

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

|                          |   |   |
|--------------------------|---|---|
| UNITED STATES OF AMERICA | : | Criminal No.                            |
|                          | : |   |
| v.                       | : | 15 U.S.C. §§ 78j(b) and 78ff; 17 C.F.R. |
|                          | : | § 240.10b-5                             |
| DAVID CONNOLLY           | : | 18 U.S.C. §§ 981(a)(1)(C), 982(a)(1),   |
|                          | : | 1341, 1343, 1957, and 2                 |
|                          | : | 28 U.S.C. § 2461(c)                     |
|                          | : |   |

**INDICTMENT**

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

**COUNT ONE**

**(Securities Fraud)**

**RELEVANT PARTIES AND ENTITIES**

1. At all times relevant to this Indictment:
  - a. Defendant DAVID CONNOLLY was a resident of Watchung, New Jersey, and purported to be a real estate investor, operating through numerous entities that he either owned or controlled, in whole or in part (collectively, the "Connolly Entities").
  - b. Connolly Properties, Inc. ("CPI"), a New Jersey corporation, was one of the Connolly Entities. Defendant DAVID CONNOLLY established CPI in approximately 1996. CPI acted as a property management company for residential real estate properties owned by other Connolly Entities.
  - c. The Connolly Entities included, among others: Watchung Gardens Associates Trust ("Watchung Gardens"); Fulton Towers Trust ("Fulton Towers"); Carteret

Arms Trust (“Carteret Arms”) Netherwood Village Trust (“Netherwood Village”); Grand Court Villas Trust (“Grand Court”); Hillside Investment Trust (“Hillside Valley”); and Connolly Realty, LLC (“Connolly Realty”).

- d. V.S. was Chief Financial Officer of CPI from approximately 2007 through 2010.
- e. J.P. was a resident of Pennsylvania, and an investor in various Connolly Entities. J.P. solicited additional investors to invest money in various Connolly Entities.
- f. J.C. was a resident of New Jersey and Florida, and an investor in various Connolly Entities. J.C. solicited additional investors to invest money in various Connolly Entities.
- g. P.B., G.D., M.L.D., M.R.D., A.H., C.L., C.M., J.M., T.S., the S. Family, and others (individually and collectively, the “Investors”) were all investors in one or more of the Connolly Entities, either individually or through partnerships or trusts that they controlled.

### **BACKGROUND AND SUMMARY**

2. Defendant DAVID CONNOLLY solicited capital contributions from friends and family, and later from an expanding pool of Investors, and used the money to buy rental apartment buildings in New Jersey and Pennsylvania. He paid distributions to the Investors, purportedly from the cash returns the buildings generated.

3. From in or about 1996 through in or about January 2009, defendant CONNOLLY solicited Investors for approximately 30 real estate investment deals. In general, CONNOLLY personally prepared an Offering Prospectus that described a property and an investment opportunity. The prospectuses described the building, the number of shares available for purchase, and the ownership structure. Typically, CONNOLLY set up an LLC or LP to own the

building and a trust to be the non-managing member or limited partner. The Investors were the beneficiaries of the trust. CONNOLLY acted as trustee. CPI was the property manager for the buildings. The prospectuses also contained rudimentary financial projections showing revenues, expenses, and returns. Cash returns were typically shown to be 12% per year or more.

4. For each Connolly Entity he set up, defendant CONNOLLY kept a number of shares for himself as his management fee. He then paid himself per share distributions for each investment, along with the rest of the Investors. These payments added up over time to almost \$600,000 in 2006, more than \$650,000 in 2007, more than \$700,000 in 2008, and almost \$300,000 in 2009.

5. The Connolly Entities were set up to be separate entities and the Investors were told that each would have separate accounts and would be separately managed and financially independent. Defendant CONNOLLY, however, commingled investor funds, generally using a single "master account" to receive revenues and pay expenses for all the buildings.

6. From at least as early as 2006, the Connolly Entities, individually and collectively, failed to generate sufficient income to pay their expenses, including their mortgage obligations, and distributions to the Investors. Although some CPI employees advised defendant CONNOLLY that the businesses could not support distributions to the Investors at the level that he had been paying, CONNOLLY ignored this advice and continued paying the Investors at the rates stated in his prospectuses. These payments aggravated the cash flow problems of the Connolly Entities. CONNOLLY needed other sources of cash, so he began to solicit new investments at an accelerating rate and refinanced many of the buildings to extract equity as cash.

