AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT ☐ SUPERSEDING

Name of District Court, and/or Judge/Magistrate Location
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

FILED
DEC - 6 2012
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

OFFENSE CHARGED

Count 1 -- Title 18, United States Code, Section 1344, Bank Fraud
Count 2 -- Title 18, United States Code, Section 1014, False Statements to a Financial Institution
Forfeiture allegation -- Title 18, United States Code, Section 982(a)(2)(A)

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: Counts 1 and 2 -- 30 years' imprisonment, $1,000,000 fine, 5 years of supervised release, $100 special assessment, forfeiture (per count)

DEFENDANT - U.S

SALEEM M. KHAN

DISTRICT COURT NUMBER

CR 12 860 YGR

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Federal Bureau of Investigation

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of: ☐ U.S. ATTORNEY ☐ DEFENSE } SHOW DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant } MAGISTRATE CASE NO.

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person Furnishing Information on this form: MELINDA HAAG

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned): Kyle F. Waldinger

DEFENDANT

IS *NOT* IN CUSTODY

1) ☒ Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges ➧

2) ☐ Is a Fugitive

3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

4) ☐ On this charge

5) ☐ On another conviction } ☐ Federal ☐ State

6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer been filed? ☐ Yes ☐ No } If "Yes" give date filed

DATE OF ARREST ➧ Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY ➧ Month/Day/Year

☐ This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

☐ SUMMONS ☒ NO PROCESS* ☐ WARRANT

Bail Amount:

If Summons, complete following:
☐ Arraignment ☐ Initial Appearance

** Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment*

Defendant Address:

Date/Time: Before Judge:

Comments:

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

FILED
DEC - 6 2012
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VENUE: OAKLAND

UNITED STATES OF AMERICA,

V.

CR 12 860 YGR

SALEEM M. KHAN

CR12-860 YGR

DEFENDANT(S).

INDICTMENT

18 U.S.C. § 1344- Bank Fraud

18 U.S.C. § 1014- False Statements to a Financial Institution

A true bill.

Foreman

Filed in open court this 6th day of

December, 2012.

Clerk

Bail, $ no process

MELINDA HAAG (CABN 132612)
United States Attorney

FILED
DEC - 3 2012
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

YGR

UNITED STATES OF AMERICA, Plaintiff, v. SALEEM M. KHAN, Defendant.	No. CR 12 860 VIOLATIONS: 18 U.S.C. § 1344 — Bank Fraud; 18 U.S.C. § 1014 — False Statements to a Financial Institution; 18 U.S.C. § 982(a)(2)(A) — Criminal Forfeiture OAKLAND VENUE

INDICTMENT

The Grand Jury charges:

Introductory Allegations

At all times relevant to this Indictment:

1. The defendant, Saleem M. KHAN, was an individual who resided and worked in the Northern District of California.

2. In 2001, KHAN purchased a residence located at 370 Appian Way in the city of Union City, located in Alameda County, California ("the Appian Way residence"). KHAN resided at the Appian Way residence until approximately January 2011, when he moved to the city of Dublin, also located in Alameda County, California.

3. E-Trade Bank ("E-Trade") was a subsidiary of E-Trade Financial Corporation that offered banking services. E-Trade's deposits were insured by the Federal Deposit Insurance

Corporation ("FDIC") and, thus, it was a financial institution as defined in Title 18, United States Code, Section 20.

4. Based in Pittsburgh, Pennsylvania, PNC Bank NA ("PNC") was the principal subsidiary of PNC Financial Services Group, Inc. PNC's deposits were insured by the FDIC and, thus, it was a financial institution as defined in Title 18, United States Code, Section 20.

5. E-Loan, Inc. ("E-Loan") was financial services company through which borrowers could obtain loans. There was no ownership relationship between E-Loan and E-Trade.

