

JGM:JEG:MBM
F.#2008R00785

FILED
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U.S. DISTRICT COURT E.D.N.Y.
MAR 3 2009
BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

I N D I C T M E N T

- against -

CR 09

185

ELIYAHU EZAGUI,

(2 and 3551 et seq.)

Defendant.

ROSS, J.
REYES, M.J.

-----X

THE GRAND JURY CHARGES:

INTRODUCTION

At all times relevant to this Indictment, unless otherwise indicated:

I. The Defendant

1. The defendant ELIYAHU EZAGUI was a real estate developer who constructed Kingston Gardens Condominium, located at 605-633 East New York Avenue, Brooklyn, New York (collectively "Kingston"), and Lefferts Gardens Condominium, located at 770 Lefferts Avenue, Brooklyn, New York ("Lefferts").

II. The Lending Institutions

2. Bank of New York, Bank One, Deutsche Bank, Fleet National Bank, HSBC Bank, Indymac Bank, JPMorgan Chase Bank, Sovereign Bank, Washington Mutual Bank and US Bank (collectively "the Banking Institutions") were licensed mortgage banking institutions, the deposits of all of which were insured by the

Federal Deposit Insurance Corporation.

3. Aurora Loan Services, Central Mortgage Company, CIT Group, Inc., Countrywide Home Loans, Fairmont Funding, Ltd., Olympia Mortgage Corporation and WM Specialty Mortgage, LLC (collectively "the Mortgage Institutions") were organizations that were in the business of providing mortgage loans to homebuyers and others.

III. The Fraudulent Scheme

4. The defendant ELIYAHU EZAGUI sold options to purchase condominiums at Kingston or Lefferts prior to the condominiums' construction. The options, which were priced at the full purchase prices of the units, cost between approximately \$90,000 and \$160,000 per unit. The individuals who purchased options and signed option agreements (the "Residents") received contracts that entitled them to the deed for a specified unit within either Kingston or Lefferts upon completion of construction.

5. Upon completion of Kingston and Lefferts, the defendant ELIYAHU EZAGUI provided the Residents access to the units that they had bought. The Residents began living in those units, believing themselves to be the rightful owners. However, EZAGUI refused to transfer to the Residents the deeds to their condominiums.

6. Unbeknownst to the Residents, after the Residents

paid for and moved into the units, the defendant ELIYAHU EZAGUI transferred the deeds to the units to other individuals, including EZAGUI himself and several of his family members who served as straw borrowers. EZAGUI and the straw borrowers then obtained mortgages on the units from various lending institutions.

7. The mortgage applications submitted by the defendant ELIYAHU EZAGUI and the other straw borrowers were fraudulent. Among other things, EZAGUI and the other straw borrowers falsely claimed on their mortgage applications that the properties would serve as their primary residences and failed to disclose the existence of the Residents' claims to the properties. For several years, EZAGUI made monthly payments on these mortgages. However, in approximately 2007, EZAGUI ceased making monthly mortgage payments. The lenders then initiated foreclosure proceedings, which are currently still pending.

COUNT ONE

(Conspiracy to Commit Bank Fraud and Wire Fraud)

8. The allegations contained in paragraphs one through seven are realleged and incorporated as if fully set forth in this paragraph.

9. In or about and between 1998 and 2007, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant ELIYAHU EZAGUI, together

with others, did knowingly and intentionally conspire to:

(a) execute a scheme and artifice to defraud the Banking Institutions, the deposits of which were insured by the Federal Deposit Insurance Corporation, and to obtain money and funds owned by and under the custody and control of the Banking Institutions by means of materially false and fraudulent pretenses, representations and promises, contrary to Title 18, United States Code, Section 1344, and

(b) devise a scheme and artifice to defraud the Banking Institutions, the Mortgage Institutions and the Residents, and to obtain money and property from them by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice to transmit and cause to be transmitted, by means of wire communication in interstate commerce, writings, signs, signals, pictures and sounds, contrary to Title 18, United States Code, Section 1343.