7. Many of the Connolly Entities continued experiencing losses. Defendant CONNOLLY repeatedly used investor capital contributions to pay operating expenses and to pay distributions to the Investors. From early 2006 on, for every new property that he bought, CONNOLLY used

all of the capital that had been contributed by Investors to purchase the property on operating expenses and distributions for other properties. CONNOLLY then used capital contributions or refinancing proceeds from other investment properties to pay the cash needed to close on the purchase of the new property.

8. Despite the financial problems of the Connolly Entities, defendant CONNOLLY repeatedly assured the Investors that the business was in good shape and performing well financially. He blamed missed payments on errors by his bank, and lied about vacancy rates, receipts, cash reserves, and other aspects of the business. CONNOLLY continued soliciting and accepting new investment contributions up through March 2009, using the money to pay operating expenses and distributions.

9. Defendant CONNOLLY stopped paying mortgages on many of the Connolly Entities as early as February 2009 and had been running significant overdrafts in the business's bank accounts for longer than that. By June 2009, at least one bank had declared a Connolly Entity in default and called its loans. In July 2009, four of the Connolly Entities declared bankruptcy. By October 2009, all the buildings were in foreclosure or bankruptcy. CPI also declared bankruptcy.

## THE SCHEME TO DEFRAUD

10. From at least as early as in or about 2006 through in or about October 2009, in the District of New Jersey, and elsewhere, defendant

DAVID CONNOLLY,

by use of the means and instrumentalities of interstate commerce, the mails, and facilities of national securities exchanges, directly and indirectly, knowingly and willfully used manipulative and deceptive devices and contrivances in contravention of Title 17, Code of Federal Regulations, Section 240.10b-5 ("Rule 10b-5") in connection with the purchase and sale of securities by (i) employing devices, schemes, and artifices to defraud members of the investing public; (ii) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (iii) engaging in acts, practices, and a course of business which operated and would operate as a fraud and deceit upon the Investors in the Connolly Entities.

### Object of the Scheme

11. It was the object of the scheme for defendant CONNOLLY to fraudulently obtain millions of dollars from victims by falsely claiming that the money would be and was used for specific real estate transactions when, in fact, CONNOLLY used material portions of the raised funds for other purposes without disclosing these diversions of funds to victims, resulting in at least \$9 million in losses to the Investors.

### Means and Methods of the Scheme

12. In furtherance of the scheme to defraud, defendant CONNOLLY made, and caused to be made, the following materially false and misleading statements and material omissions, among others, to the Investors:

- a. the Investors' money would be used to purchase a specific real estate property that would return sufficient cash flow to pay distributions at a rate equal to or greater than 12% annualized;
- b. the Investors' money would be held in an interest bearing account specific to the particular Connolly Entity until the closing of a purported real estate transaction;
- c. the Connolly Entity in which the Investors' money was invested would maintain accounts, books, and records separate from any other entity;
- d. the Connolly Entity in which the Investors' money was invested would maintain a contingency reserve consisting of excess capital contributions; and
- e. the Connolly Entities were performing well.

13. In furtherance of the scheme to defraud, defendant CONNOLLY created, and caused to be created, the following types of fraudulent documents, among others, which were shown to the Investors and purported to reflect prospective real estate transactions and the success of the real estate investments:

- a. offering prospectuses, each describing the specific property to be acquired, the number of shares available for purchase, the form of ownership, and the financing of the property acquisition;
- b. financial projections describing the use of capital contributions and estimated first year income statements;

- c. charts purporting to show contingency reserves for each of the Connolly Entities, when in fact no such reserves existed;
- d. reports purporting to show rental occupancy rates that overstated actual occupancy rates; and
- e. letters making false claims about the continued success of the Connolly Entities and the status of various payments.