6. On or about September 2, 2005, KHAN obtained a home equity line of credit from E-Loan regarding the Appian Way residence in the amount of $345,000 ("HELOC" or "HELOC loan"). On or about October 3, 2005, a deed of trust securing the HELOC was filed with the Alameda County Recorder's Office with respect to the Appian Way residence.

7. On or about October 25, 2005, E-Loan sold the HELOC loan to E-Trade. Thereafter, E-Trade utilized PNC to service the HELOC loan.

8. As of January 2010, KHAN's outstanding principal balance on the HELOC was approximately $344,850.

9. In or about March 2011, PNC reconveyed the deed of trust securing the HELOC to KHAN and his wife, thereby removing the lien on KHAN's Appian Way residence.

<u>COUNT ONE</u>: (18 U.S.C. § 1344 — Bank Fraud)

10. The factual allegations in Paragraphs 1 through 9 are re-alleged and incorporated herein as if set forth in full.

11. Beginning on a date unknown to the Grand Jury, but no later than in or about July 2010, and continuing to in or about March 2011, both dates being approximate and inclusive, in the Northern District of California, and elsewhere, the defendant,

SALEEM M. KHAN,

did knowingly and with the intent to defraud devise and execute, and attempt to execute, a scheme and artifice to defraud PNC and E-Trade as to a material matter, and to obtain moneys, funds, credits, assets, and other property owned by and under the custody and control of PNC and

E-Trade, namely, more than $299,850 in funds owed on the HELOC secured by the Appian Way residence and the deed of trust securing the HELOC, by means of material false and fraudulent pretenses, representations, and promises, and by concealment of material facts. In sum and substance, KHAN devised and participated in a scheme and artifice to defraud PNC and E-Trade by providing PNC with material false and fraudulent information for the purpose of fraudulently inducing PNC and E-Trade to settle KHAN'S outstanding balance on the HELOC for substantially less than what was owed and to reconvey to KHAN the deed of trust securing the HELOC.

Manner and Means of the Scheme to Defraud PNC and E-Trade

12. After about January 2010, KHAN stopped making payments on the HELOC loan.

13. On or about July 13, 2010, KHAN falsely stated in a telephone call with a PNC representative that the reason that he had defaulted on payments on the HELOC loan was that he had been laid off for 14 months.

14. On or about October 29, 2010, the HELOC loan was charged off by PNC, with E-Trade's concurrence, and referred to PNC's recovery department, which operated as a division of PNC known as CLC Consumer Services. Thereafter, KHAN told a Default Specialist in PNC's recovery department that he was in financial hardship and wanted to settle the loan.

15. On or about January 13, 2011, in response to a request from the PNC Default Specialist, KHAN sent an e-mail from the Northern District of California to the Default Specialist in Pennsylvania, which e-mail attached documents supporting his offer to settle the HELOC for $45,000. These documents included (a) a so-called hardship letter in which KHAN falsely stated that he had lost his job at the end of 2007 and was not able to secure a stable job until July 2010; (b) altered pay statements falsely indicating that KHAN was employed by AB Star Group, from which he purportedly received a bi-weekly net salary of approximately $1,900; and (c) an income and expense statement falsely listing a monthly income of $4,117.

16. In truth, at the time of his January 13, 2011 e-mail, KHAN had been nearly continuously employed since July 1995. Further, in December 2008, KHAN began working as a consultant for a health care provider. On July 29, 2009, he was hired as a full-time employee of

that health care provider, with a bi-weekly net salary of approximately $3,190 in January 2011. At no time was KHAN ever an employee of AB Star Group. Moreover, between April 2010 and January 2011, KHAN earned more than $870,000 by buying and selling options and by conducting other transactions through brokerage accounts, which income was not disclosed in the income and expense sheet that KHAN submitted to PNC on January 13, 2011.

17. The information provided by KHAN to PNC on July 13, 2010, January 13, 2011, and on other occasions was material to PNC's and E-Trade's decisions as to whether to (a) agree to settle the HELOC loan the amount proposed by KHAN (*i.e.*, $45,000), (b) make a counter-offer to settle the HELOC loan for a greater amount, or (c) not settle the HELOC loan at all.

