

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

UNITED STATES OF AMERICA	:	CRIMINAL NO. _____
v.	:	DATE FILED: _____
KELLY DEFEO	:	VIOLATIONS:
	:	18 U.S.C. § 371 (conspiracy - 1 count)
	:	18 U.S.C. § 1014 (false statement in loan application - 2 counts)
	:	Notice of forfeiture

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

BACKGROUND

1. Defendant KELLY DEFEO was a general contractor and real estate developer in and around Philadelphia County, Montgomery County, and elsewhere, who purchased land to develop and sell for a profit.
2. William Easton, charged elsewhere, was a Certified Public Accountant, who prepared tax returns and gave tax advice to clients.
3. Defendant KELLY DEFEO hired William Easton to prepare DEFEO's tax returns and file these tax returns with the Internal Revenue Service ("IRS").
4. Beginning in approximately September 2006, defendant KELLY DEFEO sought loans from the First National Bank of Chester County (the "Bank") to finance real estate projects defendant DEFEO was undertaking at:
 - a. 1905 Skippack Pike, Blue Bell, Pennsylvania; and

b. 351 North Charlotte Street, Pottstown, Pennsylvania (collectively “real estate projects”).

5. The First National Bank of Chester County was a financial institution, the deposits of which were insured by the Federal Deposit Insurance Corporation, certificate no. 7802.

6. As part of the loan approval process for the real estate projects, the Bank required defendant KELLY DEFEO to submit filed tax returns and other financial information, so that the Bank could assess defendant DEFEO’s financial condition and ability to pay back the loans.

THE CONSPIRACY

7. From in or about September 2006 to in or about November 2008, in the Eastern District of Pennsylvania, and elsewhere, defendant

KELLY DEFEO

conspired and agreed with William Easton, to knowingly execute, and attempt to execute, a scheme to make false statements to the Bank for the purpose of influencing the actions of the Bank in connection with loan applications submitted by defendant DEFEO, in violation of Title 18, United States Code, Section 1014.

MANNER AND MEANS

It was a part of the conspiracy that:

8. Defendant KELLY DEFEO paid William Easton to produce false tax returns for defendant DEFEO, and send the Bank these false tax returns, which the Bank then used to approve loans for DEFEO’s real estate projects. These tax returns purported to be true

and accurate copies of the tax returns that DEFEO had filed with the IRS, but were false and significantly inflated the income that had been reported to the IRS. These fictitious tax returns included much higher adjusted gross income figures than were reported on the tax returns DEFEO filed with the IRS.

OVERT ACTS

In furtherance of the conspiracy, defendant KELLY DEFEO and others known and unknown to the grand jury committed the following overt acts in the Eastern District of Pennsylvania and elsewhere:

1. In or about September 2006, defendant KELLY DEFEO applied for a one-year, \$2,000,000 construction loan from the Bank for 1905 Skippack Pike, Blue Bell, Pennsylvania.

2. In or about September 2006, William Easton produced a false 2005 tax return for defendant KELLY DEFEO which Easton then sent, at defendant DEFEO's direction, to the Bank in connection with the loan approval process for 1905 Skippack Pike, Blue Bell, Pennsylvania. The 2005 tax return Easton submitted to the Bank listed DEFEO's income as \$224,766, whereas DEFEO's 2005 tax return filed with the IRS listed his income as \$119,551.

3. In or about November 2006, defendant KELLY DEFEO applied for a five-year, \$500,000 mortgage from the Bank for 351 North Charlotte Street, Pottstown, Pennsylvania.

4. In or about November 2006, William Easton produced a false 2005 tax return for defendant KELLY DEFEO which Easton then sent, at defendant DEFEO's direction, to the Bank in connection with the loan approval process for 351 North Charlotte Street,

Pottstown, Pennsylvania. The 2005 tax return Easton submitted to the bank listed DEFEO's income as \$224,766, whereas DEFEO's 2005 tax return filed with the IRS listed his income as \$119,551.

5. In or about November 2007, defendant KELLY DEFEO requested a six-month extension on the maturity date for the loan for 1905 Skippack Pike, Blue Bell, Pennsylvania.

6. In or about November 2007, William Easton produced a false 2006 tax return for defendant KELLY DEFEO which Easton then sent, at defendant DEFEO's direction, to the Bank in connection with the loan approval process for 1905 Skippack Pike, Blue Bell, Pennsylvania. The 2006 tax return Easton submitted to the Bank listed DEFEO's income as \$194,782, whereas DEFEO's 2006 tax return filed with the IRS showed a loss of income of \$209,742.

7. In or about May 2008, defendant KELLY DEFEO requested a six-month extension on the maturity date for the loan for 1905 Skippack Pike, Blue Bell, Pennsylvania.

8. In or about May 2008, William Easton produced a false 2007 tax return for defendant KELLY DEFEO which Easton then sent, at defendant DEFEO's direction, to the Bank in connection with the loan approval process for 1905 Skippack Pike, Blue Bell, Pennsylvania. The 2007 tax return Easton submitted to the Bank listed DEFEO's income as \$379,722. DEFEO never filed a 2007 tax return with the IRS.

9. In or about November 2008, defendant KELLY DEFEO requested a six-month extension on the maturity date for the loan for 1905 Skippack Pike, Blue Bell, Pennsylvania.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 6 and 8 and Overt Acts 1 and 2 and 5 through 9 of Count One of this indictment are incorporated here.

2. In or about September 2006 through in or about May 2008, in the Eastern District of Pennsylvania, defendant

KELLY DEFEO

knowingly made and caused to be made to First National Bank of Chester County (the "Bank") a false statement for the purpose of influencing the actions of the Bank upon a loan, that is a \$2,000,000 loan for construction of 1905 Skippack Pike, Blue Bell, Pennsylvania, in that defendant DEFEO caused to be submitted to the Bank a false loan application in which the defendant submitted to the Bank tax returns for the years 2005, 2006, and 2007, that he represented were true and accurate copies of the tax returns he filed with the IRS, when, as the defendant knew, that these tax returns were false and substantially overstated his income for those years.

In violation of Title 18, United States Code, Section 1014.

COUNT THREE

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 6 and 8 and Overt Acts 3 and 4 of Count One of this indictment are incorporated here.
2. In or about November 2006, in the Eastern District of Pennsylvania, defendant

KELLY DEFEO

knowingly made and caused to be made to First National Bank of Chester County (the "Bank") a false statement for the purpose of influencing the actions of the Bank upon a loan, that is a \$500,000 mortgage for 351 North Charlotte Street, Pottstown, Pennsylvania, in that defendant DEFEO caused to be submitted to the Bank a false loan application in which the defendant submitted to the Bank a tax return for the 2005, that listed defendant's income as \$224,766, that he represented was a true and accurate copy of the return he filed with the IRS when, as the defendant knew, his 2005 tax return filed with the IRS accurately listed his income as \$119,551.

In violation of Title 18, United States Code, Section 1014.

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 18, United States Code, Sections 371 and 1014, set forth in Counts One, Two, and Three of this indictment, defendant

KELLY DEFEO

shall forfeit to the United States of America any property, real or personal, that constitutes or is derived from proceeds traceable to the commission of such offense, as charged in this indictment.

2. 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 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 28, United States Code, Section 2461(c), incorporating 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 982.

A TRUE BILL:

GRAND JURY FOREPERSON

ZANE DAVID MEMEGER
United States Attorney