14. Through the types of fraudulent misrepresentations and documents discussed above, defendant CONNOLLY obtained over \$50 million from victims for real estate transactions. In truth and in fact, however, CONNOLLY operated a Ponzi scheme. Without disclosing the diversions of funds to them, CONNOLLY used material portions of monies raised from the Investors for other purposes rather than for the specified transactions, including:

- a. to fund other, unrelated real estate transactions for which CONNOLLY had solicited capital contributions from a different set of Investors;
- b. to pay prior victims;
- c. to pay the expenses of other Connolly Entities;
- d. to gain victims' trust by making small payments to victims ("lulling payments"), which encouraged them to provide additional funds and allowed the fraudulent scheme to continue undetected;
- e. to enrich CONNOLLY, by paying millions of dollars to himself in the form of distributions related to shares in the Connolly Entities that he retained; and
- f. to fund CONNOLLY's personal real estate projects.

15. At least as early as in or about January 2006, the real estate properties in which defendant CONNOLLY had induced his victims to invest began to experience losses. The cash received

from rent payments was not enough to pay operating expenses, including mortgage debts, and distributions to the Investors at the rate of return stated in the various prospectuses.

16. Defendant CONNOLLY began to solicit capital contributions for new investment properties and to use the money for other purposes such as paying operating expenses of existing investment properties and paying distributions to earlier investors.

17. In response to defendant CONNOLLY's solicitations, and in reliance on the Offering Prospectuses that CONNOLLY prepared, more than two hundred investors contributed millions of dollars to CONNOLLY's fraudulent investment scheme.

#### Watchung Gardens

18. In or about January 2007, defendant CONNOLLY prepared and sent to the Investors an Offering Prospectus for the Watchung Gardens Trust (the "Watchung Prospectus"), which described an investment opportunity in a residential rental apartment property in Plainfield, New Jersey. The Watchung Prospectus proposed the formation of a trust to buy an apartment complex and offered sixty shares for sale at \$50,000 each. The Watchung Prospectus stated that CONNOLLY, as Managing Partner, would retain an additional eight shares as compensation for his role in forming the investment group and locating and financing the property.

19. The section of the Watchung Prospectus titled "Financing" stated: "First mortgage for 75% of the purchase price, 30 year amortization with a 10-15 year term and an interest rate of approximately 6%."

20. The Watchung Prospectus included a schedule showing the intended use of capital contributions. The anticipated total capital was \$3,000,000 (60 shares at \$50,000 each). The anticipated down payment was \$1,875,000, and closing costs were projected to be approximately

\$538,925. The Watchung Prospectus stated that \$586,075 would be held as a contingency reserve.

21. The Watchung Prospectus included a financial statement with projected first year revenues and operating expenses, and a projected rate of return. That financial statement showed a purchase price of \$7,500,000; a down payment of \$1,875,000; a mortgage of \$5,625,000 at 6% interest (monthly payment of \$33,724), and annual rent revenues of \$1,200,594 (including an estimated 5% vacancy rate). Cash returns were projected to be 12%.

22. Between in or about January 2007 and in or about May 2007, defendant CONNOLLY received approximately \$3,350,000 from the Investors who relied on the Watchung Prospectus.

23. On or about May 21, 2007, defendant CONNOLLY sent a letter to the Investors in the Watchung Gardens Trust informing them of the closing and including a check for the “proportionate share of interest your money earned in the money market in which it was deposited and held in from the time of receipt until the final closing date.” Although he had provided written assurance to the Investors that their capital contributions would be held in a money market account pending the closing of the Watchung Gardens investment, CONNOLLY had not deposited any investor funds in such an account.

24. When defendant CONNOLLY purchased the Watchung Gardens property, no Investor funds that CONNOLLY had received in response to the Watchung Prospectus remained in any of the Connolly Entities’ bank accounts. CONNOLLY had previously diverted those funds to pay operating expenses and investor distributions related to other Connolly Entities, among other things. Instead, to pay the approximately \$1.2 million required to close the transaction, CONNOLLY used money obtained by refinancing a property owned by another Connolly Entity, which should have been used only for the benefit of the Investors in that particular entity.

25. Defendant CONNOLLY purchased the Watchung Gardens property on or about May 18, 2007. On that day, on behalf of Watchung Gardens Associates, L.L.C., CONNOLLY signed a first mortgage for \$5,625,000. On the same day, also on behalf of Watchung Gardens Associates, L.L.C., CONNOLLY signed a second mortgage, secured by the same property, in the amount of \$605,000.

