

FILED
CHARLOTTE, N. C.

FEB 5 2008

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION U. S. DISTRICT COURT
W. DIST. OF N. C.

UNITED STATES OF AMERICA)
)
)
v.)
)
)
NEIL O'ROURKE)
_____)

DOCKET NO. **3:08Cr21 FDW**

BILL OF INFORMATION

Violation:

18 U.S.C. § 371

THE UNITED STATES ATTORNEY CHARGES:

At the specified times and at all relevant times:

INTRODUCTION

1. From in or about 2002 through in or about May 2007, the Peerless conspirators, who are generally unnamed in this Bill of Information, perpetrated a massive fraud in connection with the purported "Village of Penland" project ("Penland").
2. The Peerless conspirators used Penland to cause investors and lenders to provide the conspiracy with over one-hundred million dollars.
3. Peerless Real Estate Services ("Peerless") was the lead entity among a network of numerous entities operating primarily in the Western District of North Carolina used to perpetuate the fraud.
4. The Peerless conspirators fraudulently induced investors to enter into an investment contract in which the Peerless conspirators promised that: (a) the Peerless conspirators would arrange for investors to obtain mortgage loans in connection with Penland lots; (b) the investors' loan proceeds would be distributed to Peerless to develop Penland; (c) Peerless and the conspirators eventually would purchase the lots back from the investors; and (d) the investors would realize a guaranteed profit after the investment period had elapsed.
5. Beginning in or about 2004, the defendant, NEIL O'ROURKE, joined the conspiracy. At various times, O'ROURKE held the titles of President and Vice-President of Peerless, and owned a five to ten percent interest in several Peerless entities.

THE INVESTMENT FRAUD

6. The Peerless conspirators induced investors to invest in Penland by making false and fraudulent representations, omitting material facts, and telling deceptive half-truths. Such misrepresentations generally and at various times included the following:

A. That investor loan funds would be used to develop Penland when, in truth and fact, in "Ponzi" scheme fashion, new investor funds were diverted to make mortgage payments for other investors;

B. That investor loan funds would be used to develop Penland when, in truth and fact, investor funds were diverted to other projects owned by some of the Peerless conspirators, including a spa in Brazil;

C. That investor loan funds would be used to develop Penland when, in truth and fact, investor funds were diverted to pay kickbacks and referral fees to individuals and entities that referred new investors;

D. That investor loan funds would be used to develop Penland when, in truth and fact, investor funds were diverted from the expected purpose by the Peerless conspirators in the form of undisclosed cash, personal expenses, and exorbitant salaries;

E. That Penland had been significantly developed and future development was without significant risk when, in truth and fact, little development had occurred and it became clear to the Peerless conspirators that Penland would not be developed as represented;

F. That the Penland lots to be held by the investors were properly divided and valued when, in truth and fact, lots were not properly divided and the values of lots were inflated;

G. That certain Peerless conspirators were personally worth tens of millions of dollars and would personally guarantee the investment when, in truth and fact, such personal statements of worth were false and misleading;

THE MORTGAGE FRAUD

7. The Peerless conspirators caused investors to obtain fraudulent mortgage loan proceeds to invest in Penland by making false and fraudulent representations in and omitting material facts from the loan packages and HUD-1 Settlement Statements associated with the mortgage loans. Such misrepresentations generally and at various times included the following:

A. That borrowers had provided a substantial down-payment when, in truth and fact, such borrowers had not provided such a down-payment;

B. That borrowers had provided an earnest money deposit when, in truth and fact, such borrowers had not provided an earnest money deposit;

C. That all debts of borrowers were disclosed when, in truth and fact, it was not disclosed that the Peerless conspirators were causing borrowers in the same time period to apply for and receive loans from other lenders to invest in Penland;

D. That all disbursements to borrowers and sellers were disclosed when, in truth and fact, it was not disclosed that borrowers were receiving payments for participating in the project;

E. That the transactions and Peerless complied with federal law when, in truth and fact, such did not comply with and attempted to circumvent, among other laws, the Interstate Land Sales Act;

F. That the lots used as collateral for such mortgage loans were properly divided and valued when, in truth and fact, lots were not properly divided and the values were inflated.

COUNT ONE
(Conspiracy)

8. The United States Attorney realleges and incorporates by reference herein all of the allegations contained in paragraphs 1 through 7 of the Bill of Information, and further alleges that:

9. From in or about 2004 through in or about May 2007, in Mecklenburg County, within the Western District of North Carolina, and elsewhere, the defendant,

NEIL O'ROURKE

did knowingly combine, conspire, confederate, and agree with others unnamed in this Bill of Information, and known and unknown to the United States Attorney, to commit offenses against the United States, including violations of Title 18, United States Code, 1014 (making a false statement and application in relation to a loan), 1341 (mail fraud), 1343 (wire fraud), 1344 (bank fraud), and Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5 (securities fraud).

Manner and Means

10. The Peerless conspirators carried out the conspiracy in the manner and means described in paragraphs 1 through 7 of this Bill of Information, among others.

Overt Acts

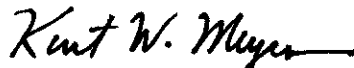
11. In furtherance of the conspiracy, and to accomplish the objects thereof, the Peerless conspirators committed one or more overt acts in the Western District of North Carolina and elsewhere.

12. All in violation of 18 U.S.C. § 371.

GRETCHEN C.F. SHAPPERT
UNITED STATES ATTORNEY



DAVID A. BROWN
ASSISTANT UNITED STATES ATTORNEY



KURT W. MEYERS
ASSISTANT UNITED STATES ATTORNEY