

ZI/2005R00851

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon. Dennis M. Cavanaugh
	:	
v.	:	
	:	Crim. No. 08-763 (DMC)
MICHAEL KAUFMAN and	:	
DAVID WYNN	:	
	:	18 U.S.C. § 1349

S U P E R S E D I N G I N D I C T M E N T

The Grand Jury, in and for the District of New Jersey,
sitting at Newark, charges:

THE DEFENDANTS AND CO-CONSPIRATORS

1. At various times relevant to this Indictment:

a. Defendant MICHAEL KAUFMAN, a resident of Wyomissing, Pennsylvania, was the owner and operator of Home Start America, Inc. ("HSA"). HSA purported to be a real estate developer and investment company with offices located in Bloomfield, New Jersey and Allentown, Pennsylvania. Among other things, defendant MICHAEL KAUFMAN purchased and sold residential investment properties on behalf of HSA. Defendant MICHAEL KAUFMAN also recruited buyers to purchase properties from HSA as well as other residential real estate that was listed for sale (collectively referred to herein as the "Properties").

b. Defendant DAVID WYNN, a resident of Englewood, New Jersey, was employed as a loan officer with a company named Consumers Choice Mortgage Services, a mortgage broker with

offices located in Montville, New Jersey. Among other things, defendant DAVID WYNN received and approved mortgage loan applications from prospective purchasers of the Properties on behalf of Consumers Choice Mortgage Services. Defendant DAVID WYNN received commission payments from Consumers Choice Mortgage Services for real estate closings in which he acted as a loan officer. Defendant DAVID WYNN also maintained office space at HSA and recruited buyers to purchase the Properties.

c. A.D., a co-conspirator who is not named as a defendant herein, a resident of Amityville, New York, was employed by HSA. A.D. recruited buyers to purchase the Properties.

d. P.J.S., a co-conspirator who is not named as a defendant herein, was a resident of Union, New Jersey and employed as a loan officer at a company named Countrywide Home Loans, a mortgage originator and lender with offices located in Newark, New Jersey. Among other things, co-conspirator P.J.S. received and approved mortgage loan applications from prospective purchasers of the Properties on behalf of Countrywide Home Loans. P.J.S. received commission payments from Countrywide Home Loans for real estate closings in which she acted as a loan officer.

e. D.E., a co-conspirator who is not named as a defendant herein, was a resident of Colonia, New Jersey and the owner and operator of an appraisal company which appraised several of the Properties.

THE MORTGAGE LENDING PROCESS

2. Generally, banks, mortgage companies, and other private lending institutions (collectively referred to herein as the "Mortgage Lenders") administered conventional mortgage loan programs which allowed purchasers who could meet income, credit eligibility, and down payment requirements, among other things, to obtain financing in order to acquire real estate properties.

3. After locating an available property of interest, a purchaser typically applied for a mortgage loan from a Mortgage Lender through a mortgage broker, such as Consumers Choice Mortgage Services or through a mortgage originator, such as Countrywide Home Loans. Generally, a mortgage broker acted as an intermediary between a borrower and a pool of potential lending institutions, one of which was selected based on the buyer's financing needs and ability to repay the loan. A mortgage broker did not distribute its own money to fund the mortgage, but submitted the buyer's information to a mortgage lender which funded the loan. A mortgage originator also assisted a purchaser to complete a mortgage transaction. Unlike a mortgage broker, a mortgage originator distributed its own money to fund the mortgage.

4. Certain Mortgage Lenders, including Long Beach Mortgage, Homecoming Financial Network, BNC Mortgage, Inc., and Countrywide Home Loans, loaned money to buyers in order to enable them to finance purchases of the Properties. Prior to making the loans, the Mortgage Lenders evaluated whether the buyers

satisfied, among other things, income, credit eligibility and down payment requirements, to qualify for the requested financing. The Mortgage Lenders performed their evaluations by reviewing the financial representations set forth in Uniform Residential Loan Applications and related documents which loan officers caused to be submitted to the Mortgage Lenders.

