

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
12-20023-CR-LENARD/O'SULLIVAN
CASE NO: _____
18 U.S.C. § 1349

UNITED STATES OF AMERICA

vs.

GERALD SAITTA,

Defendant.

INFORMATION

The United States Attorney alleges that:

GENERAL ALLEGATIONS

At all times relevant to this Information:

1. Dadeland Place ("Dadeland") was a condominium development which was located at 9001 SW 77th Avenue, Miami, Florida. H.H. was an owner and developer at Dadeland.
2. Pelican Cove was a condominium development which was located at 250 N. Banana River Drive, Merritt Island, Florida.
3. Great Country Mortgage Bankers ("GCMB") was a Florida corporation doing business as a mortgage lender, with its principal place of business located at 2850 Douglas Road, 4th Floor, Coral Gables, Florida. H.H. and his wife owned and controlled GCMB.
4. GCMB was a direct endorsement Federal Housing Administration ("FHA") lender, which meant that the Department of Housing and Urban Development ("HUD") allowed GCMB to use its own personnel to approve loans that HUD would then insure, protecting GCMB in the event of default. After a loan closed, the loan file was sent to HUD to ensure that all the appropriate

documents were submitted and then HUD endorsed the loan, at which time the loan was insured.

5. GCMB hired loan officers, loan processors, underwriters, and others to assist in the sale and financing of mortgage loans for condominium units in Miami-Dade County and elsewhere, including Dadeland and Pelican Cove.

6. A.C. was a co-conspirator who worked as a loan officer for GCMB, beginning in or around February 2006 through at least in or around July 2008. He operated out of the sales office at Dadeland, but processed loan applications for both Dadeland and Pelican Cove.

7. Defendant **GERALD SAITTA** was an individual who resided in Osceola County, Florida. **SAITTA** recruited unqualified buyers to purchase condominium units at Pelican Cove from A.C.

8. H.R. and J.M. were individuals who resided in Miami-Dade County, Florida.

9. Y.H. was an individual who resided in Hillsborough County, Florida.

10. Y.V.-1 and Y.V.-2 were individuals who resided in Osceola County, Florida, and were the minor sons of **GERALD SAITTA**.

11. The term “closing” was used in the real estate industry to refer to the event at which the legal transfer of real estate from seller to buyer formally took place and the point at which funds were transferred between the various parties, such as from the lending institution to the buyer, or to the seller on the buyer’s behalf. The fund transfer at closing was often accomplished by temporarily passing funds through an intermediary commonly referred to as a “settlement agent” or a “title company.”

12. Nehemiah Corporation of America (“NCA”) was a California non-profit corporation, with its principal place of business located at 424 North 7th Street, Suite 250, Sacramento, California.

13. Home Downpayment Gift Foundation (“HDGF”) was a Michigan non-profit corporation, with its principal place of business located at 37211 Harper Avenue, Suite 6B, Clinton Township, Michigan.

14. NCA and HDGF provided assistance to borrowers who qualified for FHA residential loans by funding the borrowers’ down payment obligations at closing in exchange for a charitable donation in the amount of the down payment plus a funding fee.

15. The FHA was a division of the HUD that provided mortgage insurance to approved commercial lending institutions to enable low and moderate income home buyers to obtain loans to purchase homes. FHA insured loans were only for potential home buyers who intended to be a primary resident in the home to be purchased. By offering FHA insured loans, HUD assisted potential buyers in obtaining mortgages at more favorable terms than those otherwise commercially available.

16. To be eligible to receive an FHA insured loan, home buyers were required to establish that their incomes were sufficient to meet the mortgage payments. HUD required the lenders making the loans to verify the home buyers’ employment for the two most recent years. These verifications could be accomplished by having the home buyers’ employers complete and sign “Verification of Employment” (“VOE”) forms. The loan processor was responsible for verifying the authenticity of the VOE and ensuring that the VOE was not handled by or transmitted from or through interested third-parties, such as real estate agents, builders, or sellers. HUD also required the buyers to provide copies of their most recent pay stubs.

17. To be eligible to receive a FHA loan, home buyers were also required to make a minimum equity investment in their homes of at least 3% of the cost of the home. Home buyers

were permitted to use gifts from relatives, employers, unions, charitable organizations, like NCA and HDGF, or governmental agencies to meet this 3% equity investment. Home buyers were not, however, permitted to meet the equity requirement with gifts from persons or entities with an interest in the sale of the home, such as real estate agents, builders or sellers. Home buyers and sellers were both required to certify at closing of the real estate transaction that the home buyer had not received undisclosed payments for closing costs and/or down payments on the property to be purchased.

