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F. #2015R01749

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT  
EASTERN DISTRICT  
OF NEW YORK

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UNITED STATES OF AMERICA,

- against -

YEVGENIY BRAZILER,

Defendant.

INDICTMENT

Cr. No.

(T. 15, U.S.C., §§ 78j(b) and 78ff; T. 18,  
U.S.C., §§ 981(a)(1)(C), 1341, 1343, 2 and  
3551 et seq.; T. 21, U.S.C., § 853(p); T. 28,  
U.S.C., § 2461(c))

**CR 17 - 385**

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DONNELLY, J.

THE GRAND JURY CHARGES:

SCANLON, M.J.

INTRODUCTION

At all times relevant to this Indictment, unless otherwise indicated:

I. The Defendant and His Companies

1. The defendant YEVGENIY BRAZILER, a resident of Staten Island, New York, formed and managed several limited liability companies ("LLCs") for the purported purpose of investing in residential real estate.

2. Tri-State Development ("Tri-State") was an LLC formed by the defendant YEVGENIY BRAZILER, together with others, on or about November 22, 2002. Tri-State had its principal offices at 1957 86th Street, Brooklyn, New York.

3. Liberty State Development ("Liberty State") was an LLC formed by the defendant YEVGENIY BRAZILER, together with others, on or about August 7, 2003. Liberty State had its principal offices at 1957 86th Street, Brooklyn, New York.

4. Buffalo Housing Development (“Buffalo Housing”) was an LLC formed by the defendant YEVGENIY BRAZILER, together with others, on or about September 1, 2006. Buffalo Housing had its principal offices at 2357 Coney Island Avenue, Brooklyn, New York.

II. The Fraudulent Scheme

5. In or about and between January 1, 2002 and December 31, 2016, both dates being approximate and inclusive, the defendant YEVGENIY BRAZILER, together with others, engaged in a scheme to defraud investors and potential investors in Tri-State, Liberty State and Buffalo Housing by falsely representing that investor funds would be used to fund the acquisition, maintenance and renovation of rental residential real estate, when in fact, BRAZILER and his co-conspirators improperly used investor funds to pay for personal expenses and to enrich themselves.

A. Solicitation of Investors

1. Tri-State

6. Beginning in or about 2002, the defendant YEVGENIY BRAZILER, together with others, began forming LLCs to raise money from investors purportedly to purchase, renovate, rent and eventually resell residential real estate, first in the New York City metropolitan area and then in the greater Buffalo, New York area.

7. In or about 2002, the defendant YEVGENIY BRAZILER, together with others, began making unsolicited telephone calls primarily to elderly individuals in an attempt to sell investments in Tri-State. BRAZILER explained to potential investors that, after raising between \$250,000 and \$1,000,000 from investors, Tri-State would purchase and renovate rental properties and eventually resell them at a profit. In his sales pitch, BRAZILER promised

different potential investors different rates of return on their investments, ranging from six percent annually to 60 percent upon the sale of Tri-State's rental properties.

8. In or about and between 2004 and 2005, the defendant YEVGENIY BRAZILER, together with others, caused Tri-State to purchase six rental properties, which BRAZILER, together with others, managed. Tri-State, however, neither earned a profit nor generated the returns that BRAZILER had promised. When several investors asked for the return of their funds, BRAZILER stalled and told investors that he was working on a transaction to sell Tri-State's rental properties and that he would return the investors' capital when the sale was consummated.

2. Liberty State

9. In or about August 2003, the defendant YEVGENIY BRAZILER, together with others, made unsolicited telephone calls from Liberty State's offices in Brooklyn, New York, primarily to elderly individuals, many of whom had previously invested in Tri-State, in an attempt to sell investments in Liberty State. BRAZILER represented to potential investors that after raising between \$250,000 and \$1,000,000, Liberty State would purchase and renovate rental properties and eventually resell them at a profit. As with Tri-State, BRAZILER promised potential Liberty State investors high rates of return.

