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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	}	Criminal Case No. 01CR2559H
	}	
Plaintiff,	}	<u>SUPERSEDING</u>
	}	
v.	}	<u>INFORMATION</u>
	}	
MICHAEL J. FANGHELLA,	}	Title 18, U.S.C., Sec. 371 - Conspiracy; Title
	}	18, U.S.C., Sec. 1343 - Wire Fraud; Title 18,
Defendant.	}	U.S.C., Sec. 1956(h) - Money Laundering
	}	Conspiracy; Title 26, U.S.C., Sec. 7201 -
	}	Income Tax Evasion; Title 18, U.S.C., Sec.
	}	1006 – False Entry; Title 18, U.S.C., Sec. 2 -
	}	Aiding and Abetting

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The United States Attorney charges:

**ALLEGATIONS COMMON TO ALL COUNTS**

1. At all times material to this Superseding Information, Defendant MICHAEL J. FANGHELLA (hereinafter, “Defendant”) was the chief executive officer of a mortgage lending company that came to be known as PinnFund, U.S.A., Inc. (hereinafter, “PinnFund”), whose principal offices were located in San Diego County, California.
2. To raise money, Defendant entered into various “Spot Loan Funding Agreements” wherein Defendant represented and agreed that PinnFund would use investor funds exclusively for originating mortgage loans, whose sale at a profit purportedly would provide earnings to investors.
3. Under all of the Spot Loan Funding Agreements, executed with Allied Capital Partners, Grafton Partners, and Six Sigma, L.L.C. (hereinafter, collectively, the “Partnerships”), PinnFund

1 received over \$300 million in investor funds.

2 4. At all times material to this Superseding Information, the Internal Revenue Service  
3 (hereinafter, "IRS") was the agency of the United States Department of the Treasury responsible for  
4 administering and enforcing the tax laws of the United States.

5 COUNT 1

6 CONSPIRACY (WIRE FRAUD)

7 1. Beginning on a date unknown to the grand jury, and continuing to and including March  
8 22, 2001, in the Southern District of California, and elsewhere, Defendant MICHAEL J.  
9 FANGHELLA did knowingly conspire and agree with others known and unknown to the United States  
10 Attorney, to commit offenses against the United States, that is, violations of Title 18, United States  
11 Code, Section 1343 (Wire Fraud).

12 2. It was part of the conspiracy that Defendant MICHAEL J. FANGHELLA and others  
13 devised a scheme to defraud in which it was reasonably foreseeable that interstate wire  
14 communications would be used to further the scheme, and to carry out the scheme, they:

15 (a) induced persons to invest money in PinnFund by making materially false,  
16 fraudulent, and misleading representations that investor funds would be used for originating mortgage  
17 loans, whose subsequent sale at a profit would provide earnings to investors;

18 (b) intentionally misrepresented PinnFund's true financial condition in financial  
19 statements and concealed the extent to which PinnFund was losing money from operations;

20 (c) improperly diverted investor money to pay, among other things, (i) purported  
21 earnings to investors, (ii) PinnFund's operational expenses, including payroll, (iii) commissions for  
22 recruitment of investors, and (iv) personal expenses of Defendant and others, all with full knowledge  
23 and awareness that such diversions of funds were not disclosed to, or permitted or authorized by,  
24 PinnFund's investors;

25 (d) periodically returned to investors, through, among other vehicles, the  
26 Partnerships, a portion of their investor funds, as purported earnings and capital, in order to promote  
27 and perpetuate the carrying on of the scheme, with full knowledge and awareness that all purported  
28 earnings were derived exclusively from the infusion of new investor monies; and

1 (e) obtained over \$300 million from investors on the basis of the foregoing false  
2 representations and concealments, and others.

3 **OVERT ACTS**

4 In furtherance of the conspiracy and to effect its objects, the following overt acts, among  
5 others, were committed in the Southern District of California, and elsewhere.

6 1. On or about August 1, 1998, Defendant MICHAEL J. FANGHELLA, as Chief  
7 Executive Officer of PinnFund, signed a First Restated and Amended Spot Loan Funding Agreement  
8 with Allied Capital Partners in which he represented that money invested in PinnFund through Allied  
9 Capital Partners would be used for the sole and exclusive purpose of mortgage loan funding.

10 2. On or about August 1, 1998, Defendant MICHAEL J. FANGHELLA, as Chief  
11 Executive Officer of PinnFund, signed a First Restated and Amended Spot Loan Funding Agreement  
12 with Grafton Partners in which he falsely represented that money invested in PinnFund through  
13 Grafton Partners would be used for the sole and exclusive purpose of mortgage loan funding.

