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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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UNITED STATES OF AMERICA,

Plaintiff,

v.

MARY ANN WATTS,

Defendant.

CASE NO.: 2:11-CR-336-JCM
DATE FILED:
VIOLATION:
18 U.S.C. §1349 (conspiracy to commit mail
and wire fraud – 1 count)

INFORMATION

INTRODUCTION

THE UNITED STATES CHARGES THAT:

At all times material to this Information:

1. Pursuant to Nevada law, a homeowner's association (HOA) is a corporation that governs a common interest community. A HOA is originally controlled by the developer until the housing units are sold, at which time the control is transferred to the bonafide homeowners. Only bonafide homeowners can be members in the HOA.

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

4 3. Under Nevada law, HOA board members are fiduciaries. As fiduciaries, they
5 are required—among other duties—to act on an informed basis, in good faith and in the honest belief
6 that their actions are in the best interest of the association. Any person nominated for the board
7 must make a good faith effort to disclose any financial, business, professional, or personal
8 relationship or interest that would result or would appear to a reasonable person to result in a
9 potential conflict of interest.

10 4. Consistent with their fiduciary duties and pursuant to Nevada law, HOA board
11 members may not solicit or accept any form of compensation, gratuity, or other remuneration that
12 would improperly influence or reasonably appear to influence the board member's decisions or
13 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 to
15 make decisions related to the common interests of the homeowners, including but not limited to:
16 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, the
20 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 the
22 issues at hand. The property manager is usually selected first, and then the property manager helps
23 to identify and obtain bids for other services.

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

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

3 8. From in or around March 2004 through in or around May 2006, Defendant
4 WATTS worked for two property management companies in Las Vegas. She became a licensed
5 CAM in or around March 2004.

6 9. Chateau Versailles, a common interest community with 371 units, was located
7 in Las Vegas, Nevada. It had a HOA board consisting of three people.

8 10. Chateau Nouveau, a common interest community with 564 units, was located
9 in Las Vegas, Nevada. It had a HOA board consisting of seven people.

10 11. Park Avenue, a common interest community with 642 units, was located in Las
11 Vegas, Nevada. It had a HOA board consisting of five people.

12 12. Jasmine, a common interest community with 300 units, was located in North
13 Las Vegas, Nevada. It had a HOA board consisting of three people.

14 13. Vistana, a common interest community with 732 units, was located in Las
15 Vegas, Nevada. It had a HOA board consisting of five people.

16 14. Sunset Cliffs, a common interest community with 368 units, was located in Las
17 Vegas, Nevada. It had a HOA board consisting of five people.

18 15. Palmilla, a common interest community with 300 units, was located in North
19 Las Vegas, Nevada. It had a HOA board consisting of three people.

20 16. Pebble Creek, a common interest community with 196 units, was located in
21 Las Vegas, Nevada. It had a HOA board consisting of three people.

22 17. Mission Ridge, a common interest community with 384 units, was located in
23 Las Vegas, Nevada. It had a HOA board consisting of five people.

24 18. Mission Pointe, a common interest community with 248 units, was located in
25 Las Vegas, Nevada. It had a HOA board consisting of three people.

1 19. Horizons at Seven Hills, a common interest community with 328 units, was
2 located in Las Vegas, Nevada. It had a HOA board consisting of three people.

3 20. Co-Conspirator A was a construction company incorporated in the state of
4 Nevada. Co-Conspirator A purported to specialize in home building and repairs, including repairs
5 involving so-called construction defects. Co-Conspirator A was owned and controlled by Co-
6 Conspirator B, a Nevada resident.

7 21. Co-Conspirator C was a law firm in Las Vegas that specialized in construction
8 defect litigation. Co-Conspirator D was a Nevada attorney who owned and controlled Co-
9 Conspirator C.

10 **COUNT ONE**

11 **THE CONSPIRACY**

12 22. From at least in or about August 2003 through at least in or about February
13 2009, in the District of Nevada and elsewhere, Defendant

14 **MARY ANN WATTS,**

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

17 a. to devise and intend to devise a scheme and artifice to defraud and to obtain
18 money and property by means of materially false and fraudulent pretenses, representations and
19 promises; and for the purpose of executing such scheme and artifice, Defendant and her co-
20 conspirators did knowingly place or caused to be placed in a post office and authorized depository
21 for mail matter a thing to be sent and delivered by the U.S. Postal Service or any private or
22 commercial interstate carrier, in violation of Title 18, United States Code, Section 1341; and,

23 b. to devise and intend to devise a scheme and artifice to defraud and to obtain
24 money and property by means of materially false and fraudulent pretenses, representations, and
25 promises; and for the purpose of executing such scheme and artifice, Defendant and her co-
26 conspirators did knowingly transmit and cause to be transmitted by means of wire communication

1 in interstate and foreign commerce, writings, signs, signals, pictures, and sounds, all in violation of
2 Title 18, United States Code, Section 1343.