26. This second mortgage increased the outstanding debt secured by the real property by more than 10%, and similarly increased the debt service obligations of the investment trust. Defendant CONNOLLY failed to inform the Investors of the second mortgage. When CONNOLLY sent the Investors the ownership documents after the purchase, he sent documents evidencing the first mortgage, but omitted documents evidencing the second mortgage. This was contrary to the Watchung Prospectus, which stated: "All partners receive a complete set of all documents, including closing documents, partnership agreement and a certificate of ownership." The Prospectus described the financing for the transaction to include only one mortgage.

27. From approximately in or about May 2007 until in or about April 2009, defendant CONNOLLY paid monthly distributions at a rate of \$500 per share per month to the Investors in the Watchung Gardens Trust. At no time during its operations did the Watchung Gardens Trust earn enough income from its operations to pay its operating expenses, debt service, and investor distributions.

28. Defendant CONNOLLY stopped making mortgage payments on the property owned by the Watchung Gardens Trust in or about March 2009.

#### Fulton Towers/Carteret Arms

29. In or about July 2004, defendant CONNOLLY prepared and sent to the Investors an Offering Prospectus for the Fulton Towers Trust, which described an investment opportunity in two residential apartment buildings in East Orange, New Jersey. In or about November 2004,

CONNOLLY prepared and sent to the Investors a Revised Offering Prospectus for the Fulton Towers Trust, which expanded the investment opportunity to include five residential apartment buildings in East Orange, New Jersey. Like other prospectuses, this one described the property, the number of shares available for purchase, the projected uses of capital contributions, and projected first year returns.

30. Between in or about July 2004 and in or about December 2004, defendant CONNOLLY received approximately \$6,150,000 investment contributions from the Investors who relied on the original and revised prospectuses for these properties. On or about December 1, 2004, CONNOLLY purchased the properties described in the prospectus.

31. On or about October 17, 2007, defendant CONNOLLY refinanced the outstanding mortgages on the properties owned by the Fulton Towers Trust. As part of the refinancing, CONNOLLY obtained cash from the equity in the real estate. CONNOLLY used some of the cash proceeds of the refinancing to buy additional real properties, including an apartment building called the "Carteret Arms" in Trenton, New Jersey.

32. Defendant CONNOLLY failed to seek investor consent for the refinancing and additional real estate purchases. CONNOLLY only notified the Investors several months after he had effected the refinancing.

33. After buying the Carteret Arms property, defendant CONNOLLY established the Carteret Arms Trust to own the property. CONNOLLY created false signature pages, purportedly from the Investors, acknowledging and authorizing the creation of the Carteret Arms Trust. In fact, the Investors had no knowledge of the creation of the Carteret Arms Trust and did not consent to its creation.

### Netherwood Village

34. In or about September 2007, defendant CONNOLLY prepared and sent to the Investors an Offering Prospectus for the Netherwood Village Trust (the "Netherwood Prospectus"), which described an investment opportunity in a residential rental apartment property in Plainfield, New Jersey. Like other prospectuses, this one described the property, the number of shares available for purchase, the projected uses of capital contributions, and projected first year returns.

35. The Netherwood Prospectus failed to inform the Investors that the property was low income housing, in which residents received government rent subsidies through the Section 8 program, and that it was in such disrepair that it had not passed inspection for several years.

36. Between in or about September 2007 and in or about July 2008, defendant CONNOLLY received approximately \$4.6 million from the Investors who relied on the Netherwood Prospectus, including a \$150,000 check from an investor partnership controlled by an individual, G.D., that was mailed on or about October 29, 2007.

37. Defendant CONNOLLY purchased the Netherwood Village property on or about July 1, 2008. On that day, on behalf of the Netherwood Village Trust, CONNOLLY took out a mortgage on the property in the approximate amount of \$6,480,000. When CONNOLLY closed the real estate transaction, no investor funds that CONNOLLY had received in response to the Netherwood Prospectus remained in any of the Connolly Entities' bank accounts. CONNOLLY had previously diverted those funds to pay operating expenses and investor distributions related to other Connolly Entities, among other things. Instead, to pay the approximately \$1.64 million required to close the transaction, CONNOLLY used capital contributions from another investment offering and operating revenue from other investment properties, among other monies.

38. From in or about July 2008 until in or about April 2009, defendant CONNOLLY paid monthly distributions at a rate of \$500 per share per month to the Investors in the Netherwood Village Trust. At no time during its operations did the Netherwood Village Trust earn enough income from its operations to pay its operating expenses, debt service, and investor distributions.