14 3. On or about April 1, 1999, Defendant MICHAEL J. FANGHELLA, as Chief Executive  
15 Officer of PinnFund, signed a Spot Loan Funding Agreement with Six Sigma in which he falsely  
16 represented that money invested in PinnFund through Six Sigma would be used for the sole and  
17 exclusive purpose of mortgage loan funding.

18 4. Between January 1, 1997 and December 31, 2000, over \$300 million was fraudulently  
19 solicited from investors and transferred to PinnFund under the Spot Loan Funding Agreements,  
20 including, but not limited to, the following:

21

Date	Amount	Source
November 13, 1998	\$1,000,000	Allied Capital Partners
December 31, 1998	\$3,455,000	Grafton Partners.
April 29, 1999	\$961,000	Allied Capital Partners
May 4, 1999	\$3,300,000	Allied Capital Partners
May 28, 1999	\$2,000,000	Six Sigma L.L.C.
June 29, 1999	\$2,100,000	Allied Capital Partners
July 1, 1999	\$1,134,000	Grafton Partners

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Date	Amount	Source
July 30, 1999	\$2,269,000	Allied Capital Partners
September 2, 1999	\$4,000,000	Six Sigma L.L.C.
October 29, 1999	\$2,200,000	Six Sigma L.L.C.
November 1, 1999	\$1,725,000	Grafton Partners
January 4, 2000	\$4,000,000	Six Sigma L.L.C.
February 2, 2000	\$5,000,000	Six Sigma L.L.C.
February 29, 2000	\$3,501,000	Grafton Partners
March 2, 2000	\$7,000,000	Six Sigma L.L.C.
May 1, 2000	\$7,357,000	Six Sigma L.L.C.
May 31, 2000	\$4,700,000	Grafton Partners
June 29, 2000	\$2,825,000	Grafton Partners
July 31, 2000	\$3,965,000	Grafton Partners

5. On or about May 26, 2000, an individual investor wire transferred \$200,000 from a financial institution located in New Jersey to a Wells Fargo California bank account in the name of Grafton Partners.

6. On or about June 21, 2000, an individual investor wire transferred \$500,000 from a financial institution located in New Jersey to a Wells Fargo California bank account in the name of Allied Capital Partners.

7. Between January 1, 1997 and December 31, 2000, Defendant MICHAEL J. FANGHELLA returned over \$200,000,000 of purported earnings and capital to investors through, among other vehicles, the Partnerships, which funds actually were drawn from new investor capital contributions.

8. Between April 7, 2000 and June 6, 2000, Defendant MICHAEL J. FANGHELLA caused to be wire transferred approximately \$5,705,000 of PinnFund investor funds (in eight separate wires of \$735,000, \$1,120,000, \$100,000, \$1,000,000, \$500,000, \$1,000,000, \$1,000,000 and \$250,000) to an offshore bank in Rendezvous, Christ Church, Barbados – Barclay’s Bank PLC, Barbados Offshore Banking Centre, which funds Defendant knew represented the proceeds of the wire

1 fraud scheme in which he was engaged.

2 9. On or about July 3, 2000, Defendant MICHAEL J. FANGHELLA caused to be wire  
3 transferred \$2 million of PinnFund investor funds, in two separate payments of \$1 million each, to  
4 Chase Manhattan Bank, New York, New York, for the benefit of the American Express Company  
5 (hereinafter, "AMEX"), in partial satisfaction of obligations owed to AMEX for personal expenses.  
6 All in violation of Title 18, United States Code, Section 371.

7 COUNT 2

8 MONEY LAUNDERING CONSPIRACY

9 1. Beginning on a date unknown to the grand jury, and continuing to and including March  
10 22, 2001, in the Southern District of California, and elsewhere, Defendant MICHAEL J.  
11 FANGHELLA did knowingly conspire and agree with others known and unknown to the United States  
12 Attorney, to commit offenses against the United States, that is, violations of Title 18, United States  
13 Code, Section 1956(h) and 1956(a)(1)(A)(i), that is: to knowingly conduct and attempt to conduct  
14 financial transactions affecting interstate and foreign commerce which involved the proceeds of a  
15 specified unlawful activity, to wit, violations of Title 18, United States Code, Section 1343 (Wire  
16 Fraud), with the intent to promote the carrying on of a specified unlawful activity, knowing while  
17 conducting and attempting to conduct such financial transactions that the property involved in the  
18 transactions represented the proceeds of some form of unlawful activity.

