RSS/2011RO1410

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:
	: Criminal No. 12-
v.	:
	: 18 U.S.C. §§ 1344 and 2
	:
MICHAEL R. SENICK	:
	:
	: I N F O R M A T I O N

The defendant having waived in open court prosecution by indictment and any objection based upon the statute of limitations, the United States Attorney for the District of New Jersey charges:

The Defendant And His Accomplices

1. At all times relevant to this Information:

(a) Defendant MICHAEL R. SENICK was a resident of, and licensed attorney in, the State of New Jersey. SENICK operated an office located in Hackensack, New Jersey at which real estate transactions took place.

(b) T.R., who is named as an accomplice but not as a defendant herein, resided in East Orange, New Jersey.

(c) N.T., who is named as an accomplice but not as a defendant herein, resided in New Jersey, and was a partner in various limited liability companies formed for the purpose of buying and selling real estate.

(d) J.M., who is named as an accomplice but not as a defendant herein, resided in New Jersey and was employed by National City Mortgage Co. ("National City Mortgage") as a Mortgage Loan Originator.

Other Entities And Individuals

2. At all times relevant to this Information:

(a) National City Mortgage was a subsidiary of National City Bank of Indiana ("National City Bank") which was insured by the Federal Deposit Insurance Corporation (FDIC), was engaged in the business of making mortgage loans, and had offices in Miamisburg, Ohio.

(b) The Federal Housing Administration ("FHA") was created by Congress in 1934 and was overseen by the United States Department of Housing and Urban Development ("HUD"). FHA's mortgage insurance programs helped low and moderate income families become homeowners by lowering some of the costs associated with mortgage loans. FHA mortgage insurance encouraged lenders to make loans to otherwise creditworthy borrowers that might not meet conventional underwriting requirements by protecting lenders against default.

(c) B.R. was a resident of New Jersey.

(d) W.R. was a resident of New Jersey.

(e) B.T. was a resident of New Jersey.

Mortgage Lending Generally

3. Mortgage loans were loans funded by banks, other financial institutions, and private companies ("Lenders") to enable purchasers to finance the purchase of real estate. To apply for a mortgage loan, purchasers/borrowers typically filled out several forms, including a form called the Uniform Residential Loan Application. Lenders evaluated and relied upon the financial representations contained in the Uniform Residential Loan Application and other documents pertaining to the purchaser/borrower's income, assets, credit eligibility, and down payment requirements in deciding whether to loan a particular purchaser/borrower money for a mortgage. Lenders also evaluated and relied upon the representations in connection with the loan application pertaining to the purchaser/borrower's employment, and how the purchaser/borrower intended to use the property as either a primary residence, secondary residence, or investment property. In addition, Lenders also assessed the value of the real estate that would secure the mortgage loan by reviewing and relying on property appraisals and other documents.

4. After locating an available property of interest, a purchaser/borrower typically applied for a mortgage loan through a mortgage Lender or a mortgage originator. Generally, mortgage brokers were third parties who acted as an intermediary between a purchaser/borrower and a pool of potential Lenders, one

of which was selected based on the purchaser/borrower's financing needs and ability to repay the loan. Mortgage brokers were generally responsible for collecting documents from the purchaser/borrower in support of the mortgage loan, including the loan application. Additionally, the mortgage broker interviewed the proposed purchaser/borrower and obtained all pertinent data including the borrower's name, date of birth, social security number, home address, monthly base employment income, employer, assets, and liabilities. Frequently, the mortgage broker made the initial loan to the purchaser/borrower and then sold it to a Lender after a short period of time, usually between one to thirty days after making the loan. Other times, the mortgage broker simply obtained and verified all of the relevant information for the Lender, including information on the Uniform Residential Loan Application, and the Lender made the mortgage directly to the borrower. A mortgage originator also assisted a purchaser/borrower to complete a mortgage transaction. Unlike a mortgage broker, a mortgage originator distributed its own money to fund the mortgage.

5. Real estate appraisers were responsible for determining the fair market value of real estate properties. Fair market value was defined as the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, in which the buyer and

seller act prudently and knowledgeably, assuming the price is not affected by undue stimulus.

6. Frequently, the mortgage loan was closed at a title company or an attorney's office. If a loan closed at a title company, the title company's escrow officers were responsible for depositing monetary instruments and funds provided by the purchaser/borrower (including down payments) and mortgage funds from the Lender (which were typically obtained by wire transfer) or on its behalf to the title company's escrow account, and, when authorized by the parties to the transaction and the Lender, for disbursing the funds from the escrow account to various individuals and entities as detailed on the U.S. Department of Housing and Urban Development Settlement Statement (hereinafter "HUD-1 Settlement Statement). The HUD-1 Settlement Statement detailed the actual disbursement of monies, including mortgage fund loans, to the proper entities and/or individuals according to the original loan application.