10. In or about and between 2005 and 2015, Liberty State received approximately \$830,700 from investors. In or about and between 2004 and 2006, Liberty State purchased four properties in Buffalo, New York, for a total of at most \$157,000. Three of the properties were sold in or about and between 2006 and 2007, and the fourth was foreclosed upon in or about 2012.

11. In or about and between 2005 and 2015, Liberty State paid a total of approximately \$75,790 to certain investors before depleting all of its capital and going defunct. The defendant YEVGENIY BRAZILER, together with others, made those payments to investors largely in response to investors' complaints and not in the form of regular or calculated distributions. Also over the same time period, BRAZILER took approximately \$178,373 from Liberty State, and his associates and their companies took approximately \$314,955 from Liberty State.

12. In furtherance of the fraudulent scheme, and to deceive the investors into believing that Liberty State used the investors' funds to purchase real property, the defendant YEVGENIY BRAZILER, together with others, caused BRAZILER's accountant to send investors Internal Revenue Service ("IRS") Schedules K-1, which are used to report income from partnerships to the IRS. The Schedules K-1 sent to Liberty State's investors misrepresented the number of properties that Liberty State actually owned. For instance, for tax years 2012 and 2013, BRAZILER caused the Liberty State Schedules K-1 to report that the company owned properties located at 236 West Ferry Street, 74 Reservation Street and 130 Parkdale Avenue, in Buffalo, New York, when in fact, the company never owned them. The Schedules K-1 for tax year 2013 further stated that Liberty State owned a property located at 235 15th Street, Buffalo, New York, even though that property had been foreclosed upon on or about September 21, 2012.

13. In or about and between 2007 and 2016, when the investments failed to yield the promised return, many of the investors in Liberty State asked the defendant YEVGENIY BRAZILER to return their money, but BRAZILER claimed that they would have to wait until he had completed a transaction to sell properties that Liberty State purportedly owned. At the time of many of these conversations, unbeknownst to investors, Liberty State owned no properties; the

properties that BRAZILER had told investors that Liberty State had purchased had been sold or foreclosed upon.

3. Buffalo Housing

14. In or about September 2006, the defendant YEVGENIY BRAZILER, together with others, made unsolicited telephone calls from Buffalo Housing's offices in Brooklyn, New York, primarily to elderly individuals in an attempt to sell investments in Buffalo Housing.

15. During the telephone calls to potential investors in Buffalo Housing, the defendant YEVGENIY BRAZILER, together with others, made a number of misrepresentations concerning Buffalo Housing. For example, BRAZILER stated that after raising between \$250,000 and \$1,000,000, Buffalo Housing would purchase and renovate rental real estate and eventually resell it at a profit. BRAZILER also guaranteed that the investors would receive an annual return and, when the properties were sold, their principal plus a profit.

16. To induce investments in Buffalo Housing, the defendant YEVGENIY BRAZILER, together with others, created an offering memorandum, a business plan, an operating agreement and other documents, which he sent to most potential investors by Federal Express. Among other representations, the offering memorandum contained a section titled "Use of Proceeds," which stated that, depending upon the total amount of funds raised, between 60 percent and 73 percent of the funds raised by Buffalo Housing would be used for "building acquisition and renovation," between 12 percent and 28 percent of the funds raised would be used to pay "start up costs expended," two percent would be used for "working capital," and between 12 percent and 13 percent would be used to pay "offering expenses and commissions," which the memorandum specified could be paid to registered brokers or dealers who sold

investments in Buffalo Housing. The Use of Proceeds section did not state that any funds would be used to pay salaries or fees to BRAZILER, his associates or entities they controlled.

17. Contrary to these representations, the defendant YEVGENIY BRAZILER and his associates spent far less than they represented on the purchase and renovation of residential real estate. In or about and between 2007 and 2012, Buffalo Housing received at least \$978,000 from investors. During its existence, however, Buffalo Housing purchased only one property, in or about 2009, from Tri-State in a related-party transaction. Buffalo Housing paid no more than \$12,000 for the property.