39. Defendant CONNOLLY stopped making mortgage payments on the property owned by the Netherwood Village Trust in or about March 2009.

#### Grand Court Villas

40. In or about April 2008, defendant CONNOLLY prepared and sent to the Investors an Offering Prospectus for the Grand Court Villas Trust (the "Grand Court Prospectus"), which described an investment opportunity in a residential rental apartment property in Trenton, New Jersey. Like the other prospectuses, this one described the property, the number of shares available for purchase, the projected uses of capital contributions, and projected first year returns.

41. The Grand Court Prospectus included a projected vacancy rate of 3%, when in fact the actual vacancy rate at the property was approximately 20% during the time that defendant CONNOLLY was considering the purchase.

42. From in or about April 2008 through in or about July 2008, defendant CONNOLLY received approximately \$2.05 million from the Investors who relied on the Grand Court Prospectus, including a \$200,000 check from an investor, T.S., that was mailed on or about April 14, 2008.

43. Defendant CONNOLLY purchased the Grand Court Villas property on or about July 1, 2008. On that day, on behalf of the Grand Court Trust, CONNOLLY took out a mortgage on the property in the approximate amount of \$4,900,000. When CONNOLLY closed the real estate

transaction, no investor funds that CONNOLLY had received in response to the Grand Court Prospectus remained in any of the Connolly Entities' bank accounts. CONNOLLY had previously diverted those funds to pay operating expenses and investor distributions related to other Connolly Entities, among other things. Instead, to pay the approximately \$1.325 million required to close the transaction, CONNOLLY used capital contributions from another investment offering and operating revenue from other investment properties, among other monies.

44. From in or about July 2008 until in or about April 2009, defendant CONNOLLY paid monthly distributions at a rate of \$500 per share per month to the Investors in the Grand Court Trust. At no time during its operations did the Grand Court Trust earn enough income from its operations to pay its operating expenses, debt service, and investor distributions.

45. Defendant CONNOLLY stopped making mortgage payments on the property owned by the Grand Court Trust in or about March 2009.

#### Marshall Woods and Hampshire Court

46. In or about May 2008, defendant CONNOLLY prepared and sent to the Investors an Offering Prospectus for the Marshall Woods L.P. (the "Marshall Woods Prospectus"), which described an investment opportunity in a residential rental apartment property in Norristown, Pennsylvania. Like the other prospectuses, this one described the property, the number of shares available for purchase, the projected uses of capital contributions, and projected first year returns.

47. Between in or about May 2008 and in or about January 2009, defendant CONNOLLY received capital contributions of approximately \$7.9 million from the Investors who relied on the Marshall Woods Prospectus. These included:

- a. a \$150,000 check from two investors, M.L.D. and M.R.D., that was mailed on or about May 27, 2008;
- b. a wire transfer in the amount of \$450,000 from an investor, P.B., that was made on or about July 15, 2008; and
- c. a wire transfer in the amount of \$50,000 from an investor trust in the name of "C.L." Trust that was made on or about August 18, 2008.

48. In or about November 2008, defendant CONNOLLY prepared and sent to the Investors an Offering Prospectus for the Hampshire Court Trust (the "Hampshire Court Prospectus"), which described an investment opportunity in a residential rental apartment property in Plainfield, New Jersey. Like the other prospectuses, this one described the property, the number of shares available for purchase, the projected uses of capital contributions, and projected first year returns.

49. Between in or about November 2008 and in or about March 2009, defendant CONNOLLY received capital contributions of approximately \$2 million from the Investors who relied on the Hampshire Court Prospectus. These included:

- a. a check for \$30,000 from two investors, J.M. and C.M., that was mailed on or about November 16, 2008; and
- b. a wire transfer in the amount of \$60,000 from an investor trust in the name of "S." Family Living Trust that was made on or about December 17, 2008.

50. Defendant CONNOLLY never purchased either the Marshall Woods property or the Hampshire Court property. Instead, he fraudulently used the Investors' capital contributions to pay operating expenses for unrelated Connolly Entities and to pay distributions to earlier Investors and to himself.

51. By in or about July 2009, several Investors had expressed concern about the status of the Marshall Woods Trust and/or the Hampshire Court Trust and had requested that defendant CONNOLLY return their capital contributions.