19 2. It was part of the conspiracy that Defendant MICHAEL J. FANGHELLA:

20 (a) returned over \$200,000,000 of purported earnings and capital to investors,  
21 through, among other vehicles, the Partnerships, in order to promote and perpetuate the carrying on  
22 of the scheme, with full knowledge and awareness that all purported earnings were derived exclusively  
23 from the infusion of new investor monies;

24 (b) induced persons to invest money in PinnFund by making materially false,  
25 fraudulent, and misleading representations that investor funds were being used for originating  
26 mortgage loans;

27 (c) intentionally misrepresented PinnFund's true financial condition in financial  
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1 statements and concealed the extent to which PinnFund was losing money from operations; and

2 (d) concealed from the Internal Revenue Service the true nature of certain funds  
3 distributed to investors as purported earnings.

#### 4 OVERT ACTS

5 In furtherance of the conspiracy and to effect its objects, the following overt acts, among  
6 others, were committed in the Southern District of California, and elsewhere.

7 1. Between January 1, 1997 and December 31, 2000, Defendant MICHAEL J.  
8 FANGHELLA caused to be wire transferred, through, among other vehicles, the Partnerships, over  
9 \$200,000,000 of purported earnings and capital to investors through instrumentalities of interstate  
10 commerce, including, but not limited to, the following:

11

12 Date	Amount	Destination
13 January 12, 1999	\$983,429	Allied Capital Partners
14 January 12, 1999	\$850,651	Grafton Partners
15 February 10, 1999	\$993,768	Allied Capital Partners
16 February 10, 1999	\$997,248	Grafton Partners
17 April 9, 1999	\$1,053,714	Allied Capital Partners
18 April 9, 1999	\$1,109,650	Grafton Partners
19 June 10, 1999	\$1,229,628	Allied Capital Partners
20 June 10, 1999	\$1,260,882	Grafton Partners
21 July 9, 1999	\$269,659	Six Sigma, L.L.C.
22 December 10, 1999	\$1,284,336	Allied Capital Partners
23 December 10, 1999	\$1,522,332	Grafton Partners
24 December 10, 1999	\$712,833	Six Sigma, L.L.C.
25 January 10, 2000	\$1,272,317	Allied Capital Partners
26 January 10, 2000	\$1,629,202	Grafton Partners
27 January 11, 2000	\$851,875	Six Sigma, L.L.C.
28 May 9, 2000	\$1,328,265	Allied Capital Partners
May 9, 2000	\$2,060,534	Grafton Partners
May 9, 2000	\$1,487,632	Six Sigma, L.L.C.

Date	Amount	Destination
August 9, 2000	\$1,429,716	Allied Capital Partners
August 9, 2000	\$2,545,988	Grafton Partners
August 9, 2000	\$1,883,826	Six Sigma L.L.C.
September 8, 2000	\$1,438,986	Allied Capital Partners
September 8, 2000	\$2,649,442	Grafton Partners
September 8, 2000	\$2,068,453	Six Sigma, L.L.C.

2. On a periodic basis from at least July 1996 to March 2001, Defendant MICHAEL J. FANGHELLA created and caused to be created false PinnFund records and reports reflecting a false loan volume and concomitant earnings derived therefrom.

All in violation of Title 18, United States Code, Section 1956(h).

COUNT 3

INCOME TAX EVASION

During the calendar year 1996, Defendant MICHAEL J. FANGHELLA, a resident of San Diego County, California, had and received taxable income in the sum of approximately \$2,240,824; upon said taxable income there was owing to the United States of America an income tax of approximately \$873,540; well-knowing and believing the foregoing facts, Defendant, on or about April 15, 1997, in the Southern District of California, did willfully attempt to evade and defeat the said income tax due and owing by him to the United States of America for said calendar year by failing to make an income tax return on or before April 15, 1997, as required by law, to any proper officer of the Internal Revenue Service, and by failing to pay to the Internal Revenue Service said income tax, and by committing the following affirmative acts of evasion, among others: converting PinnFund corporate checks made payable to cash into currency; using a PinnFund American Express corporate credit card for personal expenditures; causing PinnFund corporate checks to be made payable to individuals (including himself) and businesses for personal expenditures; receiving a Form W-2 for 1996 and knowingly failing to file income tax returns, as was his obligation and pattern prior to 1995; and transferring by use of wire and mail facilities the proceeds of his PinnFund Ponzi scheme

1 activity from PinnFund's Wells Fargo Bank account (number 0738-027754) to various  
2 domestic banks.

