IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. 10-
v.	:	DATE FILED: April 22, 2010
KIRK H. KIRBY SHALONDA Y. JOHNSON ROYAL K. WILLIAMS	: :	VIOLATIONS: 18 U.S.C. § 1343 (wire fraud - 3 counts) Notice of forfeiture
	:	

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

Introduction

At all times material to the indictment:

1. Defendant KIRK H. KIRBY owned and operated Invictus Financial Group ("IFG") located on Darby Road in Havertown, PA. Defendant KIRBY established IFG to invest in and manage real estate, and to obtain mortgages. Defendant KIRBY solicited individuals to invest in real estate by falsely promising them no risk of losses and guaranteed returns. He obtained mortgages through several brokers including among others defendant SHALONDA Y. JOHNSON for the investors to purchase the real estate by submitting false documents to lenders.

2. Defendant SHALONDA Y. JOHNSON was a loan officer at various mortgage brokerage companies. Defendant JOHNSON obtained mortgage loans for investors recruited by defendant KIRK H. KIRBY using false documents which overstated the investors' income and understated and concealed their debts.

3. Defendant ROYAL K. WILLIAMS represented himself as an accountant

and the principal of R. Williams and Co. Public Accountants. Defendant WILLIAMS prepared false documents that defendant KIRK H. KIRBY used to obtain fraudulent mortgage loans. These false documents included false verification letters, false pay stubs, and false Internal Revenue Service ("IRS") Form W-2s.

The Scheme

4. From in or about June 2006 through in or about December 2007, defendants

KIRK H. KIRBY,
SHALONDA Y. JOHNSON, and
ROYAL K. WILLIAMS

knowingly devised and intended to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises.

It was part of the scheme that:

5. At defendant KIRK H. KIRBY's direction, IFG employees identified real estate for sale and recruited individuals to purchase the real estate as investments. When he found a suitable property, defendant KIRBY negotiated one price with the seller of the property and a higher price for the investor to pay to purchase the property. Defendant KIRBY received the difference in the two prices as his profit, calling it the "spread."

6. Defendant KIRK H. KIRBY obtained financing for the investor through, among others, defendant SHALONDA Y. JOHNSON who brokered mortgage loans. In loan applications for this financing, defendant JOHNSON provided false documents to mortgage lenders that overstated income and understated debt of the investors. Defendant JOHNSON also

obtained numerous mortgages for investors at or around the same time and did not disclose these multiple mortgages to the lenders.

7. Defendant KIRK. H. KIRBY promised investors that no down payment was required to purchase properties and that they would receive cash back after settlement. Defendants KIRBY and SHALONDA Y. JOHNSON did not disclose to lenders that investors were not making down payments or were receiving cash back after settlement. Defendant KIRBY further promised investors that he would manage all aspects of the investment properties, including finding tenants, collecting rents, repairing and maintaining properties, and making mortgage payments. Defendant KIRBY further promised that he would cover mortgage payments if the property was not rented or if rent payments did not cover the mortgage payments. Defendant KIRBY also falsely promised investors that he had obtained an insurance policy to cover investor losses even though he did not do so.

8. Defendant KIRK H. KIRBY told investors that, after one to three years of property ownership, they could renew their arrangement with IFG, manage the properties themselves, or sell the property. Defendant KIRBY falsely promised that investors would receive 90 percent of the profits from the sale and defendant KIRBY would receive 10 percent. Defendant KIRBY agreed to cover any losses on sales of investment properties.

9. As part of the scheme, defendant KIRK H. KIRBY arranged the purchase of dozens of investment properties and defendant KIRBY and SHALONDA Y. JOHNSON obtained more than $7 million in fraudulent mortgage loans.