52. Instead of returning capital contributions, defendant CONNOLLY sent the Investors a letter dated August 4, 2009, informing them that he had invested the money from the Marshall Woods Trust Investors and the Hampshire Court Trust Investors in a property called Hillside Valley in Allentown, Pennsylvania. This letter made numerous misrepresentations about the Hillside Valley project including:

- a. that CONNOLLY had taken the Investors' money out of escrow and used it to buy the property when, in fact, the money had been commingled with other operating funds and used for operating expenses and investor distributions;
- b. that the project "fits the parameters of our investors appropriately" when in fact it was a new construction project instead of the existing residential rental properties in the other Connolly Entities;
- c. that the project was nearing completion when it was not; and
- d. that CONNOLLY's relationship to the project was as a "small minority interest" when, in fact, CONNOLLY had owned approximately a 50% interest for several years and approximately one week before the letter had bought an additional 40% interest in the property from his partner.

53. In or about July 2009, defendant CONNOLLY prepared an offering prospectus for the Hillside Valley L.P. (the "Hillside Prospectus") that stated, among other things, "All capital, totaling \$9,135,000, is the property of Hillside Investment Trust and is 100% invested directly into HVA and without the expense of closing costs." This statement is false because the capital

contributions to Marshall Woods and Hampshire Court had been used for other purposes before CONNOLLY sent the Hillside Prospectus to Investors.

**Lulling Payments, Lulling Statements, and other  
Fraudulent Misrepresentations**

54. It was further part of the scheme that defendant CONNOLLY paid distributions to the Investors in unprofitable Connolly Entities to induce them and others to invest additional capital contributions and to conceal his scheme and his misuse of investor funds.

55. In early 2008, V.S. advised defendant CONNOLLY that the cash flow from the investment properties that the Connolly Entities owned could not support continued distributions to Investors at the rate that CONNOLLY was paying. Instead of reducing distributions, CONNOLLY continued to pay Investors and to solicit additional capital contributions for new projects while delaying or failing to make payments for operating expenses.

56. For example, defendant CONNOLLY began making payments to Investors in the Marshall Woods Trust in January 2009, even though he had not yet purchased the Marshall Woods property. In response to an investor's inquiry as to status of the Marshall Woods property, in or about March 2009, CONNOLLY advised: "The Marshall Woods project has not closed yet, but will shortly. . . . We are not collecting rents at Marshall Woods and are not paying our investors their monthly dividends based on collected rents. We are distributing these dividends from a slush fund set up for this property. We feel that we can afford to and we did not want our investors to wait any longer since many of them had invested some time ago. While this is not our usual method, we have done it in the past." At the time that CONNOLLY made this statement, he had failed to make mortgage payments on at least twenty-two properties.

57. It was further part of the scheme that defendant CONNOLLY made fraudulent misrepresentations to Investors to conceal the scheme and to induce them to invest additional capital or to refrain from attempting to sell their shares. These misrepresentations included:

- a. in or about November 2008, CONNOLLY blamed the bank for returning distribution checks to the Investors and stated that the operation of the Connolly Entities remained strong when in fact their poor financial performance had caused the bank to return the checks for insufficient funds.
- b. in or about April and May 2009, CONNOLLY again blamed the bank and technical problems for delays in sending distributions to Investors when in fact the Connolly Entities were experiencing significant financial distress, had missed mortgage payments on approximately thirty properties, and frequently had negative bank account balances.
- c. on or about June 26, 2009, CONNOLLY sent a letter to Investors stating, among other things: "Be assured that all debt obligations are up to date and there are no liens or foreclosures on any of our properties or buildings." At the time that he made this statement, debt obligations were past due on approximately thirty properties owned by Connolly Entities.
- d. CONNOLLY made repeated assurances to Investors that the Connolly Entities were performing well financially and that their investment returns were secure, when, in fact, he knew that the Connolly Entities' financial performance was poor and that they were experiencing significant losses.