18. Instead of spending the money as the defendant YEVGENIY BRAZILER, together with others, had represented to investors in Buffalo Housing, BRAZILER took approximately \$323,510 for his own use, which he spent on, among other things, personal bills, credit card payments, pet supplies, alcohol, restaurants and his child's school tuition. In addition, BRAZILER paid approximately \$145,670 in investor funds to one of his associates and \$66,200 to another.

19. The defendant YEVGENIY BRAZILER, together with others, repeatedly misrepresented to investors the status of Buffalo Housing, its activities and its assets. For example, in or about and between 2007 and 2008, BRAZILER placed a telephone call to an investor whose identity is known to the Grand Jury ("W-1"). During the call, in an attempt to convince W-1 to invest in Buffalo Housing, BRAZILER explained that Buffalo Housing bought rental houses in Buffalo because it could obtain them inexpensively and earn a profit on resale. BRAZILER promised W-1 a 10 percent to 20 percent annual return on W-1's investment. In reliance upon BRAZILER's representations, W-1 invested approximately \$150,000 in Buffalo Housing in or about and between 2007 and 2008.

20. In or about and between 2008 and 2009, when W-1 spoke with the defendant YEVGENIY BRAZILER by telephone to check on the status of W-1's investment, BRAZILER told W-1, among other things, that BRAZILER was selling Buffalo Housing to an investor, and that W-1 would receive a return of two-to-three times W-1's investment. BRAZILER later represented, however, that the deal fell through, although other parties were interested in purchasing Buffalo Housing. BRAZILER also told W-1 that Buffalo Housing ran into financial difficulties because of required repairs and building-related expenses. W-1 asked for his money back, but BRAZILER said that he had to wait until BRAZILER closed one of the deals to sell Buffalo Housing.

21. As of 2014, W-1 was in telephone contact with BRAZILER at least once a month. In their last communication, in or about March 2014, BRAZILER said that there was a bad winter in Buffalo, New York, and it was difficult to sell the properties that Buffalo Housing owned. In fact, by 2014, the only property that Buffalo Housing had owned had been foreclosed upon in or about October 2011.

22. In or about January 2016, the defendant YEVGENIY BRAZILER contacted another investor whose identity is known to the Grand Jury ("W-2"). W-2 had previously invested at least \$165,000 in Tri-State and Buffalo Housing. During the call, BRAZILER said that he was about to close the sale of all of the approximately 10 properties that Tri-State and Buffalo Housing owned, and requested that W-2 invest \$3,000 in Tri-State and Buffalo Housing so that the LLCs would have the funds to pay the \$10,000 in bank charges required to close. W-2 sent the payment on or about January 14, 2016. BRAZILER informed W-2 that the closing did not occur, however, because the purchaser was ill. BRAZILER asked W-2 to check with him for an update, but BRAZILER stopped returning W-2's telephone calls. In fact, by approximately January 2016,



neither Tri-State nor Buffalo Housing owned any properties, and thus could not have required the requested funds to pay for bank closing fees.

23. In or about and between 2003 and 2010, another investor ("W-3") whose identity is known to the Grand Jury invested approximately \$43,000 in Buffalo Housing, Liberty State and Tri-State through the defendant YEVGENIY BRAZILER. In or about August 2011, W-3 asked for his money back, but BRAZILER said that he did not have it because a transaction to sell the properties that Buffalo Housing, Liberty State and Tri-State owned fell through. As of October 2015, W-3 was in contact with BRAZILER, who said that he had continued efforts to sell the properties, but was unable to do so because they had not passed inspection. By October 2015, however, Buffalo Housing, Liberty State and Tri-State did not own any real estate.

24. Furthermore, the defendant YEVGENIY BRAZILER, together with others, caused his accountant to send Schedules K-1 to investors in Buffalo Housing that misrepresented Buffalo Housing's assets. For tax years 2012 and 2013, the Schedules K-1 sent to Buffalo Housing investors stated that Buffalo Housing owned one property, when in fact that property had been foreclosed upon in 2011. Based in part on the misinformation, some investors continued to send money to BRAZILER to pay for, according to BRAZILER, expenses associated with owning and maintaining the property.