10. In or about October and November 2006, defendant KIRK H. KIRBY identified several properties in the Philadelphia, Pennsylvania, area, to purchase as investments

and recruited K.G., a person known to the grand jury, to purchase these properties. Defendants KIRBY and SHALONDA Y. JOHNSON obtained loans for four of these properties in K.G.'s name and prepared and caused to be prepared false documents to submit to the lenders which falsely overstated K.G.'s income and concealed K.G.'s debts. Also, defendants KIRBY and JOHNSON concealed from the lenders the fact that they had obtained multiple mortgages in K.G.'s name and falsely claimed that at least one of the properties would be K.G.'s primary residence even though it was going to be an investment property. The sales of these properties closed in November and December of 2006 and the defendants caused electronic mail messages in interstate commerce to be sent between employees of the lender and correspondence by fax to be sent in interstate commerce from K.G. to defendant JOHNSON.

11. From in or about June through December 2006, defendant KIRK H. KIRBY identified three properties in the Philadelphia, Pennsylvania, area and in Las Vegas, Nevada, to purchase as investments and recruited A.L., a person known to the grand jury, to purchase these properties. Defendants KIRBY and SHALONDA Y. JOHNSON obtained loans for one of these properties in A.L.'s name and prepared and caused to be prepared false documents to submit to the lenders which falsely overstated A.L.'s income.

12. In approximately August of 2006, at the direction of defendant KIRK H. KIRBY, defendant ROYAL K. WILLIAMS created false IRS Form W-2s and pay stubs in the name of A.L. and faxed them from New Jersey to defendant KIRBY's office in Pennsylvania for submission to a mortgage lender in connection with the purchase of one of the properties in A.L.'s name.

13. When defendant KIRK H. KIRBY was unable to obtain tenants for the

investment properties and for various other reasons could not make the required mortgage payments, the investors defaulted on many of the mortgages the defendants had obtained as part of the scheme. Contrary to defendant KIRBY's false claims, there was no insurance policy to cover the investor's losses. As a result of the defendants' scheme, the lenders lost millions of dollars.

14. On or about the dates set forth below, in the Eastern District of Pennsylvania, and elsewhere, defendants

KIRK H. KIRBY,
SHALONDA Y. JOHNSON, and
ROYAL K. WILLIAMS

for the purpose of executing the scheme described above, and attempting to do so, and aiding and abetting its execution, knowingly caused to be transmitted by means of wire communication in interstate commerce the signals and sounds described below for each count, each transmission constituting a separate count:

Count	Date	Description
1	8/12/06	Fax from defendant ROYAL K. WILLIAMS to defendant KIRK H. KIRBY containing a fraudulent IRS Form W-2 and pay stubs in the name of A.L. for purchase of property on Acoma Court in Las Vegas, Nevada.
2	11/8/06	Fax from K.G. to Informed Mortgage Solutions containing a signed loan application documents for the purchase of property on Boyer Boulevard in Norristown, Pennsylvania.
3	11/8/06	Email message from Freemont Investment and Loan in Pennsylvania to Freemont Investment and Loan in New York regarding loan rate for purchase of the property in K.G.'s name on Boyer Boulevard in Norristown, Pennsylvania.

All in violation of Title 18, United States Code, Section 1343.

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 18, United States Code, Section 1343 set forth in this indictment, defendants

KIRK H. KIRBY
SHALONDA Y. JOHNSON, and
ROYAL K. WILLIAMS,

shall forfeit to the United States of America any property constituting, or derived from, proceeds obtained directly or indirectly from the commission of such offenses, including, but not limited to the sum of $7 million.

2. If any of the property described above, 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 to, sold to, or deposited with a third party;

c. has been placed beyond the jurisdiction of this 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 intention of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 981(a)(1)(C), 28 U.S.C. § 2461, and United States Code, Section 853.

A TRUE BILL:

GRAND JURY FOREPERSON

MICHAEL L. LEVY
United States Attorney

No. _____

UNITED STATES DISTRICT COURT

Eastern District of Pennsylvania

Criminal Division

THE UNITED STATES OF AMERICA

vs.

KIRK H. KIRBY
SHALONDA Y. JOHNSON
ROYAL WILLIAMS

INDICTMENT

Counts
18 U.S.C. § 1343 (wire fraud - 3 counts)
Notice of forfeiture

A true bill.

_____
Foreman

Filed in open court this _____ day,

of _____ A.D. 20 _____

_____
Clerk

Bail, $ _____

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