3 All in violation of Title 26, United States Code, Section 7201, and Title 18, United States Code,  
4 Section 2.

5 COUNT 4

6 INCOME TAX EVASION

7 During the calendar year 1997, Defendant MICHAEL J. FANGHELLA, a resident of  
8 San Diego County, California, had and received taxable income in the sum of approximately  
9 \$6,162,260; upon said taxable income there was owing to the United States of America an  
10 income tax of approximately \$2,424,084; well-knowing and believing the foregoing facts,  
11 Defendant, on or about April 15, 1998, in the Southern District of California, did willfully  
12 attempt to evade and defeat the said income tax due and owing by him to the United States of  
13 America for said calendar year by failing to make an income tax return on or before April 15,  
14 1998, as required by law, to any proper officer of the Internal Revenue Service, and by failing  
15 to pay to the Internal Revenue Service said income tax, and by committing the following  
16 affirmative acts of evasion, among others: converting PinnFund corporate checks made payable  
17 to cash into currency; using a PinnFund American Express corporate credit card for personal  
18 expenditures; causing PinnFund corporate checks to be made payable to individuals (including  
19 himself) and businesses for personal expenditures; receiving a Form W-2 for 1997 and  
20 knowingly failing to file income tax returns, as was his obligation and pattern prior to 1995;  
21 transferring by use of wire and mail facilities the proceeds of his PinnFund Ponzi scheme  
22 activity from PinnFund's Wells Fargo Bank account (number 0763-378270) to various  
23 domestic banks.

23 All in violation of Title 26, United States Code, Section 7201, and Title 18, United States Code,  
24 Section 2.

25 COUNT 5

26 INCOME TAX EVASION

27 During the calendar year 1998, Defendant MICHAEL J. FANGHELLA, a resident of  
28 San Diego County, California, had and received taxable income in the sum of approximately



1 \$5,755,875; upon said taxable income there was owing to the United States of America an  
2 income tax of approximately \$2,262,584; well-knowing and believing the foregoing facts,  
3 Defendant, on or about April 15, 1999, in the Southern District of California, did willfully  
4 attempt to evade and defeat the said income tax due and owing by him to the United States of  
5 America for said calendar year by failing to make an income tax return on or before April 15,  
6 1999, as required by law, to any proper officer of the Internal Revenue Service, and by failing  
7 to pay to the Internal Revenue Service said income tax, and by committing the following  
8 affirmative acts of evasion, among others: converting PinnFund corporate checks made payable  
9 to cash into currency; using a PinnFund American Express corporate credit card for personal  
10 expenditures; causing PinnFund corporate checks to be made payable to individuals (including  
11 himself) and businesses for personal expenditures; receiving a Form W-2 for 1998 and  
12 knowingly failing to file income tax returns, as was his obligation and pattern prior to 1995;  
13 transferring by use of wire and mail facilities the proceeds of his PinnFund Ponzi scheme  
14 activity from PinnFund's Wells Fargo Bank trust account (number 0221-027204) and Union  
15 Bank trust account (number 0920/013279) to various domestic banks.

16 All in violation of Title 26, United States Code, Section 7201, and Title 18, United States Code,  
17 Section 2.  
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COUNT 6

FALSE ENTRY

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On or about March 31, 1999, within the Southern District of California, defendant MICHAEL J. FANGHELLA, being an officer, director, and employee of PinnFund, U.S.A., a mortgage lending corporation authorized and acting under the laws of the United States, with intent to deceive an officer, auditor, examiner or agent of the United States Department of Housing and Urban Development (“HUD”), knowingly made and caused to be made a false entry in the books, reports, and statements to HUD, in that Defendant claimed that funds lent to PinnFund by Grafton Partners in 1998 were Defendant’s personal funds, when in truth and in fact, as Defendant well knew, such funds constituted loans to PinnFund under the Spot Loan Funding Agreements of which the Defendant was aware and to which Defendant was bound as a signatory. All in violation of Title 18, United States Code, Sections 1006 and 2.

DATED: \_\_\_\_\_, 2002.

PATRICK K. O’TOOLE  
United States Attorney

KEVIN J. KELLY  
Assistant U.S. Attorney

SANJAY BHANDARI  
Assistant U.S. Attorney