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6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

8 -oOo-

9 UNITED STATES OF AMERICA, )

CASE NO.: 2:12-CR-113 JCM/

10 Plaintiff, )

DATE FILED:

11 v. )

VIOLATION:

12 ROSALIO ALCANTAR, 1 )

18 U.S.C. §1349 (conspiracy to commit mail  
and wire fraud - 1 count)

13 PATRICK BERGSRUD, 2 )

14 ROBERT BOLTEN, 3 )

15 GLENN BROWN, 4 )

16 PAUL CITELLI, 5 )

17 MICHELLE DELUCA, 6 )

18 CHARLES HAWKINS, 7 )

19 SAMI ROBERT HINDIYEH, 8 )

20 BRIAN JONES, 9 )

21 LISA KIM, 10 )

22 MORRIS MATTINGLY, 11 )

23 ARNOLD MYERS, 12 )

24 ANTHONY ROY WILSON, and 13 )

25 JEANNE WINKLER, 14 )

26 Defendants. )

21 INFORMATION

22 INTRODUCTION

23 **THE UNITED STATES CHARGES THAT:**

24 At all times material to this Information:

25 1. Pursuant to Nevada law, a homeowner's association (HOA) is a  
26 corporation that governs a common interest community. A HOA is originally controlled by the

1 developer until the housing units are sold, at which time the control is transferred to the bona fide  
2 homeowners. Only bona fide homeowners can be members in the HOA.

3           2. A HOA is governed by a board of directors with a minimum of three  
4 members, all of whom must be bona fide homeowners. The board members are elected by the  
5 bona fide homeowners annually.

6           3. Under Nevada law, HOA board members are fiduciaries. Any person  
7 nominated for the board must make a good faith effort to disclose any financial, business,  
8 professional, or personal relationship or interest that would result or would appear to a  
9 reasonable person to result in a potential conflict of interest.

10           4. Consistent with their fiduciary duties and pursuant to Nevada law, HOA  
11 board members may not solicit or accept any form of compensation, gratuity, or other  
12 remuneration that would improperly influence or reasonably appear to influence the board  
13 member's decisions or would result or reasonably appear to result in a conflict of interest.

14           5. Consistent with their fiduciary duties, the board of directors is empowered  
15 to make decisions related to the common interests of the homeowners, including but not limited  
16 to: adopting and amending bylaws and budgets, hiring managers, employees, agents, attorneys,  
17 independent contractors, instituting or defending the community in litigation, and causing  
18 additional improvements or maintenance repairs to be made.

19           6. Before hiring individuals and companies to work on behalf of the HOA,  
20 the HOA board usually obtains three bids for consideration. The three bids are usually presented  
21 during public board meetings with an opportunity for the homeowners to comment and discuss  
22 the issues at hand. The property manager is usually selected first, and then the property manager  
23 helps to identify and obtain bids for other services.

24           7. Under Nevada law, property managers must earn a Community  
25 Association Management (CAM) license before being able to work in the state of Nevada.  
26 Property managers have fiduciary obligations to act in the best interest of the community,

1 safeguard financial and confidential information for the community, and disclose any affiliation  
2 or financial interest with any other person or business that furnishes goods or services to the  
3 community.

4 8. Defendant ALCANTAR

5 9. Defendant BERGSRUD

6 10. Defendant BOLTEN

7 11. Defendant BROWN

8 12. Defendant CITELLI

9 13. Defendant DELUCA

10 14. Defendant HAWKINS

11 15. Defendant HINDIYEH

12 16. Defendant JONES

13 17. Defendant KIM

14 18. Defendant MATTINGLY

15 19. Defendant MYERS

16 20. Defendant WILSON

17 21. Defendant WINKLER

18 22. Chateau Versailles, Chateau Nouveau, Park Avenue, Jasmine, Vistana,  
19 Sunset Cliffs, Palmilla, Pebble Creek, Mission Ridge, Mission Pointe, and Horizons at Seven  
20 Hills, common interest communities, were located in Las Vegas, Nevada. Each had an HOA  
21 board consisting of at least three people.

