

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

JUN 06 2013

LAWRENCE K. BAERMAN, CLERK
ALBANY

UNITED STATES OF AMERICA

INDICTMENT

v.

CASE NO. 1:13-CR-236 (MAD)

JOHN NAZARIAN,

VIO: 18 U.S.C. §§ 1344 and 2
(1 Felony Count)

Defendant.

[County of Offense: Saratoga]

THE GRAND JURY CHARGES:

COUNT 1

(Aiding and Abetting Bank Fraud)

At all times material to this Indictment,

1. First Guarantee Mortgage was a mortgage broker headquartered in Saratoga Springs, New York.
2. Wilmington Finance was a mortgage lending institution that provided funds for mortgagees and then sold those mortgages to other institutions on the secondary market.
3. From 2003 until 2007, Wilmington Finance provided guidance to First Guarantee Mortgage concerning the information it needed in order to make mortgages that it financed saleable on the secondary market. That guidance was disseminated to employees of First Guarantee Mortgage.
4. From on or about 2003 until on or about 2006, mortgages that were provided by Wilmington Finance were funded by an affiliate company, AIG Federal Savings Bank, an institution whose deposits were insured by the Federal Deposit Insurance Corporation.

5. From on or about 2003, until on or about 2008, JOHN NAZARIAN was employed as a loan officer with First Guarantee Mortgage.

THE MANNER AND MEANS OF THE SCHEME TO DEFRAUD

6. Beginning on or about 2001, and continuing until on or about 2007, First Guarantee Mortgage, acting through its officers, employees, and agents, conceived and executed a scheme and artifice (a) to defraud financial institutions, whose deposits were insured by the Federal Deposit Insurance Corporation, and (b) to obtain moneys and funds owned by or under the custody or control of those financial institutions, by means of materially false or fraudulent pretenses, representations, or promises.

7. It was part of the scheme and artifice that officers, employees and agents of First Guarantee Mortgage would assist loan applicants in the completion of mortgage loans that were to be funded by or subsequently sold to financial institutions whose deposits were insured by the Federal Deposit Insurance Corporation.

8. It was a part of the scheme and artifice to defraud that officers, employees and agents of First Guarantee Mortgage entered false and fictitious information on the mortgage loan applications, knowing the information was false and fictitious, in order to qualify the applicants for the mortgage loans, or otherwise to enhance the chances that the mortgage loan applications would be accepted and funded, and intending to defraud the financial institution that ultimately financed or purchased the mortgage loans.

9. It was further a part of the scheme and artifice to defraud that money, representing mortgage proceeds, obtained as a result of the false and fictitious mortgage applications, would be transferred to an account held in the Northern District of New York by a company associated with First Guarantee Mortgage.

10. It was further a part of the scheme and artifice to defraud that mortgages obtained based upon the false and fictitious mortgage applications would be resold in the normal course of the business of the initial mortgage lender to other institutions whose deposits were insured by the Federal Deposit Insurance Corporation.

EXECUTION OF THE SCHEME

11. On or about August 26, 2003, in Saratoga County in the Northern District of New York, the defendant, JOHN NAZARIAN, acting on behalf of First Guarantee Mortgage, executed and aided and abetted the execution of the scheme and artifice set forth above, in that the defendant completed a Uniform Residential Loan Application for an individual whose initials were A.N., in which the defendant knowingly and willfully overstated A.N.'s income as part of the application to obtain a mortgage loan from Wilmington Finance.

12. On or about August 26, 2003, in Saratoga County in the Northern District of New York, Wilmington Finance and AIG Federal Savings Bank provided a loan of \$144,800 to A.N. based upon the false information provided by the defendant JOHN NAZARIAN, in that AIG Federal Savings Bank transferred money, representing the mortgage proceeds, to an account in the Northern District of New York held by a company affiliated with First Guarantee Mortgage.

All in violation of Title 18, United States Code, Sections 1344 and 2.

FORFEITURE ALLEGATION

1. The allegations contained in Count One of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 982(a)(2)(A).

2. Upon conviction of the offense in violation of Title 18, United States Code, Section 1344 as set forth in Count One of this Indictment, the defendant JOHN NAZARIAN, shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section

982(a)(2)(A), any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of such violation. The property to be forfeited includes but is not limited to, the following:

a. A Money Judgment for the amount of \$8,698.18 in U.S. Currency.

3. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1) and Title 28, United States Code, Section 2461(c).

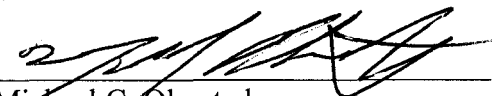
All pursuant to Title 18, United States Code, Section 982(a)(2)(A) and Title 28, United States Code, Section 2461(c).

A TRUE BILL, ***Name redacted**



FOREPERSON OF THE GRAND JURY

RICHARD S. HARTUNIAN
UNITED STATES ATTORNEY

By: 

Michael C. Olmsted
Assistant U.S. Attorney
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