58. It was further part of the scheme that defendant CONNOLLY prepared false and fraudulent documents that misrepresented the financial condition of the Connolly Entities or the intentions of Investors including:

- a. on or about July 31, 2006, CONNOLLY prepared a schedule that purported to show reserve account balances for each of the Connolly Entities when in fact none of the Connolly Entities maintained a reserve account. CONNOLLY provided this schedule to some Investors, including J.P. and J.C.;
- b. in or about October 2007, CONNOLLY prepared fraudulent Power of Attorney signature pages, purportedly signed by Investors and permitting him to use refinancing proceeds from one of the Connolly Entities to purchase another residential rental property. In fact, the Investors were unaware of the refinancing and the new purchase and did not knowingly sign the Powers of Attorney.
- c. in or about January 2009, CONNOLLY prepared a schedule that purported to show occupancy rates at the apartment buildings owned by the Connolly Entities but, in fact, materially overstated those occupancy rates. CONNOLLY provided this schedule to at least one of the banks that held mortgages on properties owned by the CONNOLLY ENTITIES.

All in violation of Title 15, United States Code, Sections 78j(b) and 78ff(a), and Title 17, Code of Federal Regulations, Section 240.10b-5.

**COUNTS TWO THROUGH SIX**  
**(Mail Fraud)**

1. Paragraphs 1 through 9 and 11 through 58 of Count One of this Indictment are realleged as if set forth in full herein.

2. From at least as early as in or about 2006 through in or about October 2009, in the District of New Jersey and elsewhere, defendant

DAVID CONNOLLY

did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud and to obtain money and property from the Investors by means of materially false and fraudulent pretenses, representations, and promises.

3. On or about the dates set forth below, for the purpose of executing the scheme and artifice described above, and attempting to do so, in the District of New Jersey and elsewhere, defendant DAVID CONNOLLY knowingly and intentionally did cause the deposit of the matters and things described below to be sent and delivered by the United States Postal Service or by a private and commercial interstate carrier, and did take and receive therefrom, and did cause to be delivered by such carrier according to the direction thereon, each constituting a separate count of this Indictment:

| <b><u>Count</u></b> | <b><u>Approximate Date</u></b> | <b><u>Matter Delivered</u></b>   |
|---------------------|--------------------------------|--|
| 2                   | 05/21/2007                     | Letter to the Investors in the Watchung Gardens Trust informing them of closing and enclosing a check for interest from non-existent money market account. |
| 3                   | 10/29/2007                     | Check for \$150,000 from investor partnership controlled by Investor G.D. for investment in the Netherwood Village Trust                                   |
| 4                   | 04/14/2008                     | Check for \$200,000 from investor T.S. for investment in the Grand Court Villas Trust  |

**COUNTS SEVEN THROUGH NINE**  
**(Wire Fraud)**

1. Paragraphs 1 through 9 and 11 through 58 of Count One of this Indictment are realleged as if set forth in full herein.

2. From at least as early as in or about 2006 through in or about October 2009, in the District of New Jersey and elsewhere, defendant

DAVID CONNOLLY

did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud and to obtain money and property from the Investors by means of materially false and fraudulent pretenses, representations, and promises.

3. On or about the dates set forth below, for the purpose of executing the scheme and artifice described above, and attempting to do so, in the District of New Jersey and elsewhere, defendant DAVID CONNOLLY did knowingly and intentionally transmit and cause to be transmitted by means of wire communications in interstate and foreign commerce the following writings, signs, signals, pictures and sounds, each constituting a separate count of this Indictment:

| <b><u>Count</u></b> | <b><u>Approximate Date</u></b> | <b><u>Wire Communication</u></b>   |
|---------------------|--------------------------------|--|
| 7                   | 07/15/2008                     | Wire transfer in the amount of \$450,000 from the bank account of investor P.B. to a bank account in New Jersey controlled by defendant DAVID CONNOLLY for investment in the Marshall Woods Trust      |
| 8                   | 08/18/2008                     | Wire transfer in the amount of \$50,000 from the bank account of investor C.L. Trust to a bank account in New Jersey controlled by defendant DAVID CONNOLLY for investment in the Marshall Woods Trust |

|   |            |   |
|---|------------|---|
| 9 | 12/17/2008 | Wire transfer in the amount of \$60,000 from the bank account of investor S. Family Living Trust to a bank account in New Jersey controlled by defendant DAVID CONNOLLY for investment in the Hampshire Court Trust |
|---|------------|---|

In violation of Title 18, United States Code, Section 1343 and Section 2.