22 23. Co-Conspirator A was a construction company incorporated in the state of  
23 Nevada. Co-Conspirator A purported to specialize in home building and repairs, including  
24 repairs involving so-called construction defects. Co-Conspirator A was owned and controlled by  
25 Co-Conspirator B, a Nevada resident.

26

1           24. Co-Conspirator C was a law firm in Las Vegas that specialized in  
2 construction defect litigation. Co-Conspirator D was a Nevada attorney who owned and  
3 controlled Co-Conspirator C.

4   **COUNT ONE**

5   **THE CONSPIRACY**

6           25. From at least in or about August 2003 through at least in or about  
7 February 2009, in the District of Nevada and elsewhere, Defendants

8   ROSALIO ALCANTAR,  
9   PATRICK BERGSRUD,  
10    ROBERT BOLTEN,  
11    GLENN BROWN,  
12    PAUL CITELLI,  
13    MICHELLE DELUCA,  
14    CHARLES HAWKINS,  
15    SAMI ROBERT HINDIYEH,  
16    BRIAN JONES,  
17    LISA KIM,  
18    MORRIS MATTINGLY,  
19    ARNOLD MYERS,  
20    ANTHONY ROY WILSON, and,  
21    JEANNE WINKLER,

22 with others known and unknown to the United States, did knowingly and intentionally conspire,  
23 combine, confederate and agree to commit certain offenses against the United States, that is:

24           a. to devise and intend to devise a scheme and artifice to defraud and to  
25 obtain money and property by means of materially false and fraudulent pretenses, representations  
26 and promises; and for the purpose of executing such scheme and artifice, each Defendant or their

1 coconspirators did knowingly place or caused to be placed in a post office and authorized  
 2 depository for mail matter a thing to be sent and delivered by the U.S. Postal Service or any  
 3 private or commercial interstate carrier, in violation of Title 18, United States Code, Section  
 4 1341; and,

5 b. to devise and intend to devise a scheme and artifice to defraud and to  
 6 obtain money and property by means of materially false and fraudulent pretenses,  
 7 representations, and promises; and for the purpose of executing such scheme and artifice, each  
 8 Defendant or their coconspirators did knowingly transmit and cause to be transmitted by means  
 9 of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and  
 10 sounds, in violation of Title 18, United States Code, Section 1343.

11 **OBJECTS OF THE CONSPIRACY**

12 26. The objects of the conspiracy, of which Defendants ALCANTAR,  
 13 BERGSRUD, BOLTEN, BROWN, CITELLI, DELUCA, HAWKINS, HINDIYEH, JONES,  
 14 KIM, MATTINGLY, MYERS, WILSON, and WINKLER were members, and joined at various  
 15 times between in or around 2003 through in or around 2009, were for the co-conspirators to:

16 a. identify and facilitate the placement of straw purchasers in certain HOA's  
 17 identified above;

18 b. facilitate the purchase of units in certain HOA's identified above through  
 19 straw purchasers to act on behalf of the beneficial owners of the unit;

20 c. manipulate and influence the elections of HOA board candidates  
 21 designated by the co-conspirators and thereby gain and maintain control of HOA boards and  
 22 candidates designated by the co-conspirators;

23 d. manipulate and influence the conduct of HOA business including, but not  
 24 limited to, the appointment of designated property managers, the hiring of designated lawyers  
 25 and law firms, and the hiring of designated contractors; and,

26 e. unlawfully enrich the co-conspirators as a result of the scheme.

1  
2  
3 **MANNER AND MEANS**

4 27. In order to achieve the objects of the conspiracy, Defendants  
5 ALCANTAR, BERGSRUD, BOLTEN, BROWN, CITELLI, DELUCA, HAWKINS,  
6 HINDIYEH, JONES, KIM, MATTINGLY, MYERS, WILSON, and WINKLER and others  
7 known and unknown to the United States used the following manner and means, among others:

8 a. Co-conspirators would and did enlist real estate agents to identify  
9 condominium units within HOA communities for purchase by co-conspirators in connection with  
10 the scheme.

