

For Immediate Release
April 20, 2011

**JURY CONVICTS ALBUQUERQUE REAL ESTATE AGENT
OF FEDERAL MORTGAGE FRAUD OFFENSES**

***Defendant Convicted of Submitting Falsified Loan Applications
to Obtain Mortgage Loans Totaling \$5.5 Million***

ALBUQUERQUE -- United States Attorney Kenneth J. Gonzales announced that, this afternoon, a federal jury convicted Albuquerque real estate agent **Kevin Powers**, 51, of 17 counts of wire fraud in connection with an unlawful scheme to defraud mortgage lenders and to obtain over \$5.5 million in loan proceeds through false pretenses, misrepresentations, and omissions. At sentencing, Powers faces up to 20 years' imprisonment and a maximum \$250,000 fine on each count of conviction. Powers remains on release under pretrial supervision pending his sentencing hearing, which is scheduled for July 18, 2011.

Powers went to trial on an indictment that was filed on July 27, 2010 and charged Powers with 17-counts of wire fraud. According to the indictment, Powers devised a scheme to defraud various mortgage lenders and obtain their money or property by means of false or fraudulent representations. The indictment alleged that Powers submitted loan applications with false information, or caused such loan applications to be submitted, to mortgage lenders and concealed from the lenders that some of the loan proceeds would be returned to the buyers, largely to be used to make mortgage payments until the properties could be resold. Powers allegedly did this to get financing for the loans in residential real estate transactions, and caused others to use interstate wire communications facilities by having the loan proceeds wired from various lenders to the banks of the title companies. Although the indictment alleges 17-counts of wire fraud, the scheme involved only nine real estate transactions in Albuquerque occurring in 2006 and 2007, eight of which involved two loans. Because the loan proceeds were wired

separately for each loan, each wire was charged as a separate count.

The evidence at trial established that, from March 2006 through April 2007, Powers was a real estate agent and broker. Initially, Powers was employed as the Albuquerque branch office manager for AAA Worldwide Mortgage, a mortgage brokerage company, but in late 2006, he formed his own mortgage brokerage company, Powers Mortgage. For all nine transactions charged in the indictment, Powers acted as both the realtor and mortgage broker for the buyers in that he represented them in buying the homes and he sought financing for them for the purchases. The buyers who participated in Powers' scheme testified that Powers helped them invest in residential real estate in Albuquerque even though they had no money to invest by finding houses for them to buy with 100% financing. Powers returned approximately 20% of the loan proceeds, totaling approximately \$1.2 million, to the buyers after closings, and they primarily used the money to make mortgage payments until the houses could be resold.

More specifically, the buyers testified that, after Powers identified a house to be purchased as part of the scheme, he told the seller that he had a buyer who wanted to undertake renovations and remodeling, and asked the seller to raise the sales price so it would include adequate funds for the improvements. After the seller raised the sales price, Powers obtained an appraisal at the higher price and submitted a loan application on behalf of the buyer. The loan application contained false information about the buyer's income and the intended purpose of the purchase by falsely representing that the buyer was purchasing the house as a primary residence when in fact that buyer primarily was purchasing an investment property.

Bank officials testified that they relied on the falsified loan applications in deciding to finance the purchase of the houses. They said that they would not have approved the loans if they had known that the buyers' income figures were significantly inflated and that the houses

were being purchased as investments, and if they had known that cash kickbacks were being made to the buyers after closing. The evidence showed that all of the buyers ultimately defaulted on the residences purchased as part of Powers' scheme because the resales did not cover the loans.

The jury deliberated for approximately five hours before returning a verdict of guilty on all counts.

The case was investigated by the Federal Bureau of Investigation, and is being prosecuted by Assistant United States Attorneys Mary L. Higgins and George C. Kraehe.

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