25. On July 24, 2012, the daughter-in-law ("W-4") of an elderly investor ("W-5"), both of whose identities are known to the Grand Jury, spoke with the defendant YEVGENIY BRAZILER to learn about W-5's investments in Liberty State and Buffalo Housing. BRAZILER informed W-4, among other things, that Liberty State owned six properties and Buffalo Housing owned three properties, which together had increased 20 percent in value since W-5 made his investments in Liberty State and Buffalo Housing, respectively in or about 2005 and



2010. BRALIZER's representations were false. In fact, at the time of the conversation with W-4, Liberty State and Buffalo Housing together owned one property, and its value had not appreciated by 20 percent.

26. In or about 2016, the defendant YEVGENIY BRALIZER, together with others, continued to represent to investors that Tri-State, Liberty State and Buffalo Housing each had value. In truth, Tri-State Liberty State and Buffalo Housing had no assets or funds and conducted no business activities.

COUNT ONE  
(Securities Fraud)

27. The allegations contained in paragraphs one through 26 are realleged and incorporated as if fully set forth in this paragraph.

28. In or about and between 2002 and 2016, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant YEVGENIY BRAZILER, together with others, did knowingly and willfully use and employ one or more manipulative and deceptive devices and contrivances, contrary to Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission, Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing one or more devices, schemes and artifices to defraud; (b) making one or more untrue statements of material fact and omitting to state one or more material facts necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading; and (c) engaging in one or more acts, practices and courses of business which would and did operate as a fraud and deceit upon one or more investors and potential investors in Tri-State, Liberty State and Buffalo Housing, in connection with the purchase and sale of investments in Tri-State, Liberty State and Buffalo

Housing, directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails.

(Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNT TWO  
(Wire Fraud)

29. The allegations contained in paragraphs one through 26 are realleged and incorporated as if fully set forth in this paragraph.

30. In or about and between 2002 and 2016, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant YEVGENIY BRAZILER, together with others, did knowingly and intentionally devise a scheme and artifice to defraud investors and potential investors in Tri-State, Liberty State and Buffalo Housing, and to obtain money and property from them by means of materially false and fraudulent pretenses, representations and promises.

31. On or about July 24, 2012, for the purpose of executing such scheme and artifice, the defendant YEVGENIY BRAZILER did transmit and cause to be transmitted, by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds, to wit: a telephone call between BRAZILER, based in Brooklyn, New York, and W-4, based in Minnesota, during which BRAZILER represented to W-4 that Liberty State owned six properties and Buffalo Housing owned three properties.

(Title 18, United States Code, Sections 1343, 2 and 3551 et seq.)

COUNTS THREE THROUGH NINE  
(Mail Fraud)

32. The allegations contained in paragraphs one through 26 are realleged and incorporated as if fully set forth in this paragraph.

33. In or about and between 2002 and 2016, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant YEVGENIY BRAZILER, together with others, did knowingly and intentionally devise a scheme and artifice to defraud investors and potential investors in Tri-State, Liberty State and Buffalo Housing, and obtain money and property from them by means of materially false and fraudulent pretenses, representations and promises.

34. On or about the approximate dates specified below, for the purpose of executing such scheme and artifice, the defendant YEVGENIY BRAZILER did cause to be delivered by the United States Postal Service and private and commercial interstate carriers according to the direction thereon, the following matter and things:

Count	Date	Description
THREE	April 1, 2013	Mailing of Tri-State K-1 form for tax year 2012, falsely listing ownership of 908 Lovejoy Street and 324 Grant Street, Buffalo, New York.
FOUR	April 1, 2013	Mailing of Buffalo Housing K-1 form for tax year 2012, falsely listing ownership of 908 Lovejoy Street, Buffalo, New York.
FIVE	March 24, 2014	Mailing of Buffalo Housing K-1 form for tax year 2013, falsely listing ownership of 908 Lovejoy Street, Buffalo, New York.
SIX	March 24, 2014	Mailing of Liberty State K-1 form for tax year 2013, falsely listing ownership of 235 15th Street and 236 W. Ferry Street, Buffalo, New York.