**COUNTS TEN THROUGH SIXTEEN**  
**(Transacting in Criminal Proceeds)**

1. Paragraphs 1 through 9 and 11 through 58 of Count One of this Indictment are realleged as if set forth in full herein.

2. On or about the dates set forth below, in the District of New Jersey and elsewhere, defendant

DAVID CONNOLLY

knowingly engaged and attempted to engage in monetary transactions affecting interstate commerce in criminally derived property of a value greater than \$10,000, such property having been derived from specified unlawful activity, that is mail fraud and wire fraud, in violation of Title 18, United States Code Sections 1341, 1343, and 2, as follows:

| <b><u>Count</u></b> | <b><u>Approximate Date</u></b> | <b><u>Monetary Transaction</u></b>   |
|---------------------|--------------------------------|--|
| 10                  | 11/29/2007                     | Transfer in the amount of \$900,000 from the Connolly Properties, Inc., Master Bank Account to a bank account ending *6633 in the name of Connolly Properties, Inc.    |
| 11                  | 04/16/2008                     | Transfer in the amount of \$100,000 from a bank account ending *6633 in the name of Connolly Properties, Inc. to Connolly Properties, Inc., Master Bank Account        |
| 12                  | 05/28/2008                     | Transfer in the amount of \$473,144.24 from the Connolly Properties, Inc., Master Bank Account to a bank account ending *9404 in the name of Connolly Properties, Inc. |
| 13                  | 7/23/2008                      | Wire transfer in the amount of \$1,150,000 from a bank account ending *6633 in the name of Connolly Properties, Inc. to a bank account in the name of "F.R.K."         |
| 14                  | 08/19/2008                     | Wire transfer in the amount of \$112,876.48 from a bank account ending *6633 in the name of Connolly Properties, Inc. to a bank account in the name of Administaff     |

| <u>Count</u> | <u>Approximate Date</u> | <u>Monetary Transaction</u>  |
|--------------|-------------------------|--|
| 15           | 11/18/2008              | Wire transfer in the amount of \$22,146 from a bank account ending *6633 to a bank account in the name of investor A.H.  |
| 16           | 12/22/2008              | Wire transfer in the amount of \$115,020.00 from a bank account ending *6633 in the name of Connolly Properties, Inc. to a bank account in the name of Administaff |

In violation of Title 18, United States Code, Section 1957 and Section 2.

### FIRST FORFEITURE ALLEGATION

1. The allegations contained in this Indictment are hereby realleged and incorporated by reference for the purpose of noticing forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(c) and Title 28, United States Code, Section 2461(c).

2. The United States hereby gives notice to the defendant charged in Counts 1 through 9 that, upon his conviction of any such offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(c) and Title 28, United States Code, Section 2461(c), which requires any person convicted of such offenses to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offenses.

3. If any of the above-described forfeitable 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 party;
- 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 divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of such defendant up to the value of the forfeitable property described in paragraph 2.

**SECOND FORFEITURE ALLEGATION**

1. The allegations contained in this Indictment are hereby realleged and incorporated by reference for the purpose of noticing forfeiture pursuant to Title 18, United States Code, Section 982.

2. The United States hereby gives notice to the defendant charged in Counts 10 through 16 that, upon his conviction of any such offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 982, of all property involved in each offense of conviction in violation of Title 18, United States Code, Section 1957, and all property traceable to such property.

3. If any of the above-described forfeitable 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 party;
- 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 divided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 982, to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described in paragraph 2.

A TRUE BILL



\_\_\_\_\_  
PAUL J. FISHMAN  
UNITED STATES ATTORNEY

\_\_\_\_\_  
FOREPERSON

CASE NUMBER: \_\_\_\_\_

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**United States District Court  
District of New Jersey**

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UNITED STATES OF AMERICA

v.

DAVID CONNOLLY

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**INDICTMENT FOR**

15 U.S.C. §§ 78j(b) and 78ff; 17 C.F.R. § 240.10b-5  
18 U.S.C. §§ 981 (a)(1)(C), 982(a)(1), 1341, 1343, and 1957  
28 U.S.C. § 2461(c)

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A True Bill,

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Foreperson

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PAUL J. FISHMAN  
UNITED STATES ATTORNEY  
NEWARK, NEW JERSEY

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CHARLTON A. RUGG  
ASSISTANT U.S. ATTORNEY  
973.645.2700

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