant herein, as follows:

10 1. The allegations set forth in paragraphs 1 through 18 of
11 Counts One through Fourteen of this Indictment are realleged as
12 if fully set forth herein.

13 2. On or about January 31, 2006, in the Eastern District of
14 California, defendant DEREK DAVIS did knowingly make a false
15 statement upon an application and loan for the purpose of
16 influencing in any way the action of a financial institution, the
17 accounts of which were insured by the Federal Deposit Insurance
18 Corporation, in that the defendant DEREK DAVIS stated that the
19 mortgage loan applicant, H.T.D., intended to occupy the property
20 located at 5137 Romero Way, Fair Oaks, California, as her primary
21 residence, overstated the loan applicant's monthly income, and
22 understated the loan applicant's real estate liabilities, on loan
23 documents submitted to Ohio Savings Bank, FSB when, in truth and
24 fact, those statements were false.

25 All in violation of Title 18, United States Code, Sections 2
26 and 1014.

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1 COUNT SEVENTEEN: [18 U.S.C. § 1957 - Engaging in a Monetary
2 Transaction in Criminally Derived Property]

3 The Grand Jury further charges:

4 DINO ROSETTI,

5 defendant herein, as follows:

6 1. The allegations set forth in paragraphs one through two
7 of Counts Fifteen and Sixteen of this Indictment are realleged
8 and incorporated herein, as if fully set forth.

9 2. On or about January 10, 2006, in the State and Eastern
10 District of California, defendant DINO ROSETTI did knowingly
11 engage and attempt to engage in a monetary transaction affecting
12 interstate and foreign commerce in criminally derived property of
13 a value greater than \$10,000, such funds having been derived from
14 specified unlawful activity, that is, false statements in a loan
15 application in violation of Title 18, United States Code, Section
16 1014, to wit the deposit of a \$12,690.69 check made payable to
17 1st Option Mortgage into Merrill Lynch account XXXXXP93, all in
18 violation of Title 18, United States Code, Sections 2 and 1957.

19 COUNT EIGHTEEN: [31 U.S.C. §§ 5324(a)(1) and 5324(d) - Causing
20 or Attempting to Cause a Domestic Financial
21 Institution to Fail to File a Currency
22 Transaction Report]

23 The Grand Jury further charges:

24 DEREK DAVIS

25 defendant herein, as follows:

26 1. The allegations set forth in paragraphs 1, 5 and 13 of
27 Counts One through Fourteen of this Indictment are realleged as
28 if fully set forth herein.

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1 2. On or about February 1, 2006, in the County of
2 Sacramento, State and Eastern District of California, defendant
3 DEREK DAVIS did, for the purpose of evading the reporting
4 requirements of Title 31, United States Code, Section 5313(a),
5 and the regulations prescribed thereunder, cause multiple cash
6 deposits to be made into a single account, each under \$10,000.00,
7 but together exceeding \$10,000.00, thereby causing and attempting
8 to cause Washington Mutual, N.A., a domestic financial
9 institution, to fail to file a report required under provisions
10 of law identified in Title 31, United States Code, Section 5324,
11 including Section 5313(a) and the regulations prescribed
12 thereunder, in connection with the deposit of \$9,000 cash into a
13 Washington Mutual Bank, N.A. account held in the name of K.H.,
14 and a deposit of \$3,700 cash into the same Washington Mutual
15 Bank, N.A. account

16 3. The Grand Jury further charges that defendant DEREK
17 DAVIS committed the above-noted violation while violating another
18 law of the United States, to wit: Title 18, United States Code,
19 Sections 1014 and 1341, and as part of a pattern of illegal
20 activity involving more than \$100,000 in a 12-month period.


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1 All in violation of Title 31, United States Code, Sections
2 5324(a)(1) and 5324(d)(1) and (2); Title 31, Code of Federal
3 Regulations, Sections 103.11(gg), 103.22 and 103.27-28; and Title
4 18, United States Code, Section 2.

5
6 A TRUE BILL.

/s/ Signature on file w/AUSA

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8 _____
9 FOREPERSON

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12 MCGREGOR W. SCOTT
13 United States Attorney
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No. _____

~~2:03 - 0474 EG~~
UNITED STATES DISTRICT COURT

Eastern District of California

Criminal Division

THE UNITED STATES OF AMERICA

vs.

DEREK DAVIS,
aka Terry McCullough, and
DINO ROSETTI

INDICTMENT

VIOLATION(S): 18 U.S.C. § 1341 - Mail Fraud (14 counts); 18 U.S.C. § 1014 - False Statements in Loan Applications (2 counts); 18 U.S.C. § 1957 - Engaging in a Monetary Transaction in Criminally Derived Property; 31 U.S.C. § § 5324 (a) (1) and 5324 (d) - Causing or Attempting to Cause a Domestic Financial Institution to Fail to File a Currency Transaction Report

A true bill,

151

Foreman.

Filed in open court this 9 day

of OCTOBER, A.D. 20 08

Clerk.

Bail, \$

NO PROCESS NECESSARY

as to Δ Davis

WARRANT: NO BAIL PENDING HEARING

as to Δ Rosetti

PENALTY SLIP

DEFENDANT: DEREK DAVIS, aka Terry McCullough Counts 1-16 and Count 18
DINO ROSETTI Counts 1-5, 7-11, 13 & 14, 15
and Count 17

COUNT 1-14

VIOLATION: 18 U.S.C. § 1341 - Mail Fraud

PENALTY: Not more than 20 years imprisonment (30 years/\$1,000,000 fine if it affects a financial institution) or
Not more than \$250,000 fine, or both
Not more than 5 year term of supervised release

COUNT 15-16

VIOLATION: 18 U.S.C. § 1014 - False Statements in Loan Applications

PENALTY: Not more than 30 years imprisonment,
Not more than \$1,000,000 fine, or both
Not more than 5 year term supervised release.

COUNT 17

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

PENALTY: Not more than 10 years imprisonment,
Not more than \$250,000 fine, or both
Not more than 3 year term of supervised release

COUNT 18

VIOLATION: 31 U.S.C. §§ 5324 (a) (1) and 5324 (d) - Causing or Attempting to Cause a Domestic Financial Institution to Fail to File a Currency Transaction Report

PENALTY: Not more than 10 years imprisonment,
Not more than \$500,000 fine, or both
Not more than 3 year term of supervised release.

PENALTY ASSESSMENT: \$100 assessment for each count

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