3 **OBJECTS OF THE CONSPIRACY**

4 23. The objects of the conspiracy, which Defendant MARY ANN WATTS joined
5 in or around the spring of 2006, were for co-conspirators to:

6 a. designate and facilitate the placement of straw purchasers in certain common
7 interest communities identified above;

8 b. facilitate the purchase of units in certain common interest communities
9 identified above by straw purchasers to act on behalf of the beneficial owners of the unit;

10 c. manipulate the elections of board candidates designated by the co-conspirators
11 and thereby gain and maintain control of HOA boards and candidates designated by the co-
12 conspirators;

13 d. manipulate the conduct of HOA business including, but not limited to, the
14 appointment of designated property managers, the hiring of designated lawyers and law firms, and
15 the hiring of designated contractors; and,

16 e. unlawfully enrich the co-conspirators at the expense of the HOAs and bonafide
17 homeowners.

18 **MANNER AND MEANS**

19 24. In order to achieve the objects of the conspiracy, Defendant MARY ANN
20 WATTS and others known and unknown to the United States used the following manner and
21 means, among others:

22 a. Co-conspirators enlisted several individuals as straw purchasers to apply for and
23 complete mortgage loans using their own name and credit for the purchase of properties within the
24 HOA communities on behalf of the beneficial owners. These units were often identified by
25 licensed realtors in the state of Nevada, acting on behalf of the co-conspirators. The straw
26 nominees then purchased the properties while concealing the identity and financial interest of the

1 true beneficial owners of the properties from banks, mortgage companies, HOAs, and bonafide
2 homeowners.

3 b. Once the straw purchases were complete, the beneficial owners and co-
4 conspirators found tenants to rent the units. The beneficial owners received the rental payments
5 and continued to pay the mortgages and various expenses associated with the straw purchase.

6 c. Co-conspirators were hired by Co-Conspirator B and others to manage and
7 operate the payments associated with maintaining these straw properties. The co-conspirators
8 called this business of funding these properties the "Bill Pay Program". The co-conspirators
9 involved in running the Bill Pay Program maintained several limited liability companies, at the
10 direction of Co-Conspirator B, for the purpose of opening bank accounts and concealing the Bill
11 Pay Program funds. Many of the payments on these properties were wired or caused to be wired
12 from California to Nevada.

13 d. On several occasions, instead of making a straw purchase, the co-conspirators
14 transferred a partial interest in a unit to another co-conspirator for the purpose of making it appear
15 as if the co-conspirator was a bonafide homeowner.

16 e. The straw purchasers and those who acquired a transferred interest agreed with
17 co-conspirators to run for election to the respective HOA boards. These co-conspirators were paid
18 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, including Co-Conspirators A, B, C, and D.

20 f. To ensure the straw purchasers and those who acquired a transferred interest
21 would win the elections, co-conspirators employed deceitful tactics, such as creating false phone
22 surveys to gather information about homeowners' voting intentions, using mailing lists to vote on
23 behalf of out-of-town homeowners unlikely to participate in the elections, and submitting fake and
24 forged ballots. Co-conspirators also hired private investigators to find "dirt" on the bonafide
25 candidates in order to create smear campaigns.

26 g. Another tactic the co-conspirators used to rig certain HOA board elections was

1 to prepare forged ballots for out-of-town homeowners and either cause them to be transported or
2 mailed to California and thereafter to have the ballots mailed back to Las Vegas from various
3 locations around California so as to make it appear that the ballots were completed and mailed by
4 bonafide homeowners residing outside Nevada.

5 h. On several occasions, co-conspirators attempted to create the appearance that
6 the elections were legitimate by hiring "independent" attorneys to run the HOA board elections.
7 The homeowners were led to believe that these "special election masters" would collect and secure
8 the ballots and preside over the HOA board election, including supervising the counting of ballots,
9 to ensure no tampering occurred. However, the special election masters were paid or promised
10 cash, checks, or things of value for their assistance in rigging the elections. They allowed the co-
11 conspirators to access the ballots for the purpose of opening the ballots and pre-counting the votes
12 entered for each candidate to then know the number of fake ballots which needed to be created to
13 ensure the co-conspirator up for election won the seat on the HOA board. In or around November
14 2006, at the direction of Co-Conspirator B and others, Defendant WATTS participated in the
15 rigging of the election at Vistana, by ceding her role in the election as property manager and
16 providing the election ballots to a co-conspirator attorney acting as a "special election master."