(Title 18, United States Code, Sections 1349 and 3551 et seq.)

COUNTS TWO THROUGH TEN
(Bank Fraud)

11. The allegations contained in paragraphs one through seven are realleged and incorporated as if fully set forth in this paragraph.

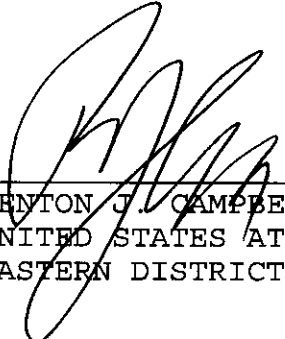
12. In or about and between 1998 and 2007, both dates

being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant ELIYAHU EZAGUI, together with others, did knowingly and intentionally execute and attempt to execute a scheme and artifice to defraud the below-identified financial institutions, the deposits of which were insured by the Federal Deposit Insurance Corporation, and to obtain moneys, funds and credits owned by and under the custody of the below-identified financial institutions by means of materially false and fraudulent pretenses, representations and promises, as described below for each count:

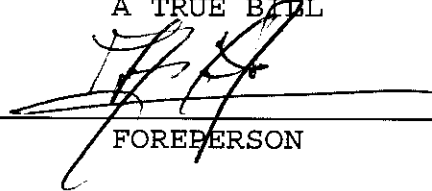
COUNT	DATE	FINANCIAL INSTITUTION	ACT OF EXECUTION
2	Nov. 21, 2000	Indymac Bank	Fraudulently obtained mortgage in the amount of \$280,000 for apartment B2R at Lefferts
3	Dec. 19, 2000	HSBC	Fraudulently obtained mortgage in the amount of \$280,000 for apartment A3R at Lefferts
4	Jan. 4, 2001	Sovereign Bank	Fraudulently obtained mortgage in the amount of \$262,500 for apartment A3L at Lefferts
5	Nov. 13, 2001	Bank of New York	Fraudulently obtained mortgage in the amount of \$318,750 for apartment 5R at 605 East New York Avenue, located in Kingston

6	Nov. 14, 2001	Indymac Bank	Fraudulently obtained mortgage in the amount of \$318,750 for apartment 6L at 613 East New York Avenue, located in Kingston
7	Jan. 17, 2002	Washington Mutual Bank	Fraudulently obtained mortgage in the amount of \$297,000 for apartment 2L at 633 East New York Avenue, located in Kingston
8	Jan. 17, 2002	Washington Mutual Bank	Fraudulently obtained mortgage in the amount of \$297,500 for apartment 2L at 605 East New York Avenue, located in Kingston
9	March 22, 2002	Washington Mutual Bank	Fraudulently obtained mortgage in the amount of \$297,500 for apartment 2L at 627 East New York Avenue, located in Kingston
10	March 22, 2002	Washington Mutual Bank	Fraudulently obtained mortgage in the amount of \$297,500 for apartment 4L at 605 East New York Avenue, located in Kingston

(Title 18, United States Code, Sections 1344, 2 and 3551 et seq.)



 BENTON J. CAMPBELL
 UNITED STATES ATTORNEY
 EASTERN DISTRICT OF NEW YORK

A TRUE BILL


 FOREPERSON

CR. No.

UNITED STATES DISTRICT COURT

EASTERN District of NEW YORK

CRIMINAL Division

THE UNITED STATES OF AMERICA

vs.

ELIYAHU EZAGUI

Defendant.

INDICTMENT

(T. 18, U.S.C., §§ 1344, 1349, 2 and 3551 et seq.)

A true bill.

Foreman

Filed in open court this _____ *day,*

of _____ *A.D. 19* _____

Clerk

Bail, \$ _____

MELISSA MARRUS, Assistant U.S. Attorney (718) 254-6790