5. Following approval of the loan application in the form of the issuance of a loan commitment, the Mortgage Lenders caused electronic wire transfers of funds to be transmitted from lending institutions to settlement agents such as title companies or closing attorneys participating in the closing of title on the property. The title companies and closing attorneys then distributed a portion of the funds to the sellers, including HSA.

THE CONSPIRACY

6. From at least as early as in or about August 2002 to in or about June 2005, in Essex and Passaic Counties, in the District of New Jersey, and elsewhere, defendants

MICHAEL KAUFMAN
and
DAVID WYNN

did knowingly and intentionally conspire and agree with each other and others to devise a scheme and artifice to defraud the Mortgage Lenders and to obtain money from the Mortgage Lenders by means of materially false and fraudulent pretenses, representations, and promises, and, for the purpose of executing such scheme, to cause writings, signs, signals, pictures and sounds to be transmitted by means of wire communication in interstate commerce contrary to Title 18, United States Code, Section 1343.

OBJECT OF THE CONSPIRACY

7. The object of the conspiracy was to profit from the sale and financing of the Properties by obtaining fraudulent loans from the Mortgage Lenders for unqualified and unsophisticated borrowers.

MANNER AND MEANS OF THE CONSPIRACY

8. It was part of the conspiracy that defendant MICHAEL KAUFMAN, through HSA, would purchase residential properties which were in foreclosure or sold at sheriffs' sales. Most of the properties were in need of significant repairs to make them habitable. In many instances, defendant MICHAEL

KAUFMAN would "flip" these properties by reselling them within a short time after their purchase and at substantially higher prices.

9. It was further part of the conspiracy that defendants MICHAEL KAUFMAN, DAVID WYNN, co-conspirator A.D. and others would solicit and recruit buyers, most of whom were first-time homeowners with limited financial resources to purchase the Properties.

10. It was further part of the conspiracy that defendant MICHAEL KAUFMAN, co-conspirator A.D. and others would recruit the buyers through means such as advertising as well as by holding meetings and seminars during which they touted HSA's purchasing program. Among other things, defendant MICHAEL KAUFMAN, co-conspirator A.D. and others would represent to the buyers that repairs would be made prior to or shortly after closing, and that HSA would pay the buyers' mortgages until the properties were repaired. In most instances, neither repairs nor mortgage payments were made by HSA.

11. It was further part of the conspiracy that defendants MICHAEL KAUFMAN, DAVID WYNN, co-conspirator A.D. and others would represent that the Properties could be purchased with no money down and no closing costs.

12. It was further part of the conspiracy that defendant MICHAEL KAUFMAN, co-conspirator A.D. and others would arrange for the buyers to purchase the Properties by facilitating mortgage loans through certain loan officers, including defendant

DAVID WYNN and co-conspirator P.J.S., who originated and processed mortgage loan applications in connection with the sales.

13. It was further part of the conspiracy that defendants MICHAEL KAUFMAN, DAVID WYNN, co-conspirators A.D., P.J.S. and others would falsify mortgage loan applications and supporting documents of the buyers by, among other things, inflating the assets and income of the buyers and creating and causing to be created falsified or fictitious documents such as bank statements and checks.

14. It was further part of the conspiracy that co-conspirator D.E., and others, would prepare false and fraudulent appraisals which inflated the values of the Properties.

15. It was further part of the conspiracy that defendants MICHAEL KAUFMAN, DAVID WYNN, co-conspirators A.D., P.J.S. and others submitted and caused to be submitted to the Mortgage Lenders false and fraudulent mortgage loan applications, and false and fraudulent appraisals to induce the Mortgage Lenders to make the loans to the buyers of the Properties.

16. It was further part of the conspiracy that defendants MICHAEL KAUFMAN, DAVID WYNN and co-conspirator A.D. would direct some of the buyers to submit checks which purported to be for down payments, but for which the buyers did not have sufficient funds to cover. The checks were never negotiated.

17. After approving the mortgage loans, the Mortgage Lenders caused electronic wire transfers of funds to be sent to a

settlement agent who closed the loans in connection with the Properties.