17 i. Once elected, the co-conspirator board members would meet with other co-
18 conspirators in order to manipulate board votes, including the selection of property managers,
19 contractors, general counsel, and attorneys to represent the HOA.

20 j. Often the co-conspirators created and submitted fake bids for "competitors"
21 to make the process appear to be legitimate while ensuring co-conspirators were awarded the
22 contract. In addition, Co-Conspirator A's initial contract for emergency remediation repairs
23 contained a "right of first refusal" clause to ensure Co-Conspirator A was awarded the construction
24 repair contracts following the construction defect litigation.

25 k. Once hired, the co-conspirator property managers and general counsel were paid
26

1 or promised in cash, checks, or things of value for using their positions to gain inside information
2 and recommend that the HOA board hire Co-Conspirators A and B for remediation and
3 construction defect repairs and Co-Conspirators C and D for the construction defect litigation.
4 Defendant WATTS employed co-conspirators and failed to disclose to HOA members their conflict
5 of interest, in violation of her fiduciary duties to the HOA.

6 l. In or around August 2006, Defendant WATTS agreed with Co-Conspirator B
7 and others to open a new property management company, which would be owned and controlled by
8 Co-Conspirator B and other co-conspirators, for the purpose of managing the HOA board at
9 Vistana, and potentially the boards at Chateau Versailles, Chateau Nouveau, and others. Defendant
10 WATTS lived in a unit at Chateau Nouveau and was given rent for free in the unit for two months
11 as a bonus for her participation in the conspiracy. Defendant WATTS ran all the company's
12 expenses, which were reimbursed to her by Co-Conspirator B. She often cut Co-Conspirator B
13 checks from the HOA's account and paid several of Co-Conspirator A's employees as if they were
14 employed by the property management company in order to conceal the employees' relationship
15 with Co-Conspirator B.

16 m. Defendant WATTS further used her position as the property manager to allow
17 Co-Conspirator B and others to create and review the HOA board meeting agendas before the board
18 meetings, so the co-conspirators could meet with the co-conspirator board members to pre-arrange
19 how they would manipulate the up-coming votes. Defendant WATTS then allowed Co-Conspirator
20 B and others to call her phone to speak with the co-conspirator board members during board
21 meetings in order to conceal their relationship.

22 n. Defendant WATTS recommended that the HOA hire individuals and companies
23 designated by her co-conspirators while concealing her and the company's relationship with the co-
24 conspirators from the bonafide homeowners. In or around November 2006, Defendant WATTS
25 took directions from Co-Conspirator D and called an emergency executive board meeting for the
26 purpose of getting the board members' signatures on the contract that was to award Co-

1 Conspirators C and D with the construction defect litigation case before the next HOA board
2 election was held.

3 o. This process created the appearance of legitimacy since bonafide homeowners
4 believed the elected board members and property managers were, as fiduciaries, acting in their best
5 interest rather than to advance the financial interests of co-conspirators. In fact, Defendant WATTS
6 and others were paid or received things of value by or on behalf of their co-conspirators, including
7 Co-Conspirators A, B, C, and D, for their assistance in purchasing the properties, obtaining HOA
8 membership status, rigging elections, using their positions to manipulate the HOA's business and to
9 further the goals of the conspiracy, and to enrich the co-conspirators at the expense of the HOA and
10 the bonafide homeowners.

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

12 **NOTICE OF FORFEITURE**

13 1. As a result of the violations of Title 18, United States Code, Sections 1341 and
14 1343, set forth in this information, Defendant

15 **MARY ANN WATTS,**

16 shall forfeit to the United States of America any property, real or personal, that constitutes or is
17 derived from proceeds traceable to the commission of such offenses, as charged in this Information,
18 including, but not limited to,

19 a. the amount of the salary she received from her employment with her property
20 management company that contracted with Vistana, Chateau Versailles, Chateau Nouveau,
21 and any other HOAs in furtherance of this conspiracy;

22 b. the amount of the rental payments she received for the unit she lived in at
23 Chateau Nouveau for the period that she lived there; and,

24 c. the value of any other salary, payment, or thing of value she received in
25 connection with the conspiracy to commit mail and wire fraud.


26 2. If any of the property subject to forfeiture, as a result of any act or omission of the

1 defendant:

- 2 a. cannot be located upon the exercise of due diligence;
3 b. has been transferred or sold to, or deposited with, a third party;
4 c. has been placed beyond the jurisdiction of the Court;
5 d. has been substantially diminished in value; or
6 e. has been commingled with other property which cannot be divided without
7 difficulty;

8 it is the intent of the United States, pursuant to Title 18, United States Code, Section 982(b),
9 incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property
10 of the defendant up to the value of the property subject to forfeiture.

11 All pursuant to Title 18, United States Code, Section 982(a)(2).

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