18. HUD granted Direct Endorsement Authority for FHA insured loans to certain lenders. Under the Direct Endorsement Authority program, the lender determined whether the home buyer was eligible for an FHA insured loan. If the lender determined that the buyer was eligible, the lender then submitted to HUD for final approval of FHA insurance eligibility, the buyer's application and all documentation supporting the lender's decision to approve the loan, including the VOE form, the home buyer's most recent pay stubs, and documents establishing the home buyer's equity investment of 3% of the cost of the property.

19. A HUD-1 settlement statement ("HUD-1 Statement") was a standard form required to be executed for the closing of real estate transactions. The HUD-1 itemized for the lenders all aspects of the closing, including an itemized list of payments to be made by the borrower, money due to the seller, and any fees paid to third-parties in connection with the closing.

CONSPIRACY TO COMMIT WIRE FRAUD
(18 U.S.C. § 1349)

20. From in or around December 2006, and continuing through in or around September 2008, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

GERALD SAITTA,

did willfully, that is, with the intent to further the object of the conspiracy, and knowingly combine, conspire, confederate, and agree with others known and unknown to the United States Attorney, to knowingly, and with intent to defraud, devise, and intend 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, knowing that they were false and fraudulent when made, and knowingly transmit and cause to be transmitted in interstate and foreign commerce, by means of wire communication, certain writings, signs, signals, pictures and sounds, for the purpose of executing the scheme and artifice, in violation of Title 18, United States Code, Section 1343.

PURPOSE OF THE CONSPIRACY

21. It was the purpose of the scheme and artifice for the defendant and his co-conspirators to unlawfully enrich themselves by: (a) converting apartment complexes into residential condominium complexes to be sold at a premium; (b) recruiting unqualified borrowers to purchase and finance the residential condominiums; (c) submitting false and fraudulent FHA mortgage loan applications and related documents to GCMB, a lending institution, and HUD, thereby causing unqualified loan applicants to receive FHA insured loans, for which the borrowers could not otherwise qualify for the purchase of the property; and, (d) retaining the fraudulently obtained loan proceeds for their personal use and benefit and to further the fraudulent scheme.

MANNER AND MEANS OF CONSPIRACY

The manner and means by which the defendant and his co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among others, the following:

22. H.H. and other developers purchased certain apartment buildings in Miami-Dade County and elsewhere and converted them into condominium buildings to be resold.

23. H.H. and other developers hired GCMB to sell the condominium units. GCMB provided sales support, including marketing materials, office support, and on-sight sales personnel to sell the units to prospective buyers. Additionally, the on-site sales personnel, including A.C., worked as loan officers, processing prospective buyers' loan applications on behalf of GCMB.

24. A.C. and other co-conspirators recruited individuals to purchase the condominium units, including those at Dadeland and Pelican Cove.

25. A.C. recruited **GERALD SAITTA** in or around March 2008 to purchase unit C-102 at Dadeland, and units F-10 and C-12 at Pelican Cove. With respect to Pelican Cove, **SAITTA** used the names of his two minor sons, Y.V.-1 and Y.V.-2, as the purported buyers of the units. **SAITTA** also provided A.C. with false and fraudulent names to be listed as the employers on his sons' VOEs.

26. **GERALD SAITTA** also recruited other individuals to purchase condominium units from A.C. Among the individuals recruited by **SAITTA** were co-conspirators H.R., J.M. and Y.H. Many, if not all, of the prospective buyers could not qualify for mortgage loans to purchase the condominium units because they had insufficient income and assets, high levels of debt, and outstanding collection amounts.

27. **GERALD SAITTA**, A.C. and their co-conspirators prepared and caused to be prepared false and fraudulent mortgage loan applications and other related documents on behalf of the unqualified buyers, and submitted and caused to be submitted those documents to GCMB and HUD in connection with the purchase of the condominium units. The mortgage loan applications prepared on behalf of the unqualified buyers contained false and fraudulent representations of employment, income, and other information necessary for the lender to assess the buyers' qualifications to borrow funds to purchase the units.