18. As part of the above fraudulent scheme, defendant MICHAEL KAUFMAN, co-conspirator A.D. and others "flipped" or brokered the sales of a number of Properties, including, for example:

a. 61-63 Auburn Street

i. In or about July 2004, co-conspirator A.D. recruited C.R. to purchase a property through HSA at 61-63 Auburn Street for approximately \$370,000.

ii. In or about September 2004, defendant MICHAEL KAUFMAN, co-conspirator P.J.S. and others caused C.R.'s mortgage loan application package containing false information to be submitted to Countrywide Home Loans.

iii. On or about September 16, 2004, defendant MICHAEL KAUFMAN, co-conspirators D.A., P.J.S. and others caused Countrywide Home Loans to transfer approximately \$289,833 by wire into a title company's account at a bank located in New Jersey in connection with C.R.'s purchase of property located at 61-63 Auburn Street.

b. 80-82 Monticello Avenue

i. In or about February 2005, defendant Michael Kaufman recruited A.I. to purchase property located at 80-82 Monticello Avenue from HSA for approximately \$275,000.

ii. In or about February 2005, defendants MICHAEL KAUFMAN and DAVID WYNN, and others, caused A.I.'s

mortgage loan application package containing false information to be submitted to Homecoming Financial Network, Inc., a subsidiary of GMAC.

iii. On or about March 30, 2005, defendants MICHAEL KAUFMAN, DAVID WYNN and others caused GMAC to cause Bank One Chicago in Ohio to transfer approximately \$251,407 by wire into the closing attorney escrow account at a bank located in New York in connection with A.I.'s purchase of property located at 80-82 Monticello Avenue.

c. 251 North 6th Street

i. In or about April 2005, defendant DAVID WYNN recruited J.M. to purchase properties through HSA, including a property at 251 North 6th Street for approximately \$255,000.

ii. In or about April 2005, defendant MICHAEL KAUFMAN and others caused J.M.'s mortgage loan application package containing false information to be submitted to BNC Mortgage, Inc., located in California.

iii. On or about May 6, 2005, defendant MICHAEL KAUFMAN and others caused BNC Mortgage, Inc., to cause Deutsche Bank in New York to transfer approximately \$255,152 by wire into the closing attorney trust account of a bank located in New Jersey in connection with J.M.'s purchase of property located at 251 North 6th Street.

d. 192 Fairmont Avenue

i. In or about April 2005, defendant DAVID WYNN recruited C.S. to purchase property from HSA located at 192

Fairmont Avenue for approximately \$265,000.

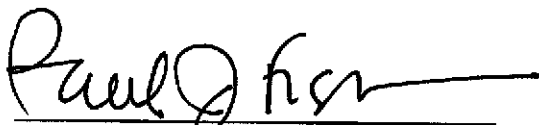
ii. In or about June 2005, defendants MICHAEL KAUFMAN, DAVID WYNN and others caused C.S.'s mortgage loan application package containing false information to be submitted to Long Beach Mortgage.

iii. On or about June 27, 2005, defendants MICHAEL KAUFMAN, DAVID WYNN and others caused Long Beach Mortgage to cause Washington Mutual Bank in California to make two wire transfers of funds into the closing attorney trust account located at a bank in New Jersey in connection with C.S.'s purchase of property located at 192 Fairmont Avenue: one transfer for approximately \$212,220, and the second transfer for approximately \$52,942.

19. As a result of the above fraudulent conspiratorial acts, Mortgage Lenders were induced to make mortgage loans to unqualified buyers.

All in violation of Title 18, United States Code, Section 1349.

A TRUE BILL

A handwritten signature in black ink, appearing to read "Paul J. Fishman", with a long horizontal line extending to the right.

PAUL J. FISHMAN
UNITED STATES ATTORNEY

CASE NUMBER: 08-763

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UNITED STATES OF AMERICA

v.

MICHAEL KAUFMAN, et al

SUPERSEDING INDICTMENT FOR

18 U.S.C. § 1349

A True Bill.

Foreperson

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