11 b. Co-conspirators would and did enlist individuals as straw purchasers to  
12 complete mortgage loan applications to purchase properties within the HOA communities on  
13 behalf of the beneficial owners and made false and fraudulent statements that concealed the  
14 identity and financial interest of the true beneficial owners of the properties from banks,  
15 mortgage companies, HOAs, and bona fide homeowners. Down payments were often funded by  
16 Co-Conspirator B and co-conspirators sent emails and spreadsheets outlining the purchases and  
17 payments entitled "Condosinlinetobuy" and "Money back to LB on cash deals." Many of these  
18 emails were sent via interstate wire.

19 c. The co-conspirators would and did use several licensed notaries to assist  
20 in fraudulently notarizing documents in furtherance of the conspiracy without the signatory  
21 appearing before him/her as required by his/her State of Nevada notary license.

22 d. Various co-conspirators would and did join the conspiracy when they  
23 agreed to become straw purchasers at a particular HOA. Many co-conspirators signed and  
24 submitted false and fraudulent loan applications and supporting documents to financial  
25 institutions in order to finance and close on the properties.

26 e. Once the straw purchases were complete, the beneficial owners and co-  
conspirators would and did often rent the units. The beneficial owners received the rental

1 payments and continued to pay the mortgages and various expenses associated with the straw  
2 purchases.

3 f. In furtherance of the scheme, on or about August 3, 2005, a co-conspirator  
4 would and did open and manage five bank accounts on behalf of Co-Conspirators A and B under  
5 the names of limited liability companies to conceal the identity of the beneficial owners.  
6 Numerous interstate wire transfers were made to and from these accounts to fund the conspiracy  
7 and to pay co-conspirators for their participation in the scheme. Deposits of \$1,981,077,  
8 \$700,000 and \$300,000 into these accounts were provided by Co-Conspirators C and D. In  
9 excess of \$8,000,000 moved through these five accounts.

10 g. Several defendants allowed the co-conspirators to transfer a 1% or greater  
11 ownership interest in their unit to another co-conspirator to make it appear that the new owner  
12 was a legitimate owner in the HOA and was qualified to run for a position on the HOA board of  
13 directors.

14 h. The co-conspirators would and did also refinance the properties in order to  
15 increase the conspiracy's capital from which additional condominiums could be purchased.

16 i. The straw purchasers and those who acquired a transferred interest in the  
17 properties would and did agree to run for election to HOA boards. These co-conspirators were  
18 paid or promised cash, checks, or things of value for their participation, all of which resulted in a  
19 personal financial benefit to the co-conspirators.


20 j. To ensure the co-conspirators would win the elections, co-conspirators  
21 would and did employ deceitful tactics, such as creating false phone surveys to gather  
22 information about homeowners' voting intentions, using mailing lists to vote on behalf of out-of-  
23 town homeowners who were unlikely to participate in the elections, and submitting fake and  
24 forged ballots. Co-conspirators also hired private investigators to find "dirt" on bona fide  
25 candidates in order to influence the elections.  
26

1 k. Certain co-conspirators would and did rig certain HOA board elections by  
2 preparing forged ballots for out-of-town homeowners and either transported or caused them to be  
3 transported or mailed to California and thereafter to have the ballots mailed back to Las Vegas  
4 from various locations around California so as to make it appear that the ballots were completed  
5 and mailed by bona fide homeowners residing outside Nevada.

6 l. Co-conspirators would and did attempt to create the appearance that the  
7 elections were legitimate by hiring "independent" attorneys to run the HOA board elections.  
8 These "special election masters" were obligated to: (i) contact the bona fide homeowners to  
9 inform them of the election; (ii) mail the bona fide homeowners election ballots and voting  
10 instructions; (iii) collect and secure those election ballots returned by mail until the date of the  
11 election; and (iv) preside over the HOA board election, including supervising the counting of  
12 ballots. However, in truth and fact, certain "special election masters" were paid in cash, check,  
13 or promised things of value, by or on behalf of Co-Conspirators A and B for their assistance in  
14 rigging the elections.

15 m. Once elected, the straw purchaser board members would and did meet  
16 with co-conspirators in order to manipulate board votes, including the selection of property  
17 managers, contractors, general counsel and attorneys to represent the HOA,

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

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21   
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24 CHARLES G. LA BELLA  
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