7. After the loan application was approved, the mortgage Lender caused funds to be transmitted (typically by wire transfer) to a settlement agent, such as a title company or a closing attorney. The title companies and/or closing attorneys then distributed the funds according to the HUD-1 Settlement Statements, generally with a large portion of the funds being distributed to the seller of the property. After funding the

mortgages, the mortgage Lenders either serviced the loans during the mortgage period or sold them in the secondary market.

<u>HUD's FHA Insurance Program to Promote Home Ownership</u>

8. HUD was a department of the United States government that administered a mortgage insurance program to encourage private Lenders to provide mortgage loans to buyers who did not have enough money or adequate credit to qualify for a conventional mortgage.

9. FHA was the agency within HUD that administered HUD's mortgage insurance program. For this reason, the loans were often referred to as "FHA-insured loans."

10. Under HUD's insurance program, FHA insured home mortgages that private Lenders provided to borrowers, thereby protecting the Lenders from any loss in the event that the borrower defaulted on the loan. If a homeowner defaulted on payments on a FHA-insured loan, the Lender foreclosed on the property, HUD paid the Lender the balance due on the loan and the Lender tendered all right, title, and interest in the property to HUD. The FHA then took the steps necessary to sell the property, and absorbed any loss between the amount that HUD paid the Lender on the loan, and HUD's net proceeds on the resale.

11. By this means, HUD shifted the financial risk of issuing its insured mortgages from the Lender to the taxpayers.

The Scheme And Artifice To Defraud

12. From in or about January 2004 through in or about January 2006, in the District of New Jersey, and elsewhere, defendant

MICHAEL R. SENICK

did knowingly and willfully execute a scheme and artifice to defraud National City Bank and to obtain moneys, funds, and assets owned by and under the custody and control of National City Bank by means of materially false and fraudulent pretenses, representations, and promises, as more fully set forth below.

The Object Of The Scheme

13. The object of the scheme, which caused approximately $400,000 to be released from National City Bank, was to profit from the sale of real estate properties (the "Properties") at inflated prices by obtaining mortgage loans for unqualified borrowers using fraudulent loan applications, HUD-1 Settlement Statements, and other documents.

The Means And Methods Of The Scheme

14. It was part of the scheme that T.R. located the Properties to purchase.

15. It was further part of the scheme that T.R. recruited "straw purchasers," (the "Straw Purchasers") to

purchase the Properties. The Straw Purchasers included, among others, W.R., B.R., and B.T. whom T.R. knew had good credit scores, but lacked the financial resources to qualify for mortgage loans.

16. It was further part of the scheme that T.R. obtained mortgage loans for the Straw Purchasers by providing false information concerning the employment, income, and assets of the Straw Purchasers and the Straw Purchasers' intended use of the Properties to J.M. for preparation of fraudulent loan applications.

17. It was further part of the scheme that J.M. and N.T. sold the Properties to the Straw Purchasers.

18. It was further part of the scheme that defendant MICHAEL R. SENICK caused fraudulent documents to be prepared concerning the Properties, including HUD-1 Settlement Statements that were supposed to accurately reflect the amounts of money due from the Straw Purchasers and to be paid to the sellers to close the sales of the Properties.

19. It was further part of the scheme that prior to and during the closings, defendant MICHAEL R. SENICK caused the HUD-1 Settlement Statements, settlement disbursement sheets, and other documents to be manipulated, to show that the Straw Purchasers brought their own funds to the closings when, in fact, the Straw Purchasers did not.

20. It was further part of the scheme that defendant MICHAEL R. SENICK submitted the false HUD-1 Settlement Statements to the Lenders, some of which were insured by the FHA.

21. It was further part of the scheme that defendant MICHAEL R. SENICK provided sales proceeds from the closings on the Properties to T.R. even though T.R. was neither a buyer nor seller of the Properties.

22. It was further part of the scheme that on or about March 15, 2005, defendant MICHAEL R. SENICK caused National City Bank to release $176,148.27 in mortgage funds in connection with the sale of 254 S. 11th Street, Newark, New Jersey 07107 to a Straw Purchaser.

23. It was further part of the scheme that on or about September 26, 2005, defendant MICHAEL R. SENICK caused National City Bank to release $216,729.16 in mortgage funds in connection with the sale of 16 Grant Place, Irvington, New Jersey 07111 to a Straw Purchaser.

In violation of Title 18, United States Code, Section 1344, and Title 18, United States Code, Section 2.

PAUL J. FISHMAN
UNITED STATES ATTORNEY

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INFORMATION

Title 18, United States Code, Section 1344
Title 18, United States Code, Section 2

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