18. On or about January 25, 2011, based on the information provided by KHAN, PNC, with E-Trade's approval, agreed to settle the HELOC loan for $45,000. On or about February 14, 2011, KHAN caused a cashier's check in the amount of $45,000 to be sent to CLC Consumer Services. Upon receipt of that check, KHAN was released from his obligation to pay the remaining balance on the HELOC loan.

19. Through his actions, KHAN induced PNC to reconvey the deed of trust securing the HELOC to KHAN and his wife in or about March 2011. By virtue of this reconveyance, the lien on KHAN's Appian Way residence was removed.

All in violation of Title 18, United States Code, Section 1344.

COUNT TWO: (18 U.S.C. § 1014 — False Statements to a Financial Institution)

20. The factual allegations in Paragraphs 1 through 9 and Paragraphs 12 through 19 are re-alleged and incorporated herein as if set forth in full.

21. Beginning on a date unknown to the Grand Jury, but no later than in or about July 2010, and continuing to in or about January 2011, both dates being approximate and inclusive, in the Northern District of California, and elsewhere, the defendant,

SALEEM M. KHAN,

did knowingly make false statements and reports for the purpose of influencing the actions of PNC and E-Trade, each of which were financial institutions insured by the FDIC, in connection with the release of security for the HELOC, in that the defendant knowingly made what he knew to be false statements to PNC representatives regarding his employment and income.

All in violation of Title 18, United States Code, Section 1014.

<u>FORFEITURE ALLEGATION</u>: (18 U.S.C. § 982(a)(2)(A) — Criminal Forfeiture)

22. The preceding factual allegations of this Indictment are hereby re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture pursuant to the provisions of 18 U.S.C. § 982(a)(2)(A).

23. Upon conviction of one or more of the offenses alleged in Counts One and Two of this Indictment, the defendant,

SALEEM M. KHAN,

shall forfeit to the United States pursuant to 18 U.S.C. § 982(a)(2)(A) all property constituting, or derived from, proceeds the defendant obtained directly or indirectly, as the result of those violations, including, but not limited to the following:

a. $299,850 in United States currency; and

b. the real property located at 370 Appian Way, Union City, California, including all structures located thereon.

24. If any of the aforementioned property, 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 person;

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 that cannot be divided without difficulty;

any and all interest the defendant has in other property shall be vested in the United States and forfeited to the United States pursuant to 21 U.S.C. § 853p, as incorporated by 18 U.S.C. § 982(b)(1).

All in violation of Title 18, United States Code, Section 982(a)(2)(A) and Rule 32.2 of the Federal Rules of Criminal Procedure.

DATED:
December 6, 2012

A TRUE BILL

FOREPERSON

MELINDA HAAG
United States Attorney

MIRANDA KANE
Chief, Criminal Division

(Approved as to form: AUSA WALDINGER)

United States District Court
Northern District of California

FILED
DEC - 6 2012
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CRIMINAL COVER SHEET

Instructions: Effective January 3, 2012, this Criminal Cover Sheet must be completed and submitted, along with the Defendant Information Form, for each new criminal case. Please place this form on top of the Defendant Information Form.

Case Name:
USA v. Saleem M. Khan

Case Number:
CR 12 860 YGR

Total Number of Defendants:
1 ✓ 2-7 ____ 8 or more ____

Is This Case Under Seal?
Yes ____ No ✓

Does this case involve ONLY charges under 8 U.S.C. § 1325 and/or 1326?
Yes ____ No ✓

Venue (Per Crim. L.R. 18-1):
SF ____ OAK ✓ SJ ____

Is this a death-penalty-eligible RICO Act gang case?
Yes ____ No ✓

Assigned AUSA (Lead Attorney):
Kyle Waldinger

Comments:

Date Submitted:
December 6, 2012

PRINT