28. At or near the closings, A.C. and other co-conspirators provided many of the unqualified buyers with cash-back incentives purportedly to complete necessary renovations on their units. These payments were not disclosed during the mortgage loan application process or on the HUD-1 Statement, and were often added to the sales contract as "other" thereby fraudulently increasing the sales price.

29. At or around the time of the closings, A.C. and other co-conspirators also arranged for non-profit organizations, including NCA and HDGF, to pay the unqualified buyer's cash-to-close obligations. Those organizations wired the cash-to-close funds in interstate commerce to GCMB's bank account in Florida.

30. Based on the materially false and fraudulent representations in the buyers' loan applications, GCMB approved the FHA mortgage applications and funded the purchases of the condominium units.

31. After the closings, the unqualified buyers failed to make mortgage payments, causing the units to go into foreclosure. In fact, **GERALD SAITTA** never made a payment on his condominium. HUD was required to take title to the units and pay the outstanding loan balances to the lenders, resulting in a loss of over \$1,000,000 to the agency.

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


FORFEITURE
(18 U.S.C. § 981)

1. The allegations contained in this Information are realleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of American of certain property in which the defendant, **GERALD SAITTA**, has an interest.

2. Upon conviction of a violation of Title 18, United States Code, Section 1349, as alleged in this Information, the defendant shall forfeit all of his right, title and interest to the United States in any property, real or personal, which constitutes or is derived from proceeds traceable to such violation, pursuant to Title 18, United States Code, Section 981(a)(1)(C).

3. The property subject to forfeiture includes, but is not limited to, the sum of \$41,500.00 in United States currency, which sum constitutes gross proceeds the defendant derived from cash-back incentives and referral fees as a result of the offense alleged in this Information.

All pursuant to Title 18, United States Code, Section 981(a)(1)(C), as made applicable by Title 28, United States Code, Section 2461(c), and the procedures set forth in Title 21, United States Code, Section 853.


WIFREDO A. FERRER
UNITED STATES ATTORNEY


MARY ANN McCARTHY
TRIAL ATTORNEY

UNITED STATES OF AMERICA

CASE NO. _____

vs.

CERTIFICATE OF TRIAL ATTORNEY*

GERALD SAITTA,

Defendant.

Superseding Case Information:

Court Division: (Select One)

X Miami Key West
 FTL WPB FTP

New Defendant(s) _____
Number of New Defendants _____
Total number of counts _____

Yes No

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) No
List language and/or dialect _____

4. This case will take 0 days for the parties to try.

5. Please check appropriate category and type of offense listed below:

(Check only one)

(Check only one)

I	0 to 5 days	<u>X</u>	Petty	_____
II	6 to 10 days	_____	Minor	_____
III	11 to 20 days	_____	Misdem.	_____
IV	21 to 60 days	_____	Felony	<u>X</u>
V	61 days and over	_____		

6. Has this case been previously filed in this District Court? (Yes or No) No

If yes:

Judge: _____

Case No. _____

(Attach copy of dispositive order)

Has a complaint been filed in this matter?

(Yes or No) No

If yes:

Magistrate Case No. _____

Related Miscellaneous numbers: _____

Defendant(s) in federal custody as of _____

Defendant(s) in state custody as of _____

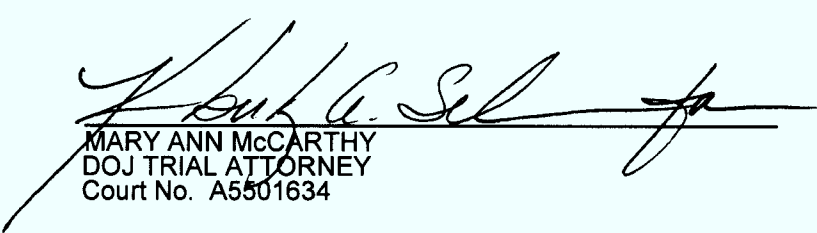
Rule 20 from the _____

District of _____

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? Yes X No

8. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? Yes X No


MARY ANN MCCARTHY
DOJ TRIAL ATTORNEY
Court No. A5501634

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: GERALD SAITTA

Case No: _____

Count #: 1

Conspiracy to Commit Wire Fraud

18 U.S.C. § 1349

* Max. Penalty: 20 years' imprisonment

Count #:

*Max. Penalty:

Count #:

*Max. Penalty:

Count #:

*Max. Penalty:

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**