

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**BILL OF INFORMATION
FOR MAIL FRAUD**

UNITED STATES OF AMERICA	*	CRIMINAL NO.
V.	*	SECTION
MICHAEL B. SMUCK	*	VIOLATION: 18 U.S.C. 1341
	*	*
	*	*

The United States Attorney charges that:

COUNT 1

A. AT ALL TIMES MATERIAL HEREIN:

1. **MICHAEL B. SMUCK** owned and operated MBS Realty Investors, LTD and MBS Management Services, Inc. which were located in the Eastern District of Louisiana.
2. **MICHAEL B. SMUCK**, MBS Realty Investors, LTD and MBS Management Services, Inc. were engaged in the business of real estate investment. One of the real estate investment partnerships operated by **MICHAEL B. SMUCK**, MBS Realty Investors, LTD and MBS Management Services, Inc. was called MBS-Briar Meadows, LTD which owned an apartment community in Houston, TX.

B. THE SCHEME:

Beginning on or about May 30, 2007 and continuing until on or about September 29, 2007, in the Eastern District of Louisiana and elsewhere, the defendant, **MICHAEL B. SMUCK**, did unlawfully, willfully and knowingly devise a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations and promises, as set forth more fully below, well knowing at the time, that the pretenses, representations and promises would be and were false when made. The object of the defendant's scheme was to fraudulently obtain approximately \$3,477,980.00 in investor property to pay company debts unrelated to the Briar Meadows partnership.

It was further part of the scheme and artifice to defraud that the defendant, **MICHAEL B. SMUCK**, acting in his capacity as Managing Member of the General Partner, sold the property known as Briar Meadows. At some time after the sale of Briar Meadows, **MICHAEL B. SMUCK** misappropriated the funds from the sale to pay other company debts rather than disburse those sale proceeds to the investors of Briar Meadows.

It was further part of the scheme and artifice to defraud that the defendant, **MICHAEL B. SMUCK**, continued to send documentation to investors in Briar Meadows in order to give the fictitious appearance that the investment property was still active.

C. THE MAILINGS:

On or about the date specified below, in the Eastern District of Louisiana, **MICHAEL B. SMUCK**, for the purpose of executing the aforesaid scheme and artifice to defraud, and attempting to do so, did knowingly cause to be sent, delivered, and moved by the United States Postal Service

a letter, dated August 27, 2007, mailed from the offices of **MICHAEL B. SMUCK** in Metairie, Louisiana to an investor in New York, New York.

All in violation of Title 18, United States Code, Section 1341.

NOTICE OF FORFEITURE

1. The allegations contained in Count 1 of this Bill of Information are hereby realleged and incorporated by reference for the purpose of alleging forfeiture to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C) and made applicable through Title 28, United States Code, Section 2461(c).

2. As a result of the offenses alleged in Count 1, the defendant, **MICHAEL B. SMUCK**, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and made applicable through Title 28, United States Code, Section 2461(c), any and all property, real and personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense and all property traceable to such property as a result of the violations of Title 18, United States Code, Section 1341.

3. If any of the property subject to forfeiture, 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 which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property.

All in violation of Title 18, United States Code, Section 981(a)(1)(C), made applicable through Title 28, United States Code, Section 2461(c).

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New Orleans, Louisiana
May 12, 2010.