SEVEN	April 7, 2014	Mailing of Tri-State K-1 form for tax year 2013, falsely listing ownership of 908 Lovejoy Street and 324 Grant Street, Buffalo, New York.
EIGHT	August 20, 2014	Mailing of a check for approximately \$2,000 to BRAZILER.
NINE	September 15, 2014	Mailing of a check for approximately \$1,000 to BRAZILER.

(Title 18, United States Code, Sections 1341, 2 and 3551 et seq.)

**CRIMINAL FORFEITURE ALLEGATION  
AS TO COUNTS ONE THROUGH NINE**

35. The United States hereby gives notice to the defendant that, upon his conviction of any of the offenses charged in Counts One through Nine, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which require any person convicted of such offenses to forfeit any property, real or personal, constituting, or derived from, proceeds obtained directly or indirectly as a result of such offenses.

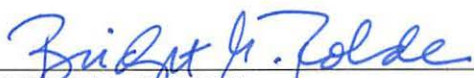
36. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (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 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 981(a)(1)(C); Title 21, United States Code, Section 853(p); Title 28, United States Code, Section 2461(c))

A TRUE BILL

  
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FOREPERSON  
\_\_\_\_\_  
BRIDGET M. ROHDE  
ACTING UNITED STATES ATTORNEY  
EASTERN DISTRICT OF NEW YORK

F. # 2015R01749  
FORM DBD-34  
JUN. 85

No.

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**UNITED STATES DISTRICT COURT**

EASTERN *District of* NEW YORK

CRIMINAL DIVISION

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THE UNITED STATES OF AMERICA

vs.

*YEVGENIY BRAZILER,*

Defendant.

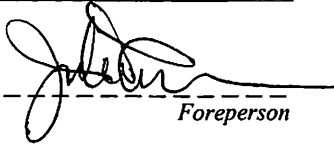
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**INDICTMENT**

(T. 15, U.S.C., §§ 78j(b) and 78ff; T. 18, U.S.C., §§ 981(a)(1)(C), 1341, 1343, 2 and 3551 et seq.; T. 21, U.S.C., § 853(p); T. 28, U.S.C., § 2461(c).)

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*A true bill.*

  
Foreperson

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Filed in open court this \_\_\_\_\_ day,

of \_\_\_\_\_ A.D. 20 \_\_\_\_\_

\_\_\_\_\_  
Clerk

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Bail, \$ \_\_\_\_\_

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*Matthew S. Amatruda, Assistant U.S. Attorney (718) 254-7012*

CR 17 - 385

INFORMATION SHEET

FILED  
CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

2017 JUL 18 PM 3:41

U.S. DISTRICT COURT  
EASTERN DISTRICT  
OF NEW YORK

1. Title of Case: United States v. Yevgeniy Braziler
2. Related Magistrate Docket Number(s): N/A
3. Arrest Date: None
4. Nature of offense(s): ☒ Felony  
☐ Misdemeanor
5. Related Cases - Title and Docket No(s). (Pursuant to Rule 50.3.2 of the Local E.D.N.Y. Division of Business Rules): None
6. Projected Length of Trial: Less than 6 weeks ☒  
More than 6 weeks ☐
7. County in which crime was allegedly committed: Kings  
(Pursuant to Rule 50.1(d) of the Local E.D.N.Y. Division of Business Rules)
8. Was any aspect of the investigation, inquiry and prosecution giving rise to the case pending or initiated before March 10, 2012.<sup>1</sup> ☒ Yes ☐ No
9. Has this indictment/information been ordered sealed? ☒ Yes ☐ No
10. Have arrest warrants been ordered? ☒ Yes ☐ No
11. Is there a capital count included in the indictment? ☐ Yes ☒ No

BRIDGET M. ROHDE  
Acting United States Attorney

By: /s/Matthew S. Amatruda  
Matthew S. Amatruda  
Assistant U.S. Attorney  
(718) 254-7012

<sup>1</sup> Judge Brodie will not accept cases that were initiated before March 10, 2012.